

As Introduced - First Substitute Bill (LSC # 0516-2)

**128th General Assembly
Regular Session
2009-2010**

Sub. H. B. No. 1

Representative Sykes

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A B I L L

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269.60.60 of H.B. 119 of the 127th General	231
Assembly and to amend Section 269.60.60 of H.B.	232
119 of the 127th General Assembly to codify the	233
Section as section 3314.38 of the Revised Code; to	234
amend Section 6 of H.B. 364 of the 124th General	235
Assembly and to amend Section 6 of H.B. 364 of the	236
124th General Assembly to codify the Section as	237
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Sections 103.80.80, 103.80.90, and 301.10.50 of	239
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Section 233.40.30 and 233.50.80 of H.B. 562 of the	241
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Section 4 of H.B. 516 of the 125th General	244
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Section 153 of Am. Sub. H.B. 117 of the 121st	246
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January 1, 2010, to continue the provisions of	250
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amend the version of section 5739.033 of the	252
Revised Code that is scheduled to take effect	253
January 1, 2010, to continue the provisions of	254
this act on and after that effective date; to	255

repeal sections 5112.40, 5112.41, 5112.42, 256
5112.43, 5112.44, 5112.45, 5112.46, 5112.47, and 257
5112.48 of the Revised Code, effective October 1, 258
2011; to make operating appropriations for the 259
biennium beginning July 1, 2009, and ending June 260
30, 2011, and to provide authorization and 261
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

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3334.03 (3334.031), 3701.71 (3727.05), 3701.72 (3727.051), 3727.04 392
(3727.053), 3727.05 (3727.04), and 5111.688 (5111.689) be amended 393
for the purpose of adopting new section numbers as indicated in 394
parentheses; new sections 3301.0712, 3319.222, 3334.03, and 395
5111.688 and sections 111.26, 117.54, 122.85, 124.821, 124.822, 396
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5119.621, 5119.622, 5155.38, 5705.219, 5705.2110, 5725.33, 414
5729.16, 5733.58, 5733.59, 5739.051, 5747.66, 5751.014, 5911.11, 415
5919.20, and 5919.36 of the Revised Code be enacted; that Section 416
6 of H.B. 364 of the 124th General Assembly be amended and Section 417
6 of H.B. 364 of the 124th General Assembly be amended to codify 418
as section 3314.027 of the Revised Code; and that Section 419
269.60.60 of H.B. 119 of the 127th General Assembly be amended and 420
Section 269.60.60 of H.B. 119 of the 127th General Assembly be 421
amended to codify as section 3314.38 of the Revised Code to read 422
as follows: 423

424
Sec. 9.06. (A)(1) The department of rehabilitation and 425
correction ~~shall~~ may contract for the private operation and 426
management pursuant to this section of the initial intensive 427
program prison established pursuant to section 5120.033 of the 428
Revised Code, if one or more intensive program prisons are 429
established under that section, and may contract for the private 430
operation and management of any other facility under this section. 431
Counties and municipal corporations to the extent authorized in 432
sections 307.93, 341.35, 753.03, and 753.15 of the Revised Code 433
may contract for the private operation and management of a 434
facility under this section. A contract entered into under this 435
section shall be for an initial term of not more than two years 436
with an option to renew for additional periods of two years. 437

(2) The department of rehabilitation and correction, by rule, 438
shall adopt minimum criteria and specifications that a person or 439
entity, other than a person or entity that satisfies the criteria 440
set forth in division (A)(3)(a) of this section and subject to 441
division (I) of this section, must satisfy in order to apply to 442
operate and manage as a contractor pursuant to this section the 443
initial intensive program prison established pursuant to section 444

5120.033 of the Revised Code if one or more intensive program
prisons are established under that section. 445
446

(3) Subject to division (I) of this section, any person or 447
entity that applies to operate and manage a facility as a 448
contractor pursuant to this section shall satisfy one or more of 449
the following criteria: 450

(a) The person or entity is accredited by the American 451
correctional association and, at the time of the application, 452
operates and manages one or more facilities accredited by the 453
American correctional association. 454

(b) The person or entity satisfies all of the minimum 455
criteria and specifications adopted by the department of 456
rehabilitation and correction pursuant to division (A)(2) of this 457
section, provided that this alternative shall be available only in 458
relation to the initial intensive program prison established 459
pursuant to section 5120.033 of the Revised Code, if one or more
intensive program prisons are established under that section. 460
461

(4) Subject to division (I) of this section, before a public 462
entity may enter into a contract under this section, the 463
contractor shall convincingly demonstrate to the public entity 464
that it can operate the facility with the inmate capacity required 465
by the public entity and provide the services required in this 466
section and realize at least a five per cent savings over the 467
projected cost to the public entity of providing these same 468
services to operate the facility that is the subject of the 469
contract. No out-of-state prisoners may be housed in any facility 470
that is the subject of a contract entered into under this section. 471

(B) Subject to division (I) of this section, any contract 472
entered into under this section shall include all of the 473
following: 474

(1) A requirement that the contractor retain the contractor's 475

accreditation from the American correctional association 476
throughout the contract term or, if the contractor applied 477
pursuant to division (A)(3)(b) of this section, continue complying 478
with the applicable criteria and specifications adopted by the 479
department of rehabilitation and correction pursuant to division 480
(A)(2) of this section; 481

(2) A requirement that all of the following conditions be 482
met: 483

(a) The contractor begins the process of accrediting the 484
facility with the American correctional association no later than 485
sixty days after the facility receives its first inmate. 486

(b) The contractor receives accreditation of the facility 487
within twelve months after the date the contractor applies to the 488
American correctional association for accreditation. 489

(c) Once the accreditation is received, the contractor 490
maintains it for the duration of the contract term. 491

(d) If the contractor does not comply with divisions 492
(B)(2)(a) to (c) of this section, the contractor is in violation 493
of the contract, and the public entity may revoke the contract at 494
its discretion. 495

(3) A requirement that the contractor comply with all rules 496
promulgated by the department of rehabilitation and correction 497
that apply to the operation and management of correctional 498
facilities, including the minimum standards for jails in Ohio and 499
policies regarding the use of force and the use of deadly force, 500
although the public entity may require more stringent standards, 501
and comply with any applicable laws, rules, or regulations of the 502
federal, state, and local governments, including, but not limited 503
to, sanitation, food service, safety, and health regulations. The 504
contractor shall be required to send copies of reports of 505
inspections completed by the appropriate authorities regarding 506

compliance with rules and regulations to the director of 507
rehabilitation and correction or the director's designee and, if 508
contracting with a local public entity, to the governing authority 509
of that entity. 510

(4) A requirement that the contractor report for 511
investigation all crimes in connection with the facility to the 512
public entity, to all local law enforcement agencies with 513
jurisdiction over the place at which the facility is located, and, 514
for a crime committed at a state correctional institution, to the 515
state highway patrol; 516

(5) A requirement that the contractor immediately report all 517
escapes from the facility, and the apprehension of all escapees, 518
by telephone and in writing to all local law enforcement agencies 519
with jurisdiction over the place at which the facility is located, 520
to the prosecuting attorney of the county in which the facility is 521
located, to the state highway patrol, to a daily newspaper having 522
general circulation in the county in which the facility is 523
located, and, if the facility is a state correctional institution, 524
to the department of rehabilitation and correction. The written 525
notice may be by either facsimile transmission or mail. A failure 526
to comply with this requirement regarding an escape is a violation 527
of section 2921.22 of the Revised Code. 528

(6) A requirement that, if the facility is a state 529
correctional institution, the contractor provide a written report 530
within specified time limits to the director of rehabilitation and 531
correction or the director's designee of all unusual incidents at 532
the facility as defined in rules promulgated by the department of 533
rehabilitation and correction or, if the facility is a local 534
correctional institution, that the contractor provide a written 535
report of all unusual incidents at the facility to the governing 536
authority of the local public entity; 537

(7) A requirement that the contractor maintain proper control 538

of inmates' personal funds pursuant to rules promulgated by the 539
department of rehabilitation and correction for state correctional 540
institutions or pursuant to the minimum standards for jails along 541
with any additional standards established by the local public 542
entity for local correctional institutions and that records 543
pertaining to these funds be made available to representatives of 544
the public entity for review or audit; 545

(8) A requirement that the contractor prepare and distribute 546
to the director of rehabilitation and correction or, if 547
contracting with a local public entity, to the governing authority 548
of the local entity annual budget income and expenditure 549
statements and funding source financial reports; 550

(9) A requirement that the public entity appoint and 551
supervise a full-time contract monitor, that the contractor 552
provide suitable office space for the contract monitor at the 553
facility, and that the contractor allow the contract monitor 554
unrestricted access to all parts of the facility and all records 555
of the facility except the contractor's financial records; 556

(10) A requirement that if the facility is a state 557
correctional institution designated department of rehabilitation 558
and correction staff members be allowed access to the facility in 559
accordance with rules promulgated by the department; 560

(11) A requirement that the contractor provide internal and 561
perimeter security as agreed upon in the contract; 562

(12) If the facility is a state correctional institution, a 563
requirement that the contractor impose discipline on inmates 564
housed in a state correctional institution only in accordance with 565
rules promulgated by the department of rehabilitation and 566
correction; 567

(13) A requirement that the facility be staffed at all times 568
with a staffing pattern approved by the public entity and adequate 569

both to ensure supervision of inmates and maintenance of security 570
within the facility and to provide for programs, transportation, 571
security, and other operational needs. In determining security 572
needs, the contractor shall be required to consider, among other 573
things, the proximity of the facility to neighborhoods and 574
schools. 575

(14) If the contract is with a local public entity, a 576
requirement that the contractor provide services and programs, 577
consistent with the minimum standards for jails promulgated by the 578
department of rehabilitation and correction under section 5120.10 579
of the Revised Code; 580

(15) A clear statement that no immunity from liability 581
granted to the state, and no immunity from liability granted to 582
political subdivisions under Chapter 2744. of the Revised Code, 583
shall extend to the contractor or any of the contractor's 584
employees; 585

(16) A statement that all documents and records relevant to 586
the facility shall be maintained in the same manner required for, 587
and subject to the same laws, rules, and regulations as apply to, 588
the records of the public entity; 589

(17) Authorization for the public entity to impose a fine on 590
the contractor from a schedule of fines included in the contract 591
for the contractor's failure to perform its contractual duties or 592
to cancel the contract, as the public entity considers 593
appropriate. If a fine is imposed, the public entity may reduce 594
the payment owed to the contractor pursuant to any invoice in the 595
amount of the imposed fine. 596

(18) A statement that all services provided or goods produced 597
at the facility shall be subject to the same regulations, and the 598
same distribution limitations, as apply to goods and services 599
produced at other correctional institutions; 600

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

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

(21) If the institution is a state correctional institution, a requirement that the contractor provide clothing for all inmates housed in the facility that is conspicuous in its color, style, or color and style, that conspicuously identifies its wearer as an inmate, and that is readily distinguishable from clothing of a nature that normally is worn outside the facility by non-inmates, that the contractor require all inmates housed in the facility to wear the clothing so provided, and that the contractor not permit any inmate, while inside or on the premises of the facility or while being transported to or from the facility, to wear any clothing of a nature that does not conspicuously identify its wearer as an inmate and that normally is worn outside the facility by non-inmates.

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

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

(2) Developing or implementing procedures for calculating and

awarding earned credits, approving the type of work inmates may 632
perform and the wage or earned credits, if any, that may be 633
awarded to inmates engaging in that work, and granting, denying, 634
or revoking earned credits; 635

(3) For inmates serving a term imposed for a felony offense 636
committed prior to July 1, 1996, or for a misdemeanor offense, 637
developing or implementing procedures for calculating and awarding 638
good time, approving the good time, if any, that may be awarded to 639
inmates engaging in work, and granting, denying, or revoking good 640
time; 641

(4) Classifying an inmate or placing an inmate in a more or a 642
less restrictive custody than the custody ordered by the public 643
entity; 644

(5) Approving inmates for work release; 645

(6) Contracting for local or long distance telephone services 646
for inmates or receiving commissions from those services at a 647
facility that is owned by or operated under a contract with the 648
department. 649

(D) A contractor that has been approved to operate a facility 650
under this section, and a person or entity that enters into a 651
contract for specialized services, as described in division (I) of 652
this section, relative to an intensive program prison established 653
pursuant to section 5120.033 of the Revised Code to be operated by 654
a contractor that has been approved to operate the prison under 655
this section, shall provide an adequate policy of insurance 656
specifically including, but not limited to, insurance for civil 657
rights claims as determined by a risk management or actuarial firm 658
with demonstrated experience in public liability for state 659
governments. The insurance policy shall provide that the state, 660
including all state agencies, and all political subdivisions of 661
the state with jurisdiction over the facility or in which a 662

facility is located are named as insured, and that the state and 663
its political subdivisions shall be sent any notice of 664
cancellation. The contractor may not self-insure. 665

A contractor that has been approved to operate a facility 666
under this section, and a person or entity that enters into a 667
contract for specialized services, as described in division (I) of 668
this section, relative to an intensive program prison established 669
pursuant to section 5120.033 of the Revised Code to be operated by 670
a contractor that has been approved to operate the prison under 671
this section, shall indemnify and hold harmless the state, its 672
officers, agents, and employees, and any local government entity 673
in the state having jurisdiction over the facility or ownership of 674
the facility, shall reimburse the state for its costs in defending 675
the state or any of its officers, agents, or employees, and shall 676
reimburse any local government entity of that nature for its costs 677
in defending the local government entity, from all of the 678
following: 679

(1) Any claims or losses for services rendered by the 680
contractor, person, or entity performing or supplying services in 681
connection with the performance of the contract; 682

(2) Any failure of the contractor, person, or entity or its 683
officers or employees to adhere to the laws, rules, regulations, 684
or terms agreed to in the contract; 685

(3) Any constitutional, federal, state, or civil rights claim 686
brought against the state related to the facility operated and 687
managed by the contractor; 688

(4) Any claims, losses, demands, or causes of action arising 689
out of the contractor's, person's, or entity's activities in this 690
state; 691

(5) Any attorney's fees or court costs arising from any 692
habeas corpus actions or other inmate suits that may arise from 693

any event that occurred at the facility or was a result of such an 694
event, or arise over the conditions, management, or operation of 695
the facility, which fees and costs shall include, but not be 696
limited to, attorney's fees for the state's representation and for 697
any court-appointed representation of any inmate, and the costs of 698
any special judge who may be appointed to hear those actions or 699
suits. 700

(E) Private correctional officers of a contractor operating 701
and managing a facility pursuant to a contract entered into under 702
this section may carry and use firearms in the course of their 703
employment only after being certified as satisfactorily completing 704
an approved training program as described in division (A) of 705
section 109.78 of the Revised Code. 706

(F) Upon notification by the contractor of an escape from, or 707
of a disturbance at, the facility that is the subject of a 708
contract entered into under this section, the department of 709
rehabilitation and correction and state and local law enforcement 710
agencies shall use all reasonable means to recapture escapees or 711
quell any disturbance. Any cost incurred by the state or its 712
political subdivisions relating to the apprehension of an escapee 713
or the quelling of a disturbance at the facility shall be 714
chargeable to and borne by the contractor. The contractor shall 715
also reimburse the state or its political subdivisions for all 716
reasonable costs incurred relating to the temporary detention of 717
the escapee following recapture. 718

(G) Any offense that would be a crime if committed at a state 719
correctional institution or jail, workhouse, prison, or other 720
correctional facility shall be a crime if committed by or with 721
regard to inmates at facilities operated pursuant to a contract 722
entered into under this section. 723

(H) A contractor operating and managing a facility pursuant 724
to a contract entered into under this section shall pay any inmate 725

workers at the facility at the rate approved by the public entity. 726
Inmates working at the facility shall not be considered employees 727
of the contractor. 728

(I) In contracting for the private operation and management 729
pursuant to division (A) of this section of ~~the initial~~ any 730
intensive program prison established pursuant to section 5120.033 731
of the Revised Code ~~or of any other intensive program prison~~ 732
~~established pursuant to that section~~, the department of 733
rehabilitation and correction may enter into a contract with a 734
contractor for the general operation and management of the prison 735
and may enter into one or more separate contracts with other 736
persons or entities for the provision of specialized services for 737
persons confined in the prison, including, but not limited to, 738
security or training services or medical, counseling, educational, 739
or similar treatment programs. If, pursuant to this division, the 740
department enters into a contract with a contractor for the 741
general operation and management of the prison and also enters 742
into one or more specialized service contracts with other persons 743
or entities, all of the following apply: 744

(1) The contract for the general operation and management 745
shall comply with all requirements and criteria set forth in this 746
section, and all provisions of this section apply in relation to 747
the prison operated and managed pursuant to the contract. 748

(2) Divisions (A)(2), (B), and (C) of this section do not 749
apply in relation to any specialized services contract, except to 750
the extent that the provisions of those divisions clearly are 751
relevant to the specialized services to be provided under the 752
specialized services contract. Division (D) of this section 753
applies in relation to each specialized services contract. 754

(J) As used in this section: 755

(1) "Public entity" means the department of rehabilitation 756

and correction, or a county or municipal corporation or a 757
combination of counties and municipal corporations, that has 758
jurisdiction over a facility that is the subject of a contract 759
entered into under this section. 760

(2) "Local public entity" means a county or municipal 761
corporation, or a combination of counties and municipal 762
corporations, that has jurisdiction over a jail, workhouse, or 763
other correctional facility used only for misdemeanants that is 764
the subject of a contract entered into under this section. 765

(3) "Governing authority of a local public entity" means, for 766
a county, the board of county commissioners; for a municipal 767
corporation, the legislative authority; for a combination of 768
counties and municipal corporations, all the boards of county 769
commissioners and municipal legislative authorities that joined to 770
create the facility. 771

(4) "Contractor" means a person or entity that enters into a 772
contract under this section to operate and manage a jail, 773
workhouse, or other correctional facility. 774

(5) "Facility" means the specific county, multicounty, 775
municipal, municipal-county, or multicounty-municipal jail, 776
workhouse, prison, or other type of correctional institution or 777
facility used only for misdemeanants, or a state correctional 778
institution, that is the subject of a contract entered into under 779
this section. 780

(6) "Person or entity" in the case of a contract for the 781
private operation and management of a state correctional 782
institution, includes an employee organization, as defined in 783
section 4117.01 of the Revised Code, that represents employees at 784
state correctional institutions. 785

Sec. 107.21. (A) As used in this section, "Appalachian 786

region" means the following counties in this state ~~which~~ that have 787
been designated as part of Appalachia by the federal Appalachian 788
regional commission and ~~which~~ that have been geographically 789
isolated and economically depressed: Adams, Ashtabula, Athens, 790
Belmont, Brown, Carroll, Clermont, Columbiana, Coshocton, Gallia, 791
Guernsey, Harrison, Highland, Hocking, Holmes, Jackson, Jefferson, 792
Lawrence, Mahoning, Meigs, Monroe, Morgan, Muskingum, Noble, 793
Perry, Pike, Ross, Scioto, Trumbull, Tuscarawas, Vinton, and 794
Washington. 795

(B) There is hereby created in the department of development 796
the governor's office of Appalachian Ohio. The governor shall 797
designate the director of the governor's office of Appalachian 798
Ohio. The director shall report directly to the office of the 799
governor. On January 1, 1987, the governor shall designate the 800
director to represent this state on the federal Appalachian 801
regional commission. The director may appoint such employees as 802
are necessary to exercise the powers and duties of this office. 803
The director shall maintain local development districts as 804
established within the Appalachian region for the purpose of 805
regional planning for the distribution of funds from the 806
Appalachian regional commission within the Appalachian region. 807

(C) The governor's office of Appalachian Ohio shall represent 808
the interests of the Appalachian region in the government of this 809
state. The duties of the director of the office shall include, but 810
are not limited to, the following: 811

(1) To identify residents of the Appalachian region qualified 812
to serve on state boards, commissions, and bodies and in state 813
offices, and to bring these persons to the attention of the 814
governor; 815

(2) To represent the interests of the Appalachian region in 816
the general assembly and before state boards, commissions, bodies, 817
and agencies; 818

(3) To assist in forming a consensus on public issues and 819
policies among institutions and organizations that serve the 820
Appalachian region; 821

(4) To act as an ~~ombudsman~~ ombudsperson to assist in 822
resolving differences between state or federal agencies and the 823
officials of political subdivisions or private, nonprofit 824
organizations located within the Appalachian region; 825

(5) To assist planning commissions, agencies, and 826
organizations within the Appalachian region in distributing 827
planning information and documents to the appropriate state and 828
federal agencies and to assist in focusing attention on any 829
findings and recommendations of these commissions, agencies, and 830
organizations; 831

(6) To issue reports on the Appalachian region ~~which~~ that 832
describe progress achieved and the needs that still exist in the 833
region; 834

(7) To assist the governor's office in resolving the problems 835
of residents of the Appalachian region that come to the governor's 836
attention. 837

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 838
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, 839
a completed form prescribed pursuant to division (C)(1) of this 840
section, and a set of fingerprint impressions obtained in the 841
manner described in division (C)(2) of this section, the 842
superintendent of the bureau of criminal identification and 843
investigation shall conduct a criminal records check in the manner 844
described in division (B) of this section to determine whether any 845
information exists that indicates that the person who is the 846
subject of the request previously has been convicted of or pleaded 847
guilty to any of the following: 848

(a) A violation of section 2903.01, 2903.02, 2903.03, 849
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 850
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 851
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 852
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 853
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 854
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 855
2925.06, or 3716.11 of the Revised Code, felonious sexual 856
penetration in violation of former section 2907.12 of the Revised 857
Code, a violation of section 2905.04 of the Revised Code as it 858
existed prior to July 1, 1996, a violation of section 2919.23 of 859
the Revised Code that would have been a violation of section 860
2905.04 of the Revised Code as it existed prior to July 1, 1996, 861
had the violation been committed prior to that date, or a 862
violation of section 2925.11 of the Revised Code that is not a 863
minor drug possession offense; 864

(b) A violation of an existing or former law of this state, 865
any other state, or the United States that is substantially 866
equivalent to any of the offenses listed in division (A)(1)(a) of 867
this section. 868

(2) On receipt of a request pursuant to section 5123.081 of 869
the Revised Code with respect to an applicant for employment in 870
any position with the department of mental retardation and 871
developmental disabilities, pursuant to section 5126.28 of the 872
Revised Code with respect to an applicant for employment in any 873
position with a county board of mental retardation and 874
developmental disabilities, or pursuant to section 5126.281 of the 875
Revised Code with respect to an applicant for employment in a 876
direct services position with an entity contracting with a county 877
board for employment, a completed form prescribed pursuant to 878
division (C)(1) of this section, and a set of fingerprint 879
impressions obtained in the manner described in division (C)(2) of 880

this section, the superintendent of the bureau of criminal 881
identification and investigation shall conduct a criminal records 882
check. The superintendent shall conduct the criminal records check 883
in the manner described in division (B) of this section to 884
determine whether any information exists that indicates that the 885
person who is the subject of the request has been convicted of or 886
pleaded guilty to any of the following: 887

(a) A violation of section 2903.01, 2903.02, 2903.03, 888
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 889
2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 890
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 891
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 892
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 893
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 894
2925.03, or 3716.11 of the Revised Code; 895

(b) An existing or former municipal ordinance or law of this 896
state, any other state, or the United States that is substantially 897
equivalent to any of the offenses listed in division (A)(2)(a) of 898
this section. 899

(3) On receipt of a request pursuant to section 173.27, 900
173.394, 3712.09, 3721.121, or 3722.151 of the Revised Code, a 901
completed form prescribed pursuant to division (C)(1) of this 902
section, and a set of fingerprint impressions obtained in the 903
manner described in division (C)(2) of this section, the 904
superintendent of the bureau of criminal identification and 905
investigation shall conduct a criminal records check with respect 906
to any person who has applied for employment in a position for 907
which a criminal records check is required by those sections. The 908
superintendent shall conduct the criminal records check in the 909
manner described in division (B) of this section to determine 910
whether any information exists that indicates that the person who 911
is the subject of the request previously has been convicted of or 912

pleaded guilty to any of the following: 913

(a) A violation of section 2903.01, 2903.02, 2903.03, 914
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 915
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 916
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 917
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 918
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 919
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 920
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 921
2925.22, 2925.23, or 3716.11 of the Revised Code; 922

(b) An existing or former law of this state, any other state, 923
or the United States that is substantially equivalent to any of 924
the offenses listed in division (A)(3)(a) of this section. 925

(4) On receipt of a request pursuant to section 3701.881 of 926
the Revised Code with respect to an applicant for employment with 927
a home health agency as a person responsible for the care, 928
custody, or control of a child, a completed form prescribed 929
pursuant to division (C)(1) of this section, and a set of 930
fingerprint impressions obtained in the manner described in 931
division (C)(2) of this section, the superintendent of the bureau 932
of criminal identification and investigation shall conduct a 933
criminal records check. The superintendent shall conduct the 934
criminal records check in the manner described in division (B) of 935
this section to determine whether any information exists that 936
indicates that the person who is the subject of the request 937
previously has been convicted of or pleaded guilty to any of the 938
following: 939

(a) A violation of section 2903.01, 2903.02, 2903.03, 940
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 941
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 942
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 943
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 944

2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 945
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 946
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 947
violation of section 2925.11 of the Revised Code that is not a 948
minor drug possession offense; 949

(b) An existing or former law of this state, any other state, 950
or the United States that is substantially equivalent to any of 951
the offenses listed in division (A)(4)(a) of this section. 952

(5) On receipt of a request pursuant to section 5111.032, 953
5111.033, or 5111.034 of the Revised Code, a completed form 954
prescribed pursuant to division (C)(1) of this section, and a set 955
of fingerprint impressions obtained in the manner described in 956
division (C)(2) of this section, the superintendent of the bureau 957
of criminal identification and investigation shall conduct a 958
criminal records check. The superintendent shall conduct the 959
criminal records check in the manner described in division (B) of 960
this section to determine whether any information exists that 961
indicates that the person who is the subject of the request 962
previously has been convicted of, has pleaded guilty to, or has 963
been found eligible for intervention in lieu of conviction for any 964
of the following: 965

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 966
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 967
2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 968
2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 969
2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 970
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 971
2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 972
2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 973
2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 974
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 975
2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 976

2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 977
2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 978
2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 979
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 980
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 981
penetration in violation of former section 2907.12 of the Revised 982
Code, a violation of section 2905.04 of the Revised Code as it 983
existed prior to July 1, 1996, a violation of section 2919.23 of 984
the Revised Code that would have been a violation of section 985
2905.04 of the Revised Code as it existed prior to July 1, 1996, 986
had the violation been committed prior to that date; 987

(b) ~~An~~ A violation of an existing or former municipal 988
ordinance or law of this state, any other state, or the United 989
States that is substantially equivalent to any of the offenses 990
listed in division (A)(5)(a) of this section. 991

(6) On receipt of a request pursuant to section 3701.881 of 992
the Revised Code with respect to an applicant for employment with 993
a home health agency in a position that involves providing direct 994
care to an older adult, a completed form prescribed pursuant to 995
division (C)(1) of this section, and a set of fingerprint 996
impressions obtained in the manner described in division (C)(2) of 997
this section, the superintendent of the bureau of criminal 998
identification and investigation shall conduct a criminal records 999
check. The superintendent shall conduct the criminal records check 1000
in the manner described in division (B) of this section to 1001
determine whether any information exists that indicates that the 1002
person who is the subject of the request previously has been 1003
convicted of or pleaded guilty to any of the following: 1004

(a) A violation of section 2903.01, 2903.02, 2903.03, 1005
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1006
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 1007
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 1008

2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 1009
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 1010
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 1011
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 1012
2925.22, 2925.23, or 3716.11 of the Revised Code; 1013

(b) An existing or former law of this state, any other state, 1014
or the United States that is substantially equivalent to any of 1015
the offenses listed in division (A)(6)(a) of this section. 1016

(7) When conducting a criminal records check upon a request 1017
pursuant to section 3319.39 of the Revised Code for an applicant 1018
who is a teacher, in addition to the determination made under 1019
division (A)(1) of this section, the superintendent shall 1020
determine whether any information exists that indicates that the 1021
person who is the subject of the request previously has been 1022
convicted of or pleaded guilty to any offense specified in section 1023
3319.31 of the Revised Code. 1024

(8) On receipt of a request pursuant to section 2151.86 of 1025
the Revised Code, a completed form prescribed pursuant to division 1026
(C)(1) of this section, and a set of fingerprint impressions 1027
obtained in the manner described in division (C)(2) of this 1028
section, the superintendent of the bureau of criminal 1029
identification and investigation shall conduct a criminal records 1030
check in the manner described in division (B) of this section to 1031
determine whether any information exists that indicates that the 1032
person who is the subject of the request previously has been 1033
convicted of or pleaded guilty to any of the following: 1034

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 1035
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 1036
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 1037
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 1038
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 1039
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 1040

2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 1041
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 1042
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 1043
of the Revised Code, a violation of section 2905.04 of the Revised 1044
Code as it existed prior to July 1, 1996, a violation of section 1045
2919.23 of the Revised Code that would have been a violation of 1046
section 2905.04 of the Revised Code as it existed prior to July 1, 1047
1996, had the violation been committed prior to that date, a 1048
violation of section 2925.11 of the Revised Code that is not a 1049
minor drug possession offense, two or more OVI or OVUAC violations 1050
committed within the three years immediately preceding the 1051
submission of the application or petition that is the basis of the 1052
request, or felonious sexual penetration in violation of former 1053
section 2907.12 of the Revised Code; 1054

(b) A violation of an existing or former law of this state, 1055
any other state, or the United States that is substantially 1056
equivalent to any of the offenses listed in division (A)(8)(a) of 1057
this section. 1058

(9) Upon receipt of a request pursuant to section 5104.012 or 1059
5104.013 of the Revised Code, a completed form prescribed pursuant 1060
to division (C)(1) of this section, and a set of fingerprint 1061
impressions obtained in the manner described in division (C)(2) of 1062
this section, the superintendent of the bureau of criminal 1063
identification and investigation shall conduct a criminal records 1064
check in the manner described in division (B) of this section to 1065
determine whether any information exists that indicates that the 1066
person who is the subject of the request has been convicted of or 1067
pleaded guilty to any of the following: 1068

(a) A violation of section 2903.01, 2903.02, 2903.03, 1069
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 1070
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 1071
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 1072

2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 1073
2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 1074
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 1075
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 1076
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 1077
2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 1078
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 1079
3716.11 of the Revised Code, felonious sexual penetration in 1080
violation of former section 2907.12 of the Revised Code, a 1081
violation of section 2905.04 of the Revised Code as it existed 1082
prior to July 1, 1996, a violation of section 2919.23 of the 1083
Revised Code that would have been a violation of section 2905.04 1084
of the Revised Code as it existed prior to July 1, 1996, had the 1085
violation been committed prior to that date, a violation of 1086
section 2925.11 of the Revised Code that is not a minor drug 1087
possession offense, a violation of section 2923.02 or 2923.03 of 1088
the Revised Code that relates to a crime specified in this 1089
division, or a second violation of section 4511.19 of the Revised 1090
Code within five years of the date of application for licensure or 1091
certification. 1092

(b) A violation of an existing or former law of this state, 1093
any other state, or the United States that is substantially 1094
equivalent to any of the offenses or violations described in 1095
division (A)(9)(a) of this section. 1096

(10) Upon receipt of a request pursuant to section 5153.111 1097
of the Revised Code, a completed form prescribed pursuant to 1098
division (C)(1) of this section, and a set of fingerprint 1099
impressions obtained in the manner described in division (C)(2) of 1100
this section, the superintendent of the bureau of criminal 1101
identification and investigation shall conduct a criminal records 1102
check in the manner described in division (B) of this section to 1103
determine whether any information exists that indicates that the 1104

person who is the subject of the request previously has been 1105
convicted of or pleaded guilty to any of the following: 1106

(a) A violation of section 2903.01, 2903.02, 2903.03, 1107
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1108
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 1109
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 1110
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 1111
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 1112
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 1113
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 1114
felonious sexual penetration in violation of former section 1115
2907.12 of the Revised Code, a violation of section 2905.04 of the 1116
Revised Code as it existed prior to July 1, 1996, a violation of 1117
section 2919.23 of the Revised Code that would have been a 1118
violation of section 2905.04 of the Revised Code as it existed 1119
prior to July 1, 1996, had the violation been committed prior to 1120
that date, or a violation of section 2925.11 of the Revised Code 1121
that is not a minor drug possession offense; 1122

(b) A violation of an existing or former law of this state, 1123
any other state, or the United States that is substantially 1124
equivalent to any of the offenses listed in division (A)(10)(a) of 1125
this section. 1126

(11) On receipt of a request for a criminal records check 1127
from an individual pursuant to section 4749.03 or 4749.06 of the 1128
Revised Code, accompanied by a completed copy of the form 1129
prescribed in division (C)(1) of this section and a set of 1130
fingerprint impressions obtained in a manner described in division 1131
(C)(2) of this section, the superintendent of the bureau of 1132
criminal identification and investigation shall conduct a criminal 1133
records check in the manner described in division (B) of this 1134
section to determine whether any information exists indicating 1135
that the person who is the subject of the request has been 1136

convicted of or pleaded guilty to a felony in this state or in any 1137
other state. If the individual indicates that a firearm will be 1138
carried in the course of business, the superintendent shall 1139
require information from the federal bureau of investigation as 1140
described in division (B)(2) of this section. The superintendent 1141
shall report the findings of the criminal records check and any 1142
information the federal bureau of investigation provides to the 1143
director of public safety. 1144

(12) On receipt of a request pursuant to section 1321.37, 1145
1322.03, 1322.031, or 4763.05 of the Revised Code, a completed 1146
form prescribed pursuant to division (C)(1) of this section, and a 1147
set of fingerprint impressions obtained in the manner described in 1148
division (C)(2) of this section, the superintendent of the bureau 1149
of criminal identification and investigation shall conduct a 1150
criminal records check with respect to any person who has applied 1151
for a license, permit, or certification from the department of 1152
commerce or a division in the department. The superintendent shall 1153
conduct the criminal records check in the manner described in 1154
division (B) of this section to determine whether any information 1155
exists that indicates that the person who is the subject of the 1156
request previously has been convicted of or pleaded guilty to any 1157
of the following: a violation of section 2913.02, 2913.11, 1158
2913.31, 2913.51, or 2925.03 of the Revised Code; any other 1159
criminal offense involving theft, receiving stolen property, 1160
embezzlement, forgery, fraud, passing bad checks, money 1161
laundering, or drug trafficking, or any criminal offense involving 1162
money or securities, as set forth in Chapters 2909., 2911., 2913., 1163
2915., 2921., 2923., and 2925. of the Revised Code; or any 1164
existing or former law of this state, any other state, or the 1165
United States that is substantially equivalent to those offenses. 1166

(13) On receipt of a request for a criminal records check 1167
1168

from the treasurer of state under section 113.041 of the Revised Code or from an individual under section 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by a completed form prescribed under division (C)(1) of this section and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any criminal offense in this state or any other state. The superintendent shall send the results of a check requested under section 113.041 of the Revised Code to the treasurer of state and shall send the results of a check requested under any of the other listed sections to the licensing board specified by the individual in the request.

(14) On receipt of a request pursuant to section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any criminal offense under any existing or former law of this state, any other state, or the United States.

(15) Not later than thirty days after the date the
superintendent receives a request of a type described in division
(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12),
or (14) of this section, the completed form, and the fingerprint
impressions, the superintendent shall send the person, board, or
entity that made the request any information, other than
information the dissemination of which is prohibited by federal
law, the superintendent determines exists with respect to the
person who is the subject of the request that indicates that the
person previously has been convicted of or pleaded guilty to any
offense listed or described in division (A)(1), (2), (3), (4),
(5), (6), (7), (8), (9), (10), (11), (12), or (14) of this
section, as appropriate. The superintendent shall send the person,
board, or entity that made the request a copy of the list of
offenses specified in division (A)(1), (2), (3), (4), (5), (6),
(7), (8), (9), (10), (11), (12), or (14) of this section, as
appropriate. If the request was made under section 3701.881 of the
Revised Code with regard to an applicant who may be both
responsible for the care, custody, or control of a child and
involved in providing direct care to an older adult, the
superintendent shall provide a list of the offenses specified in
divisions (A)(4) and (6) of this section.

Not later than thirty days after the superintendent receives
a request for a criminal records check pursuant to section 113.041
of the Revised Code, the completed form, and the fingerprint
impressions, the superintendent shall send the treasurer of state
any information, other than information the dissemination of which
is prohibited by federal law, the superintendent determines exist
with respect to the person who is the subject of the request that
indicates that the person previously has been convicted of or
pleaded guilty to any criminal offense in this state or any other
state.

(B) The superintendent shall conduct any criminal records check requested under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code as follows:

(1) The superintendent shall review or cause to be reviewed any relevant information gathered and compiled by the bureau under division (A) of section 109.57 of the Revised Code that relates to the person who is the subject of the request, including, if the criminal records check was requested under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.37, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code, any relevant information contained in records that have been sealed under section 2953.32 of the Revised Code;

(2) If the request received by the superintendent asks for information from the federal bureau of investigation, the superintendent shall request from the federal bureau of investigation any information it has with respect to the person who is the subject of the request, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 if the request is made pursuant to section 2151.86, 5104.012, or 5104.013 of the Revised Code or if any other Revised

Code section requires fingerprint-based checks of that nature, and 1266
shall review or cause to be reviewed any information the 1267
superintendent receives from that bureau. 1268

(3) The superintendent or the superintendent's designee may 1269
request criminal history records from other states or the federal 1270
government pursuant to the national crime prevention and privacy 1271
compact set forth in section 109.571 of the Revised Code. 1272

(C)(1) The superintendent shall prescribe a form to obtain 1273
the information necessary to conduct a criminal records check from 1274
any person for whom a criminal records check is requested under 1275
section 113.041 of the Revised Code or required by section 121.08, 1276
173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1277
1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 1278
3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 1279
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 1280
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 1281
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 1282
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 1283
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 1284
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 1285
5126.281, or 5153.111 of the Revised Code. The form that the 1286
superintendent prescribes pursuant to this division may be in a 1287
tangible format, in an electronic format, or in both tangible and 1288
electronic formats. 1289

(2) The superintendent shall prescribe standard impression 1290
sheets to obtain the fingerprint impressions of any person for 1291
whom a criminal records check is requested under section 113.041 1292
of the Revised Code or required by section 121.08, 173.27, 1293
173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1322.031, 1294
1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 1295
3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 1296
4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 1297

4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 1298
4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 1299
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 1300
4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 1301
5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 1302
5153.111 of the Revised Code. Any person for whom a records check 1303
is requested under or required by any of those sections shall 1304
obtain the fingerprint impressions at a county sheriff's office, 1305
municipal police department, or any other entity with the ability 1306
to make fingerprint impressions on the standard impression sheets 1307
prescribed by the superintendent. The office, department, or 1308
entity may charge the person a reasonable fee for making the 1309
impressions. The standard impression sheets the superintendent 1310
prescribes pursuant to this division may be in a tangible format, 1311
in an electronic format, or in both tangible and electronic 1312
formats. 1313

(3) Subject to division (D) of this section, the 1314
superintendent shall prescribe and charge a reasonable fee for 1315
providing a criminal records check requested under section 1316
113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1317
1315.141, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 1318
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 1319
4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 1320
4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 1321
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 1322
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 1323
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 1324
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 1325
5126.281, or 5153.111 of the Revised Code. The person making a 1326
criminal records request under any of those sections shall pay the 1327
fee prescribed pursuant to this division. A person making a 1328
request under section 3701.881 of the Revised Code for a criminal 1329
records check for an applicant who may be both responsible for the 1330

care, custody, or control of a child and involved in providing 1331
direct care to an older adult shall pay one fee for the request. 1332
In the case of a request under section 1121.23, 1155.03, 1163.05, 1333
1315.141, 1733.47, 1761.26, or 5111.032 of the Revised Code, the 1334
fee shall be paid in the manner specified in that section. 1335
1336

(4) The superintendent of the bureau of criminal 1337
identification and investigation may prescribe methods of 1338
forwarding fingerprint impressions and information necessary to 1339
conduct a criminal records check, which methods shall include, but 1340
not be limited to, an electronic method. 1341

(D) A determination whether any information exists that 1342
indicates that a person previously has been convicted of or 1343
pleaded guilty to any offense listed or described in division 1344
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 1345
(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), 1346
(A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), or (A)(14) of this 1347
section, or that indicates that a person previously has been 1348
convicted of or pleaded guilty to any criminal offense in this 1349
state or any other state regarding a criminal records check of a 1350
type described in division (A)(13) of this section, and that is 1351
made by the superintendent with respect to information considered 1352
in a criminal records check in accordance with this section is 1353
valid for the person who is the subject of the criminal records 1354
check for a period of one year from the date upon which the 1355
superintendent makes the determination. During the period in which 1356
the determination in regard to a person is valid, if another 1357
request under this section is made for a criminal records check 1358
for that person, the superintendent shall provide the information 1359
that is the basis for the superintendent's initial determination 1360
at a lower fee than the fee prescribed for the initial criminal 1361
records check. 1362

(E) As used in this section: 1363

(1) "Criminal records check" means any criminal records check 1364
conducted by the superintendent of the bureau of criminal 1365
identification and investigation in accordance with division (B) 1366
of this section. 1367

(2) "Minor drug possession offense" has the same meaning as 1368
in section 2925.01 of the Revised Code. 1369

(3) "Older adult" means a person age sixty or older. 1370

(4) "OVI or OVUAC violation" means a violation of section 1371
4511.19 of the Revised Code or a violation of an existing or 1372
former law of this state, any other state, or the United States 1373
that is substantially equivalent to section 4511.19 of the Revised 1374
Code. 1375

Sec. 111.26. (A) It is hereby declared to be a public purpose 1376
and function of the state to facilitate the conduct of elections 1377
by assisting boards of elections in acquiring state capital 1378
facilities consisting of marking devices and automatic tabulating 1379
equipment for optical scan ballots. Those marking devices and 1380
automatic tabulating equipment are designated as capital 1381
facilities under sections 152.09 to 152.33 of the Revised Code. 1382
The Ohio building authority is authorized to issue revenue 1383
obligations under sections 152.09 to 152.33 of the Revised Code to 1384
pay all or part of the cost of those state capital facilities as 1385
are designated by law. 1386

Boards of elections, due to their responsibilities related to 1387
the proper conduct of elections under state law, are designated as 1388
state agencies having jurisdiction over those state capital 1389
facilities financed in part pursuant to this section and Chapter 1390
152. of the Revised Code. It is hereby determined and declared 1391
that voting machines financed in part under this section are for 1392

the purpose of housing agencies of state government, their 1393
functions and equipment. 1394

(B) A county shall contribute to the cost of capital 1395
facilities authorized under this section as provided below. 1396

(C) Any lease of capital facilities authorized by this 1397
section, the rentals of which are payable in whole or in part from 1398
appropriations made by the general assembly, is governed by 1399
division (D) of section 152.24 of the Revised Code. Such rentals 1400
constitute available receipts as defined in section 152.09 of the 1401
Revised Code and may be pledged for the payment of bond service 1402
charges as provided in section 152.10 of the Revised Code. 1403

(D) The county voting machine revolving lease/loan fund is 1404
hereby created in the state treasury. The fund shall consist of 1405
the net proceeds of obligations issued under sections 152.09 to 1406
152.33 of the Revised Code to finance a portion of those state 1407
capital facilities described in division (A) of this section, as 1408
needed to ensure sufficient moneys to support appropriations from 1409
the fund. Lease payments from counties made for those capital 1410
facilities financed in part from the fund and interest earnings on 1411
the balance in the fund shall be credited to the fund. Moneys in 1412
the fund shall be used for the purpose of acquiring a portion of 1413
additional capital facilities described in division (A) of this 1414
section at the request of the applicable board of elections. 1415

Participation in the fund by a board of county commissioners 1416
shall be voluntary. 1417

The secretary of state shall administer the county voting 1418
machine revolving lease/loan fund in accordance with this section 1419
and shall enter into any lease or other agreement with the 1420
department of administrative services necessary or appropriate to 1421
accomplish the purposes of this section. 1422

(E) Acquisitions made under this section shall provide not 1423

more than fifty per cent of the estimated total cost of a board of 1424
county commissioners' purchase of marking devices and automatic 1425
tabulating equipment for optical scan ballots. 1426

The secretary of state shall adopt rules for the 1427
implementation of the acquisition and lease program established 1428
under this section, which rules shall require that the secretary 1429
of state approve any acquisition of marking devices and automatic 1430
tabulating equipment using money made available under this 1431
section. An acquisition for any one board of county commissioners 1432
shall not exceed five million dollars and shall be made only for 1433
equipment purchased on or after March 31, 2008. Any costs incurred 1434
on or after January 1, 2008, may be considered as the county cost 1435
percentage for the purpose of an acquisition made under this 1436
section. 1437

Counties shall lease from the secretary of state the capital 1438
facilities financed in part from the county voting machine 1439
revolving lease/loan fund and may enter into any agreements 1440
required under the applicable bond proceedings. All equipment 1441
purchased through this fund shall remain the property of the state 1442
until all payments under the applicable county lease have been 1443
made at which time ownership shall transfer to the county. Costs 1444
associated with the maintenance, repair, and operation of the 1445
voting machines purchased under this section shall be the 1446
responsibility of the participating boards of elections and boards 1447
of county commissioners. 1448

Such lease may obligate the counties, as using state agencies 1449
under Chapter 152. of the Revised Code, to operate the capital 1450
facilities for such period of time as may be specified by law and 1451
to pay such rent as the secretary of state determines to be 1452
appropriate. Notwithstanding any other provision of the Revised 1453
Code to the contrary, any county may enter into such a lease, and 1454
any such lease is legally sufficient to obligate the county for 1455

the term stated in the lease. Any such lease constitutes an 1456
agreement described in division (E) of section 152.24 of the 1457
Revised Code. 1458

(F) As used in this section: 1459

(1) "Automatic tabulating equipment" and "marking device" 1460
have the same meanings as in section 3506.01 of the Revised Code. 1461

(2) "Optical scan ballot" has the same meaning as in section 1462
3506.21 of the Revised Code. 1463

Sec. 117.54. When conducting an audit under section 117.11 of 1464
the Revised Code of a city, local, or exempted village school 1465
district, a community school established under Chapter 3314. of 1466
the Revised Code, or a STEM school established under Chapter 3326. 1467
of the Revised Code, the auditor of state shall determine both of 1468
the following: 1469

(A) Whether the school district, community school, or STEM 1470
school has adopted and submitted a spending plan under section 1471
3306.30 and, if applicable, section 3306.31 of the Revised Code 1472
and that spending plan complies with the spending requirements of 1473
Chapter 3306. of the Revised Code; 1474

(B) Whether the school district, community school, or STEM 1475
school has adopted a plan to implement recommendations of a 1476
performance audit conducted under section 3306.32 or 3316.042 of 1477
the Revised Code. 1478

The auditor of state shall record these determinations in the 1479
audit report. 1480

Sec. 118.05. (A) Pursuant to the powers of the general 1481
assembly and for the purposes of this chapter, upon the occurrence 1482
of a fiscal emergency in any municipal corporation, county, or 1483
township, as determined pursuant to section 118.04 of the Revised 1484

Code, there is established, with respect to that municipal 1485
corporation, county, or township, a body both corporate and 1486
politic constituting an agency and instrumentality of the state 1487
and performing essential governmental functions of the state to be 1488
known as the "financial planning and supervision commission for 1489
..... (name of municipal corporation, county, or 1490
township)," which, in that name, may exercise all authority vested 1491
in such a commission by this chapter. A separate commission is 1492
established with respect to each municipal corporation, county, or 1493
township as to which there is a fiscal emergency as determined 1494
under this chapter. 1495

(B) A commission shall consist of the following ~~seven~~ voting 1496
members: 1497

(1) Four ex officio members: the treasurer of state; the 1498
director of budget and management; in the case of a municipal 1499
corporation, the mayor of the municipal corporation and the 1500
presiding officer of the legislative authority of the municipal 1501
corporation; in the case of a county, the president of the board 1502
of county commissioners and the county auditor; and in the case of 1503
a township, a member of the board of township trustees and the 1504
county auditor. 1505

The treasurer of state may designate a deputy treasurer or 1506
director within the office of the treasurer of state or any other 1507
appropriate person who is not an employee of the treasurer of 1508
state's office; the director of budget and management may 1509
designate an individual within the office of budget and management 1510
or any other appropriate person who is not an employee of the 1511
office of budget and management; the mayor may designate a 1512
responsible official within the mayor's office or the fiscal 1513
officer of the municipal corporation; the presiding officer of the 1514
legislative authority of the municipal corporation may designate 1515
any other member of the legislative authority; the board of county 1516

commissioners may designate any other member of the board or the 1517
fiscal officer of the county; and the board of township trustees 1518
may designate any other member of the board or the fiscal officer 1519
of the township to attend the meetings of the commission when the 1520
ex officio member is absent or unable for any reason to attend. A 1521
designee, when present, shall be counted in determining whether a 1522
quorum is present at any meeting of the commission and may vote 1523
and participate in all proceedings and actions of the commission. 1524
The designations shall be in writing, executed by the ex officio 1525
member or entity making the designation, and filed with the 1526
secretary of the commission. The designations may be changed from 1527
time to time in like manner, but due regard shall be given to the 1528
need for continuity. 1529

(2) Three If a municipal corporation, county, or township has 1530
a population of at least one thousand, three members nominated and 1531
appointed as follows: 1532

The mayor and presiding officer of the legislative authority 1533
of the municipal corporation, the board of county commissioners, 1534
or the board of township trustees shall, within ten days after the 1535
determination of the fiscal emergency by the auditor of state 1536
under section 118.04 of the Revised Code, submit in writing to the 1537
governor the nomination of five persons agreed to by them and 1538
meeting the qualifications set forth in this division. If the 1539
governor is not satisfied that at least three of the nominees are 1540
well qualified, the governor shall notify the mayor and presiding 1541
officer, or the board of county commissioners, or the board of 1542
township trustees to submit in writing, within five days, 1543
additional nominees agreed upon by them, not exceeding three. The 1544
governor shall appoint three members from all the agreed-upon 1545
nominees so submitted or a lesser number that the governor 1546
considers well qualified within thirty days after receipt of the 1547
nominations, and shall fill any remaining positions on the 1548

commission by appointment of any other persons meeting the 1549
qualifications set forth in this division. All appointments by the 1550
governor shall be made with the advice and consent of the senate. 1551
Each of the three appointed members shall serve during the life of 1552
the commission, subject to removal by the governor for 1553
misfeasance, nonfeasance, or malfeasance in office. In the event 1554
of the death, resignation, incapacity, removal, or ineligibility 1555
to serve of an appointed member, the governor, pursuant to the 1556
process for original appointment, shall appoint a successor. 1557

(3) If a municipal corporation, county, or township has a 1558
population of less than one thousand, one member nominated and 1559
appointed as follows: 1560

The mayor and presiding officer of the legislative authority 1561
of the municipal corporation, the board of county commissioners, 1562
or the board of township trustees shall, within ten days after the 1563
determination of the fiscal emergency by the auditor of state 1564
under section 118.04 of the Revised Code, submit in writing to the 1565
governor the nomination of three persons agreed to by them and 1566
meeting the qualifications set forth in this division. If the 1567
governor is not satisfied that at least one of the nominees is 1568
well qualified, the governor shall notify the mayor and presiding 1569
officer, or the board of county commissioners, or the board of 1570
township trustees to submit in writing, within five days, 1571
additional nominees agreed upon by them, not exceeding three. The 1572
governor shall appoint one member from all the agreed-upon 1573
nominees so submitted or shall fill the position on the commission 1574
by appointment of any other person meeting the qualifications set 1575
forth in this division. All appointments by the governor shall be 1576
made with the advice and consent of the senate. The appointed 1577
member shall serve during the life of the commission, subject to 1578
removal by the governor for misfeasance, nonfeasance, or 1579
malfeasance in office. In the event of the death, resignation, 1580

incapacity, removal, or ineligibility to serve of the appointed 1581
member, the governor, pursuant to the process for original 1582
appointment, shall appoint a successor. 1583

Each ~~of the three~~ appointed ~~members~~ member shall be an 1584
individual: 1585

(a) Who has knowledge and experience in financial matters, 1586
financial management, or business organization or operations, 1587
~~including at least five years of experience in the private sector~~ 1588
~~in the management of business or financial enterprise or in~~ 1589
~~management consulting, public accounting, or other professional~~ 1590
~~activity;~~ 1591

(b) Whose residency, office, or principal place of 1592
professional or business activity is situated within the municipal 1593
corporation, county, or township; 1594

(c) Who ~~has not, at any time during the five years preceding~~ 1595
~~the date of appointment, held any elected public office. An~~ 1596
~~appointed member of the commission~~ shall not become a candidate 1597
for elected public office while serving as a member of the 1598
commission. 1599

(C) Immediately after appointment of the initial ~~three~~ 1600
appointed member or members of the commission, the governor shall 1601
call the first meeting of the commission and shall cause written 1602
notice of the time, date, and place of the first meeting to be 1603
given to each member of the commission at least forty-eight hours 1604
in advance of the meeting. 1605

(D) The director of budget and management shall serve as 1606
chairperson of the commission. The commission shall elect one of 1607
its members to serve as vice-chairperson and may appoint a 1608
secretary and any other officers, who need not be members of the 1609
commission, it considers necessary. 1610

(E) The commission may adopt and alter bylaws and rules, 1611

which shall not be subject to section 111.15 or Chapter 119. of 1612
the Revised Code, for the conduct of its affairs and for the 1613
manner, subject to this chapter, in which its powers and functions 1614
shall be exercised and embodied. 1615

(F) ~~Five~~ Four members of ~~the~~ a commission established 1616
pursuant to divisions (B)(1) and (2) of this section constitute a 1617
quorum of the commission. The affirmative vote of ~~five~~ four 1618
members of ~~the~~ such a commission is necessary for any action taken 1619
by vote of the commission. Three members of a commission 1620
established pursuant to divisions (B)(1) and (3) of this section 1621
constitute a quorum of the commission. The affirmative vote of 1622
three members of such a commission is necessary for any action 1623
taken by vote of the commission. No vacancy in the membership of 1624
the commission shall impair the rights of a quorum by such vote to 1625
exercise all the rights and perform all the duties of the 1626
commission. Members of the commission, and their designees, are 1627
not disqualified from voting by reason of the functions of the 1628
other office they hold and are not disqualified from exercising 1629
the functions of the other office with respect to the municipal 1630
corporation, county, or township, its officers, or the commission. 1631
1632

(G) The auditor of state shall serve as the "financial 1633
supervisor" to the commission unless the auditor of state elects 1634
to contract for that service. As used in this chapter, "financial 1635
supervisor" means the auditor of state. 1636

(H) At the request of the commission, the auditor of state 1637
shall designate employees of the auditor of state's office to 1638
assist the commission and the financial supervisor and to 1639
coordinate the work of the auditor of state's office and the 1640
financial supervisor. Upon the determination of a fiscal emergency 1641
in any municipal corporation, county, or township, the municipal 1642
corporation, county, or township shall provide the commission with 1643

such reasonable office space in the principal building housing 1644
city, county, or township government, where feasible, as it 1645
determines is necessary to carry out its duties under this 1646
chapter. 1647

(I) The financial supervisor, the members of the commission, 1648
the auditor of state, and any person authorized to act on behalf 1649
of or assist them shall not be personally liable or subject to any 1650
suit, judgment, or claim for damages resulting from the exercise 1651
of or failure to exercise the powers, duties, and functions 1652
granted to them in regard to their functioning under this chapter, 1653
but the commission, the financial supervisor, the auditor of 1654
state, and those other persons shall be subject to mandamus 1655
proceedings to compel performance of their duties under this 1656
chapter and with respect to any debt obligations issued pursuant 1657
or subject to this chapter. 1658

(J) At the request of the commission, the administrative head 1659
of any state agency shall temporarily assign personnel skilled in 1660
accounting and budgeting procedures to assist the commission or 1661
the financial supervisor in its duties as financial supervisor. 1662

(K) The appointed members of the commission are not subject 1663
to section 102.02 of the Revised Code. Each appointed member of 1664
the commission shall file with the commission a signed written 1665
statement setting forth the general nature of sales of goods, 1666
property, or services or of loans to the municipal corporation, 1667
county, or township with respect to which that commission is 1668
established, in which the appointed member has a pecuniary 1669
interest or in which any member of the appointed member's 1670
immediate family, as defined in section 102.01 of the Revised 1671
Code, or any corporation, partnership, or enterprise of which the 1672
appointed member is an officer, director, or partner, or of which 1673
the appointed member or a member of the appointed member's 1674
immediate family, as so defined, owns more than a five per cent 1675

interest, has a pecuniary interest, and of which sale, loan, or 1676
interest such member has knowledge. The statement shall be 1677
supplemented from time to time to reflect changes in the general 1678
nature of any such sales or loans. 1679

Sec. 120.08. There is hereby created in the state treasury 1680
the indigent defense support fund, consisting of money paid into 1681
the fund pursuant to ~~section~~ sections 4507.45, 4509.101, 4510.22, 1682
and 4511.19 of the Revised Code and pursuant to ~~section~~ sections 1683
2937.22, 2949.091, and 2949.094 of the Revised Code out of the 1684
additional court costs imposed under ~~that section~~ those sections. 1685
The state public defender shall use at least ninety per cent of 1686
the money in the fund for the purpose of reimbursing county 1687
governments for expenses incurred pursuant to sections 120.18, 1688
120.28, and 120.33 of the Revised Code. Disbursements from the 1689
fund to county governments shall be made ~~in each state fiscal~~ at 1690
least once per year and shall be allocated proportionately so that 1691
each county receives an equal percentage of its total cost for 1692
operating its county public defender system, its joint county 1693
public defender system, ~~or~~ its county appointed counsel system, or 1694
its system operated under division (C)(7) of section 120.04 of the 1695
Revised Code and division (B) of section 120.33 of the Revised 1696
Code. The state public defender may use not more than ten per cent 1697
of the money in the fund for the purposes of appointing assistant 1698
state public defenders or for providing other personnel, 1699
equipment, and facilities necessary for the operation of the state 1700
public defender office. 1701

Sec. 120.52. (A) There is hereby established in the state 1702
treasury the legal aid fund, ~~which that~~ shall be for the 1703
charitable public purpose of providing financial assistance to 1704
legal aid societies that provide civil legal services to 1705
indigents. The fund shall contain all funds credited to it by the 1706

treasurer of state pursuant to sections 1901.26, 1907.24, 1707
2303.201, 2315.50, 3953.231, 4705.09, and 4705.10 of the Revised 1708
Code. 1709

(B) The treasurer of state may invest moneys contained in the 1710
legal aid fund in any manner authorized by the Revised Code for 1711
the investment of state moneys. However, no such investment shall 1712
interfere with any apportionment, allocation, or payment of moneys 1713
as required by section 120.53 of the Revised Code. 1714

(C) The state public defender, through the Ohio legal 1715
assistance foundation, shall administer the payment of moneys out 1716
of the fund. Four and one-half per cent of the moneys in the fund 1717
shall be reserved for the Ohio legal assistance foundation for the 1718
actual, reasonable costs of administering sections 120.51 to 1719
120.55 and sections 1901.26, 1907.24, 2303.201, 2315.50, 3953.231, 1720
4705.09, and 4705.10 of the Revised Code. Moneys that are reserved 1721
for administrative costs but that are not used for actual, 1722
reasonable administrative costs shall be set aside for use in the 1723
manner described in division (A) of section 120.521 of the Revised 1724
Code. The remainder of the moneys in the legal aid fund shall be 1725
distributed in accordance with section 120.53 of the Revised Code. 1726
The Ohio legal assistance foundation shall be responsible for 1727
administering the programs established under sections 1901.26, 1728
1907.24, 2303.201, 2315.50, 3953.231, 4705.09, and 4705.10 of the 1729
Revised Code. The Ohio legal assistance foundation shall 1730
establish, in accordance with Chapter 119. of the Revised Code, 1731
rules governing the administration of the legal aid fund, 1732
including the programs established under sections 1901.26, 1733
1907.24, 2303.201, 2315.50, 3953.231, 4705.09, and 4705.10 of the 1734
Revised Code ~~regarding interest on interest bearing trust accounts~~ 1735
~~of an attorney, law firm, or legal professional association.~~ 1736

1737

Sec. 120.53. (A) A legal aid society that operates within the 1738
state may apply to the Ohio legal assistance foundation for 1739
financial assistance from the legal aid fund established by 1740
section 120.52 of the Revised Code to be used for the funding of 1741
the society during the calendar year following the calendar year 1742
in which application is made. 1743

(B) An application for financial assistance made under 1744
division (A) of this section shall be submitted by the first day 1745
of November of the calendar year preceding the calendar year for 1746
which financial assistance is desired and shall include all of the 1747
following: 1748

(1) Evidence that the applicant is incorporated in this state 1749
as a nonprofit corporation; 1750

(2) A list of the trustees of the applicant; 1751

(3) The proposed budget of the applicant for these funds for 1752
the following calendar year; 1753

(4) A summary of the services to be offered by the applicant 1754
in the following calendar year; 1755

(5) A specific description of the territory or constituency 1756
served by the applicant; 1757

(6) An estimate of the number of persons to be served by the 1758
applicant during the following calendar year; 1759

(7) A general description of the additional sources of the 1760
applicant's funding; 1761

(8) The amount of the applicant's total budget for the 1762
calendar year in which the application is filed that it will 1763
expend in that calendar year for legal services in each of the 1764
counties it serves; 1765

(9) A specific description of any services, programs, 1766

training, and legal technical assistance to be delivered by the 1767
applicant or by another person pursuant to a contract with the 1768
applicant, including, but not limited to, by private attorneys or 1769
through reduced fee plans, judicare panels, organized pro bono 1770
programs, and mediation programs. 1771

(C) The Ohio legal assistance foundation shall determine 1772
whether each applicant that filed an application for financial 1773
assistance under division (A) of this section in a calendar year 1774
is eligible for financial assistance under this section. To be 1775
eligible for such financial assistance, an applicant shall satisfy 1776
the criteria for being a legal aid society and shall be in 1777
compliance with the provisions of sections 120.51 to 120.55 of the 1778
Revised Code and with the rules and requirements the foundation 1779
establishes pursuant to section 120.52 of the Revised Code. The 1780
Ohio legal assistance foundation then, on or before the fifteenth 1781
day of December of the calendar year in which the application is 1782
filed, shall notify each such applicant, in writing, whether it is 1783
eligible for financial assistance under this section, and if it is 1784
eligible, estimate the amount that will be available for that 1785
applicant for each six-month distribution period, as determined 1786
under division (D) of this section. 1787

(D) The Ohio legal assistance foundation shall allocate 1788
moneys contained in the legal aid fund monthly for distribution to 1789
applicants that filed their applications in the previous calendar 1790
year and are determined to be eligible applicants. 1791

All moneys contained in the fund on the first day of each 1792
month shall be allocated, after deduction of the costs of 1793
administering sections 120.51 to 120.55 and sections 1901.26, 1794
1907.24, 2303.201, 2315.50, 3953.231, 4705.09, and 4705.10 of the 1795
Revised Code that are authorized by section 120.52 of the Revised 1796
Code, according to this section and shall be distributed 1797
accordingly not later than the last day of the month following the 1798

month the moneys were received. In making the allocations under 1799
this section, the moneys in the fund that were generated pursuant 1800
to sections 1901.26, 1907.24, 2303.201, 2315.50, 3953.231, 1801
4705.09, and 4705.10 of the Revised Code shall be apportioned as 1802
follows: 1803

(1) After deduction of the amount authorized and used for 1804
actual, reasonable administrative costs under section 120.52 of 1805
the Revised Code: 1806

(a) Five per cent of the moneys remaining in the fund shall 1807
be reserved for use in the manner described in division (A) of 1808
section 120.521 of the Revised Code or for distribution to legal 1809
aid societies that provide assistance to special population groups 1810
of their eligible clients, engage in special projects that have a 1811
substantial impact on their local service area or on significant 1812
segments of the state's poverty population, or provide legal 1813
training or support to other legal aid societies in the state; 1814

(b) After deduction of the amount described in division 1815
(D)(1)(a) of this section, one and three-quarters per cent of the 1816
moneys remaining in the fund shall be apportioned among entities 1817
that received financial assistance from the legal aid fund prior 1818
to ~~the effective date of this amendment~~ July 1, 1993, but that, on 1819
and after ~~the effective date of this amendment~~ July 1, 1993, no 1820
longer qualify as a legal aid society that is eligible for 1821
financial assistance under this section. 1822

(c) After deduction of the amounts described in divisions 1823
(D)(1)(a) and (b) of this section, fifteen per cent of the moneys 1824
remaining in the fund shall be placed in the legal assistance 1825
foundation fund for use in the manner described in division (A) of 1826
section 120.521 of the Revised Code. 1827

(2) After deduction of the actual, reasonable administrative 1828
costs under section 120.52 of the Revised Code and after deduction 1829

of the amounts identified in divisions (D)(1)(a), (b), and (c) of 1830
this section, the remaining moneys shall be apportioned among the 1831
counties that are served by eligible legal aid societies that have 1832
applied for financial assistance under this section so that each 1833
such county is apportioned a portion of those moneys, based upon 1834
the ratio of the number of indigents who reside in that county to 1835
the total number of indigents who reside in all counties of this 1836
state that are served by eligible legal aid societies that have 1837
applied for financial assistance under this section. Subject to 1838
division (E) of this section, the moneys apportioned to a county 1839
under this division then shall be allocated to the eligible legal 1840
aid society that serves the county and that has applied for 1841
financial assistance under this section. For purposes of this 1842
division, the source of data identifying the number of indigent 1843
persons who reside in a county shall be the most recent decennial 1844
census figures from the United States department of commerce, 1845
division of census. 1846

(E) If the Ohio legal assistance foundation, in attempting to 1847
make an allocation of moneys under division (D)(2) of this 1848
section, determines that a county that has been apportioned money 1849
under that division is served by more than one eligible legal aid 1850
society that has applied for financial assistance under this 1851
section, the Ohio legal assistance foundation shall allocate the 1852
moneys that have been apportioned to that county under division 1853
(D)(2) of this section among all eligible legal aid societies that 1854
serve that county and that have applied for financial assistance 1855
under this section on a pro rata basis, so that each such eligible 1856
society is allocated a portion based upon the amount of its total 1857
budget expended in the prior calendar year for legal services in 1858
that county as compared to the total amount expended in the prior 1859
calendar year for legal services in that county by all eligible 1860
legal aid societies that serve that county and that have applied 1861
for financial assistance under this section. 1862

(F) Moneys allocated to eligible applicants under this 1863
section shall be paid monthly beginning the calendar year 1864
following the calendar year in which the application is filed. 1865

(G)(1) A legal aid society that receives financial assistance 1866
in any calendar year under this section shall file an annual 1867
report with the Ohio legal assistance foundation detailing the 1868
number and types of cases handled, and the amount and types of 1869
legal training, legal technical assistance, and other service 1870
provided, by means of that financial assistance. No information 1871
contained in the report shall identify or enable the 1872
identification of any person served by the legal aid society or in 1873
any way breach client confidentiality. 1874

(2) The Ohio legal assistance foundation shall make an annual 1875
report to the governor, the general assembly, and the supreme 1876
court on the distribution and use of the legal aid fund. The 1877
foundation also shall include in the annual report an audited 1878
financial statement of all gifts, bequests, donations, 1879
contributions, and other moneys the foundation receives. No 1880
information contained in the report shall identify or enable the 1881
identification of any person served by a legal aid society, or in 1882
any way breach confidentiality. 1883

(H) A legal aid society may enter into agreements for the 1884
provision of services, programs, training, or legal technical 1885
assistance for the legal aid society or to indigent persons. 1886

Sec. 121.04. Offices are created within the several 1887
departments as follows: 1888

In the department of commerce: 1889
 Commissioner of securities; 1890
 Superintendent of real estate and professional 1891
 licensing;

Superintendent of financial institutions;	1892
State fire marshal;	1893
Superintendent of labor and worker safety ;	1894
Superintendent of liquor control;	1895
Superintendent of industrial compliance;	1896
Superintendent of unclaimed funds.	1897
In the department of administrative services:	1898
State architect and engineer;	1899
Equal employment opportunity coordinator.	1900
In the department of agriculture:	1901
Chiefs of divisions as follows:	1902
Administration;	1903
Animal industry;	1904
Dairy;	1905
Food safety;	1906
Plant industry;	1907
Markets;	1908
Meat inspection;	1909
Consumer analytical laboratory;	1910
Amusement ride safety;	1911
Enforcement;	1912
Weights and measures.	1913
In the department of natural resources:	1914
Chiefs of divisions as follows:	1915
Water;	1916
Mineral resources management;	1917
Forestry;	1918
Natural areas and preserves;	1919
Wildlife;	1920
Geological survey;	1921
Parks and recreation;	1922

Watercraft;	1923
Recycling and litter prevention;	1924
Soil and water conservation;	1925
Real estate and land management;	1926
Engineering.	1927

In the department of insurance:	1928
Deputy superintendent of insurance;	1929
Assistant superintendent of insurance, technical;	1930
Assistant superintendent of insurance, administrative;	1931
Assistant superintendent of insurance, research.	1932

Sec. 121.08. (A) There is hereby created in the department of 1933
commerce the position of deputy director of administration. This 1934
officer shall be appointed by the director of commerce, serve 1935
under the director's direction, supervision, and control, perform 1936
the duties the director prescribes, and hold office during the 1937
director's pleasure. The director of commerce may designate an 1938
assistant director of commerce to serve as the deputy director of 1939
administration. The deputy director of administration shall 1940
perform the duties prescribed by the director of commerce in 1941
supervising the activities of the division of administration of 1942
the department of commerce. 1943

(B) Except as provided in section 121.07 of the Revised Code, 1944
the department of commerce shall have all powers and perform all 1945
duties vested in the deputy director of administration, the state 1946
fire marshal, the superintendent of financial institutions, the 1947
superintendent of real estate and professional licensing, the 1948
superintendent of liquor control, ~~the superintendent of industrial~~ 1949
~~compliance~~, the superintendent of labor and ~~worker safety~~, the 1950
superintendent of unclaimed funds, and the commissioner of 1951
securities, and shall have all powers and perform all duties 1952
vested by law in all officers, deputies, and employees of those 1953
offices. Except as provided in section 121.07 of the Revised Code, 1954

wherever powers are conferred or duties imposed upon any of those 1955
officers, the powers and duties shall be construed as vested in 1956
the department of commerce. 1957

(C)(1) There is hereby created in the department of commerce 1958
a division of financial institutions, which shall have all powers 1959
and perform all duties vested by law in the superintendent of 1960
financial institutions. Wherever powers are conferred or duties 1961
imposed upon the superintendent of financial institutions, those 1962
powers and duties shall be construed as vested in the division of 1963
financial institutions. The division of financial institutions 1964
shall be administered by the superintendent of financial 1965
institutions. 1966

(2) All provisions of law governing the superintendent of 1967
financial institutions shall apply to and govern the 1968
superintendent of financial institutions provided for in this 1969
section; all authority vested by law in the superintendent of 1970
financial institutions with respect to the management of the 1971
division of financial institutions shall be construed as vested in 1972
the superintendent of financial institutions created by this 1973
section with respect to the division of financial institutions 1974
provided for in this section; and all rights, privileges, and 1975
emoluments conferred by law upon the superintendent of financial 1976
institutions shall be construed as conferred upon the 1977
superintendent of financial institutions as head of the division 1978
of financial institutions. The director of commerce shall not 1979
transfer from the division of financial institutions any of the 1980
functions specified in division (C)(2) of this section. 1981

(D) There is hereby created in the department of commerce a 1982
division of liquor control, which shall have all powers and 1983
perform all duties vested by law in the superintendent of liquor 1984
control. Wherever powers are conferred or duties are imposed upon 1985
the superintendent of liquor control, those powers and duties 1986

shall be construed as vested in the division of liquor control. 1987
The division of liquor control shall be administered by the 1988
superintendent of liquor control. 1989

(E) The director of commerce shall not be interested, 1990
directly or indirectly, in any firm or corporation which is a 1991
dealer in securities as defined in sections 1707.01 and 1707.14 of 1992
the Revised Code, or in any firm or corporation licensed under 1993
sections 1321.01 to 1321.19 of the Revised Code. 1994

(F) The director of commerce shall not have any official 1995
connection with a savings and loan association, a savings bank, a 1996
bank, a bank holding company, a savings and loan association 1997
holding company, a consumer finance company, or a credit union 1998
that is under the supervision of the division of financial 1999
institutions, or a subsidiary of any of the preceding entities, or 2000
be interested in the business thereof. 2001

(G) There is hereby created in the state treasury the 2002
division of administration fund. The fund shall receive 2003
assessments on the operating funds of the department of commerce 2004
in accordance with procedures prescribed by the director of 2005
commerce and approved by the director of budget and management. 2006
All operating expenses of the division of administration shall be 2007
paid from the division of administration fund. 2008

(H) There is hereby created in the department of commerce a 2009
division of real estate and professional licensing, which shall be 2010
under the control and supervision of the director of commerce. The 2011
division of real estate and professional licensing shall be 2012
administered by the superintendent of real estate and professional 2013
licensing. The superintendent of real estate and professional 2014
licensing shall exercise the powers and perform the functions and 2015
duties delegated to the superintendent under Chapters 4735., 2016
4763., and 4767. of the Revised Code. 2017

(I) There is hereby created in the department of commerce a 2018
division of labor ~~and worker safety~~, which shall have all powers 2019
and perform all duties vested by law in the superintendent of 2020
labor ~~and worker safety~~. Wherever powers are conferred or duties 2021
imposed upon the superintendent of labor ~~and worker safety~~, those 2022
powers and duties shall be construed as vested in the division of 2023
labor ~~and worker safety~~. The division of labor ~~and worker safety~~ 2024
shall be under the control and supervision of the director of 2025
commerce and be administered by the superintendent of labor ~~and~~ 2026
~~worker safety~~. ~~The superintendent of labor and worker safety shall~~ 2027
~~exercise the powers and perform the duties delegated to the~~ 2028
~~superintendent by the director under Chapters 4109., 4111., and~~ 2029
~~4115. of the Revised Code.~~ 2030

(J) There is hereby created in the department of commerce a 2031
division of unclaimed funds, which shall have all powers and 2032
perform all duties delegated to or vested by law in the 2033
superintendent of unclaimed funds. Wherever powers are conferred 2034
or duties imposed upon the superintendent of unclaimed funds, 2035
those powers and duties shall be construed as vested in the 2036
division of unclaimed funds. The division of unclaimed funds shall 2037
be under the control and supervision of the director of commerce 2038
and shall be administered by the superintendent of unclaimed 2039
funds. The superintendent of unclaimed funds shall exercise the 2040
powers and perform the functions and duties delegated to the 2041
superintendent by the director of commerce under section 121.07 2042
and Chapter 169. of the Revised Code, and as may otherwise be 2043
provided by law. 2044

(K) The department of commerce or a division of the 2045
department created by the Revised Code that is acting with 2046
authorization on the department's behalf may request from the 2047
bureau of criminal identification and investigation pursuant to 2048
section 109.572 of the Revised Code, or coordinate with 2049

appropriate federal, state, and local government agencies to 2050
accomplish, criminal records checks for the persons whose 2051
identities are required to be disclosed by an applicant for the 2052
issuance or transfer of a permit, license, certificate of 2053
registration, or certification issued or transferred by the 2054
department or division. At or before the time of making a request 2055
for a criminal records check, the department or division may 2056
require any person whose identity is required to be disclosed by 2057
an applicant for the issuance or transfer of such a license, 2058
permit, certificate of registration, or certification to submit to 2059
the department or division valid fingerprint impressions in a 2060
format and by any media or means acceptable to the bureau of 2061
criminal identification and investigation and, when applicable, 2062
the federal bureau of investigation. The department or division 2063
may cause the bureau of criminal identification and investigation 2064
to conduct a criminal records check through the federal bureau of 2065
investigation only if the person for whom the criminal records 2066
check would be conducted resides or works outside of this state or 2067
has resided or worked outside of this state during the preceding 2068
five years, or if a criminal records check conducted by the bureau 2069
of criminal identification and investigation within this state 2070
indicates that the person may have a criminal record outside of 2071
this state. 2072

In the case of a criminal records check under section 109.572 2073
of the Revised Code, the department or division shall forward to 2074
the bureau of criminal identification and investigation the 2075
requisite form, fingerprint impressions, and fee described in 2076
division (C) of that section. When requested by the department or 2077
division in accordance with this section, the bureau of criminal 2078
identification and investigation shall request from the federal 2079
bureau of investigation any information it has with respect to the 2080
person who is the subject of the requested criminal records check 2081
and shall forward the requisite fingerprint impressions and 2082

information to the federal bureau of investigation for that 2083
criminal records check. After conducting a criminal records check 2084
or receiving the results of a criminal records check from the 2085
federal bureau of investigation, the bureau of criminal 2086
identification and investigation shall provide the results to the 2087
department or division. 2088

The department or division may require any person about whom 2089
a criminal records check is requested to pay to the department or 2090
division the amount necessary to cover the fee charged to the 2091
department or division by the bureau of criminal identification 2092
and investigation under division (C)(3) of section 109.572 of the 2093
Revised Code, including, when applicable, any fee for a criminal 2094
records check conducted by the federal bureau of investigation. 2095

Sec. 121.083. The superintendent of ~~the division of~~ 2096
~~industrial compliance labor~~ in the department of commerce shall do 2097
all of the following: 2098

(A) Administer and enforce the general laws of this state 2099
pertaining to buildings, pressure piping, boilers, bedding, 2100
upholstered furniture, and stuffed toys, steam engineering, 2101
elevators, plumbing, licensed occupations regulated by the 2102
department, and travel agents, as they apply to plans review, 2103
inspection, code enforcement, testing, licensing, registration, 2104
and certification. 2105

(B) Exercise the powers and perform the duties delegated to 2106
the superintendent by the director of commerce under Chapters 2107
4109., 4111., and 4115. of the Revised Code. 2108

(C) Collect and collate statistics as are necessary. 2109

~~(C)~~(D) Examine and license persons who desire to act as steam 2110
engineers, to operate steam boilers, and to act as inspectors of 2111
steam boilers, provide for the scope, conduct, and time of such 2112

examinations, provide for, regulate, and enforce the renewal and 2113
revocation of such licenses, inspect and examine steam boilers and 2114
make, publish, and enforce rules and orders for the construction, 2115
installation, inspection, and operation of steam boilers, and do, 2116
require, and enforce all things necessary to make such 2117
examination, inspection, and requirement efficient. 2118

~~(D)~~(E) Rent and furnish offices as needed in cities in this 2119
state for the conduct of its affairs. 2120

~~(E)~~(F) Oversee a chief of construction and compliance, a 2121
chief of operations and maintenance, a chief of licensing and 2122
certification, a chief of worker protection, and other designees 2123
appointed by the director ~~of commerce~~ to perform the duties 2124
described in this section. 2125

~~(F)~~(G) Enforce the rules the board of building standards 2126
adopts pursuant to division (A)(2) of section 4104.43 of the 2127
Revised Code under the circumstances described in division (D) of 2128
that section. 2129

~~(G)~~(H) Accept submissions, establish a fee for submissions, 2130
and review submissions of certified welding and brazing procedure 2131
specifications, procedure qualification records, and performance 2132
qualification records for building services piping as required by 2133
section 4104.44 of the Revised Code. 2134

Sec. 121.084. (A) All moneys collected under sections 2135
3783.05, 3791.07, 4104.07, 4104.18, 4104.44, 4105.17, 4105.20, 2136
4169.03, 4171.04, and 5104.051 of the Revised Code, and any other 2137
moneys collected by the division of ~~industrial compliance labor~~ 2138
shall be paid into the state treasury to the credit of the 2139
~~industrial compliance labor~~ operating fund, which is hereby 2140
created. The department of commerce shall use the moneys in the 2141
fund for paying the operating expenses of the division and the 2142
administrative assessment described in division (B) of this 2143

section. 2144

(B) The director of commerce, with the approval of the 2145
director of budget and management, shall prescribe procedures for 2146
assessing the ~~industrial compliance labor~~ operating fund a 2147
proportionate share of the administrative costs of the department 2148
of commerce. The assessment shall be made in accordance with those 2149
procedures and be paid from the ~~industrial compliance labor~~ 2150
operating fund to the division of administration fund created in 2151
section 121.08 of the Revised Code. 2152

Sec. 121.40. (A) There is hereby created the Ohio community 2153
service council consisting of twenty-one voting members including 2154
the superintendent of public instruction or the superintendent's 2155
designee, the chancellor of the Ohio board of regents or the 2156
chancellor's designee, the director of youth services or the 2157
director's designee, the director of aging or the director's 2158
designee, the chairperson of the committee of the house of 2159
representatives dealing with education or the chairperson's 2160
designee, the chairperson of the committee of the senate dealing 2161
with education or the chairperson's designee, and fifteen members 2162
who shall be appointed by the governor with the advice and consent 2163
of the senate and who shall serve terms of office of three years. 2164
The appointees shall include educators, including teachers and 2165
administrators; representatives of youth organizations; students 2166
and parents; representatives of organizations engaged in volunteer 2167
program development and management throughout the state, including 2168
youth and conservation programs; and representatives of business, 2169
government, nonprofit organizations, social service agencies, 2170
veterans organizations, religious organizations, or philanthropies 2171
that support or encourage volunteerism within the state. The 2172
director of the governor's office of faith-based and community 2173
initiatives shall serve as a nonvoting ex officio member of the 2174
council. Members of the council shall receive no compensation, but 2175

shall be reimbursed for actual and necessary expenses incurred in 2176
the performance of their official duties. 2177

(B) The council shall appoint, with the advice and consent of 2178
the governor, an executive director for the council, who shall be 2179
in the unclassified civil service. The executive director shall 2180
supervise the council's activities and report to the council on 2181
the progress of those activities. The executive director shall do 2182
all things necessary for the efficient and effective 2183
implementation of the duties of the council. 2184

The responsibilities assigned to the executive director do 2185
not relieve the members of the council from final responsibility 2186
for the proper performance of the requirements of this section. 2187

(C) The council or its designee shall do all of the 2188
following: 2189

(1) Employ, promote, supervise, and remove all employees as 2190
needed in connection with the performance of its duties under this 2191
section and may assign duties to those employees as necessary to 2192
achieve the most efficient performance of its functions, and to 2193
that end may establish, change, or abolish positions, and assign 2194
and reassign duties and responsibilities of any employee of the 2195
council. Personnel employed by the council who are subject to 2196
Chapter 4117. of the Revised Code shall retain all of their rights 2197
and benefits conferred pursuant to that chapter. Nothing in this 2198
chapter shall be construed as eliminating or interfering with 2199
Chapter 4117. of the Revised Code or the rights and benefits 2200
conferred under that chapter to public employees or to any 2201
bargaining unit. 2202

(2) Maintain its office in Columbus, and may hold sessions at 2203
any place within the state; 2204

(3) Acquire facilities, equipment, and supplies necessary to 2205
house the council, its employees, and files and records under its 2206

control, and to discharge any duty imposed upon it by law. The 2207
expense of these acquisitions shall be audited and paid for in the 2208
same manner as other state expenses. For that purpose, the council 2209
shall prepare and submit to the office of budget and management a 2210
budget for each biennium according to sections 101.532 and 107.03 2211
of the Revised Code. The budget submitted shall cover the costs of 2212
the council and its staff in the discharge of any duty imposed 2213
upon the council by law. The council shall not delegate any 2214
authority to obligate funds. 2215

(4) Pay its own payroll and other operating expenses from 2216
line items designated by the general assembly; 2217

(5) Retain its fiduciary responsibility as appointing 2218
authority. Any transaction instructions shall be certified by the 2219
appointing authority or its designee. 2220

(6) Establish the overall policy and management of the 2221
council in accordance with this chapter; 2222

(7) Assist in coordinating and preparing the state 2223
application for funds under sections 101 to 184 of the "National 2224
and Community Service Act of 1990," 104 Stat. 3127 (1990), 42 2225
U.S.C.A. 12411 to 12544, as amended, assist in administering and 2226
overseeing the "National and Community Service Trust Act of 1993," 2227
P.L. 103-82, 107 Stat. 785, and the americorps program in this 2228
state, and assist in developing objectives for a comprehensive 2229
strategy to encourage and expand community service programs 2230
throughout the state; 2231

(8) Assist the state board of education, school districts, 2232
the chancellor of the board of regents, and institutions of higher 2233
education in coordinating community service education programs 2234
through cooperative efforts between institutions and organizations 2235
in the public and private sectors; 2236

(9) Assist the departments of natural resources, youth 2237

services, aging, and job and family services in coordinating 2238
community service programs through cooperative efforts between 2239
institutions and organizations in the public and private sectors; 2240

(10) Suggest individuals and organizations that are available 2241
to assist school districts, institutions of higher education, and 2242
the departments of natural resources, youth services, aging, and 2243
job and family services in the establishment of community service 2244
programs and assist in investigating sources of funding for 2245
implementing these programs; 2246

(11) Assist in evaluating the state's efforts in providing 2247
community service programs using standards and methods that are 2248
consistent with any statewide objectives for these programs and 2249
provide information to the state board of education, school 2250
districts, the chancellor of the board of regents, institutions of 2251
higher education, and the departments of natural resources, youth 2252
services, aging, and job and family services to guide them in 2253
making decisions about these programs; 2254

(12) Assist the state board of education in complying with 2255
section 3301.70 of the Revised Code and the chancellor of the 2256
board of regents in complying with division (B)(2) of section 2257
3333.043 of the Revised Code; 2258

(13) Advise, assist, consult with, and cooperate with, by 2259
contract or otherwise, agencies and political subdivisions of this 2260
state in establishing a statewide system for volunteers pursuant 2261
to section 121.404 of the Revised Code. 2262

(D) ~~The department of aging~~ With the advice and consent of 2263
the governor, the council shall in writing enter into an agreement 2264
with another state agency to serve as the council's fiscal agent. 2265
~~Beginning on July 1, 1997, whenever reference is made in any law,~~ 2266
~~contract, or document to the functions of the department of youth~~ 2267
~~services as fiscal agent to the council, the reference shall be~~ 2268

~~deemed to refer to the department of aging. The department of 2269
aging shall have no responsibility for or obligation to the 2270
council prior to July 1, 1997. Any validation, cure, right, 2271
privilege, remedy, obligation, or liability shall be retained by 2272
the council. 2273~~

~~As used in this section, "fiscal agent" means technical 2274
support and includes the following technical support services: The 2275
fiscal agent shall be responsible for all the council's fiscal 2276
matters and financial transactions, as specified in the agreement. 2277
Services to be provided by the fiscal agent include, but are not 2278
limited to, the following: 2279~~

~~(1) Preparing and processing payroll and other personnel 2280
documents that the council executes as the appointing authority; i 2281
The department of aging shall not approve any payroll or other 2282
personnel related documents. 2283~~

~~(2) Maintaining ledgers of accounts and reports of account 2284
balances, and monitoring budgets and allotment plans in 2285
consultation with the council; and The department shall not 2286
approve any biennial budget, grant, expenditure, audit, or 2287
fiscal related document. 2288~~

~~(3) Performing other routine support services that the 2289
director of aging or the director's designee and the council or 2290
its designee consider fiscal agent considers appropriate to 2291
achieve efficiency. 2292~~

~~(E)(1) The council or its designee, in conjunction and 2293
consultation with the fiscal agent, has the following authority 2294
and responsibility relative to fiscal matters: 2295~~

~~(a) Sole authority to draw funds for any and all federal 2296
programs in which the council is authorized to participate; 2297~~

~~(b) Sole authority to expend funds from their accounts for 2298
programs and any other necessary expenses the council may incur 2299~~

and its subgrantees may incur; and 2300

(c) Responsibility to cooperate with and inform the 2301
~~department of aging as~~ fiscal agent ~~to ensure that the department~~ 2302
~~is~~ fully apprised of all financial transactions. 2303

(2) The council shall follow all state procurement, fiscal, 2304
human resources, statutory, and administrative rule requirements. 2305

(3) The ~~department of aging~~ fiscal agent shall determine fees 2306
to be charged to the council, which shall be in proportion to the 2307
services performed for the council. 2308

(4) The council shall pay fees owed to the ~~department of~~ 2309
~~aging~~ fiscal agent from a general revenue fund of the council or 2310
from any other fund from which the operating expenses of the 2311
council are paid. Any amounts set aside for a fiscal year for the 2312
payment of these fees shall be used only for the services 2313
performed for the council by the ~~department of aging~~ fiscal agent 2314
in that fiscal year. 2315

(F) The council may accept and administer grants from any 2316
source, public or private, to carry out any of the council's 2317
functions this section establishes. 2318

Sec. 121.401. (A) As used in this section and section 121.402 2319
of the Revised Code, "organization or entity" and "unsupervised 2320
access to a child" have the same meanings as in section 109.574 of 2321
the Revised Code. 2322

(B) The ~~governor's~~ Ohio community service council shall adopt 2323
a set of "recommended best practices" for organizations or 2324
entities to follow when one or more volunteers of the organization 2325
or entity have unsupervised access to one or more children or 2326
otherwise interact with one or more children. The "recommended 2327
best practices" shall focus on, but shall not be limited to, the 2328
issue of the safety of the children and, in addition, the 2329

screening and supervision of volunteers. The "recommended best
practices" shall include as a recommended best practice that the
organization or entity subject to a criminal records check
performed by the bureau of criminal identification and
investigation pursuant to section 109.57, section 109.572, or
rules adopted under division (E) of section 109.57 of the Revised
Code, all of the following:

(1) All persons who apply to serve as a volunteer in a
position in which the person will have unsupervised access to a
child on a regular basis.

(2) All volunteers who are in a position in which the person
will have unsupervised access to a child on a regular basis and
who the organization or entity has not previously subjected to a
criminal records check performed by the bureau of criminal
identification and investigation.

(C) The set of "recommended best practices" required to be
adopted by this section are in addition to the educational program
required to be adopted under section 121.402 of the Revised Code.

Sec. 121.402. (A) The ~~governor's~~ Ohio community service
council shall establish and maintain an educational program that
does all of the following:

(1) Makes available to parents and guardians of children
notice about the provisions of sections 109.574 to 109.577,
section 121.401, and section 121.402 of the Revised Code and
information about how to keep children safe when they are under
the care, custody, or control of a person other than the parent or
guardian;

(2) Makes available to organizations and entities information
regarding the best methods of screening and supervising
volunteers, how to obtain a criminal records check of a volunteer,

confidentiality issues relating to reports of criminal records	2360
checks, and record keeping regarding the reports;	2361
(3) Makes available to volunteers information regarding the	2362
possibility of being subjected to a criminal records check and	2363
displaying appropriate behavior to minors;	2364
(4) Makes available to children advice on personal safety and	2365
information on what action to take if someone takes inappropriate	2366
action towards a child.	2367
(B) The program shall begin making the materials described in	2368
this section available not later than one year after the effective	2369
date of this section <u>March 22, 2002</u> .	2370
Sec. 122.05. (A) The director of development may, to carry	2371
out the purposes of division (E) of section 122.04 of the Revised	2372
Code:	2373
(1) Establish offices in foreign countries as the director	2374
considers appropriate and enter into leases of real property,	2375
buildings, and office space that are appropriate for these	2376
offices;	2377
(2) Appoint personnel, who shall be in the unclassified civil	2378
services, necessary to operate such offices and fix their	2379
compensation. The director may enter into contracts with foreign	2380
nationals to staff the foreign offices established under this	2381
section.	2382
(3) The director may establish United States dollar and	2383
foreign currency accounts for the payment of expenses related to	2384
the operation and maintenance of the offices established under	2385
this section. The director shall establish procedures acceptable	2386
to the director of budget and management for the conversion,	2387
transfer, and control of United States dollars and foreign	2388
currency.	2389

(4) Provide export promotion assistance to Ohio businesses 2390
and organize or support missions to foreign countries to promote 2391
export of Ohio products and services and to encourage foreign 2392
direct investment in Ohio. The director may charge fees to 2393
businesses receiving export assistance and to participants in 2394
foreign missions sufficient to recover the direct costs of those 2395
activities. The director shall adopt, as an internal management 2396
rule under section 111.15 of the Revised Code, a procedure for 2397
setting the fees and a schedule of fees for services commonly 2398
provided by the department. The procedure shall require the 2399
director to annually review the established fees. 2400

(5) Do all things necessary and appropriate for the operation 2401
of the state's foreign offices. 2402

(B) All contracts entered into under division (A)(2) of this 2403
section and any payments of expenses under division (A)(3) of this 2404
section related to the operation and maintenance of foreign 2405
offices established under this section may be paid in the 2406
appropriate foreign currency and are exempt from sections 127.16 2407
and 5147.07 and Chapters 124., 125., and 153. of the Revised Code. 2408

Sec. 122.051. There is hereby created in the state treasury 2409
the international trade cooperative projects fund. The fund shall 2410
consist of ~~moneys~~ all of the following: 2411

(A) Moneys received from private and nonprofit organizations 2412
involved in cooperative agreements related to import/export and 2413
direct foreign investment activities ~~and cash;~~ 2414

(B) Cash transfers from other state agencies or any state or 2415
local government to encourage, promote, and assist trade and 2416
commerce between this state and foreign nations, pursuant to 2417
section 122.05 and division (E) of section 122.04 of the Revised 2418
Code; and 2419

(C) Fees charged to businesses receiving export assistance 2420
and to participants in foreign missions to recover direct costs of 2421
those activities under division (A)(4) of section 122.05 of the 2422
Revised Code. 2423

Sec. 122.151. (A) An investor who proposes to make an 2424
investment of money in an Ohio entity may apply to an Edison 2425
center for a tax credit under this section. The Edison center 2426
shall prescribe the form of the application and any information 2427
that the investor must submit with the application. The investor 2428
shall include with the application a fee of two hundred dollars. 2429
The center, within three weeks after receiving the application, 2430
shall review it, determine whether the investor should be 2431
recommended for the tax credit, and send written notice of its 2432
initial determination to the industrial technology and enterprise 2433
advisory council and to the investor. If the center determines the 2434
investor should not be recommended for the tax credit, it shall 2435
include in the notice the reasons for the determination. Subject 2436
to divisions (C) and (D) of this section, an investor is eligible 2437
for a tax credit if all of the following requirements are met: 2438

(1) The investor's investment of money is in an Ohio entity 2439
engaged in a qualified trade or business. 2440

(2) The Ohio entity had less than two million five hundred 2441
thousand dollars of gross revenue during its most recently 2442
completed fiscal year or had a net book value of less than two 2443
million five hundred thousand dollars at the end of that fiscal 2444
year. 2445

(3) The investment takes the form of the purchase of common 2446
or preferred stock, a membership interest, a partnership interest, 2447
or any other ownership interest. 2448

(4) The amount of the investment for which the credit is 2449
being claimed does not exceed three hundred thousand dollars in 2450

the case of an investment in an EDGE business enterprise or in an Ohio entity located in a distressed area, or two hundred fifty thousand dollars in the case of an investment in any other Ohio entity.

(5) The money invested is entirely at risk of loss, where repayment depends upon the success of the business operations of the Ohio entity.

(6) No repayment of principal invested will be made for at least three years from the date the investment is made.

(7) The annual combined amount of any dividend and interest payments to be made to the investor will not exceed ten per cent of the amount of the investment for at least three years from the date the investment is made.

(8) The investor is not an employee with proprietary decision-making authority of the Ohio entity in which the investment of money is proposed, or related to such an individual. The Ohio entity is not an individual related to the investor. For purposes of this division, the industrial technology and enterprise advisory council shall define "an employee with proprietary decision-making authority."

(9) The investor is not an insider.

For the purposes of determining the net book value of an Ohio entity under division (A)(1) or (2) of this section, if the entity is a member of an affiliated group, the combined net book values of all of the members of that affiliated group shall be used.

Nothing in division (A)(6) or (7) of this section limits or disallows the distribution to an investor in a pass-through entity of a portion of the entity's profits equal to the investor's federal, state, and local income tax obligations attributable to the investor's allocable share of the entity's profits. Nothing in division (A)(6) or (7) of this section limits or disallows the

sale by an investor of part or all of the investor's interests in 2482
an Ohio entity by way of a public offering of shares in the Ohio 2483
entity. 2484

(B) A group of two but not more than twenty investors, each 2485
of whom proposes to make an investment of money in the same Ohio 2486
entity, may submit an application for tax credits under division 2487
(A) of this section. The group shall include with the application 2488
a fee of eight hundred dollars. The application shall identify 2489
each investor in the group and the amount of money each investor 2490
proposes to invest in the Ohio entity, and shall name a contact 2491
person for the group. The Edison center, within three weeks after 2492
receiving the application, shall review it, determine whether each 2493
investor of the group should be recommended for a tax credit under 2494
the conditions set forth in division (A) of this section, and send 2495
written notice of its determination to the industrial technology 2496
and enterprise advisory council and to the contact person. The 2497
center shall not recommend that a group of investors receive a tax 2498
credit unless each investor is eligible under those conditions. 2499
The center may disqualify from a group any investor who is not 2500
eligible under the conditions and recommend that the remaining 2501
group of investors receive the tax credit. If the center 2502
determines the group should not be recommended for the tax credit, 2503
it shall include in the notice the reasons for the determination. 2504

(C) The industrial technology and enterprise advisory council 2505
shall establish from among its members a three-person committee. 2506
Within four weeks after the council receives a notice of 2507
recommendation from an Edison center, the committee shall review 2508
the recommendation and issue a final determination of whether the 2509
investor or group is eligible for a tax credit under the 2510
conditions set forth in division (A) of this section. The 2511
committee may require the investor or group to submit additional 2512
information to support the application. The vote of at least two 2513

members of the committee is necessary for the issuance of a final 2514
determination or any other action of the committee. Upon making 2515
the final determination, the committee shall send written notice 2516
of approval or disapproval of the tax credit to the investor or 2517
group contact person, the director of development, and the Edison 2518
center. If the committee disapproves the tax credit, it shall 2519
include in the notice the reasons for the disapproval. 2520

(D)(1) The industrial technology and enterprise advisory 2521
council committee shall not approve more than one million five 2522
hundred thousand dollars of investments in any one Ohio entity. 2523
However, if a proposed investment of money in an Ohio entity has 2524
been approved but the investor does not actually make the 2525
investment, the committee may reassign the amount of that 2526
investment to another investor, as long as the total amount 2527
invested in the entity under this section does not exceed one 2528
million five hundred thousand dollars. 2529

If the one-million-five-hundred-thousand-dollar limit for an 2530
Ohio entity has not yet been reached and an application proposes 2531
an investment of money that would exceed the limit for that 2532
entity, the committee shall send written notice to the investor, 2533
or for a group, the contact person, that the investment cannot be 2534
approved as requested. Upon receipt of the notice, the investor or 2535
group may amend the application to propose an investment of money 2536
that does not exceed the limit. 2537

(2) Not more than ~~thirty~~ forty-five million dollars of tax 2538
credits shall be issued under sections 122.15 to 122.154 of the 2539
Revised Code. 2540

(E) If an investor makes an approved investment of less than 2541
two hundred fifty thousand dollars in any Ohio entity other than 2542
an EDGE business enterprise or in an Ohio entity located in a 2543
distressed area, the investor may apply for approval of another 2544
investment of money in that entity, as long as the total amount 2545

invested in that entity by the investor under this section does 2546
not exceed two hundred fifty thousand dollars. If an investor 2547
makes an approved investment of less than three hundred thousand 2548
dollars in an EDGE business enterprise or in an Ohio entity 2549
located in a distressed area, the investor may apply for approval 2550
of another investment of money in that entity, as long as the 2551
total amount invested in that entity by the investor under this 2552
section does not exceed three hundred thousand dollars. An 2553
investor who receives approval of an investment of money as part 2554
of a group may subsequently apply on an individual basis for 2555
approval of an additional investment of money in the Ohio entity. 2556

(F) The industrial technology and enterprise advisory council 2557
committee shall approve or disapprove tax credit applications 2558
under this section in the order in which they are received by the 2559
council. 2560

(G) The director of development may disapprove any 2561
application recommended by an Edison center and approved by the 2562
industrial technology and enterprise advisory council committee, 2563
or may disapprove a credit for which a tax credit certificate has 2564
been issued under section 122.152 of the Revised Code, if the 2565
director determines that the entity in which the applicant 2566
proposes to invest or has invested is not an Ohio entity eligible 2567
to receive investments that qualify for the credit. If the 2568
director disapproves an application, the director shall certify 2569
the action to the investor, the Edison center that recommended the 2570
application, the industrial technology and enterprise advisory 2571
council, and the tax commissioner, together with a written 2572
explanation of the reasons for the disapproval. If the director 2573
disapproves a tax credit after a tax credit certificate is issued, 2574
the investor shall not claim the credit for the taxable year that 2575
includes the day the director disapproves the credit, or for any 2576
subsequent taxable year. 2577

The director of development, in accordance with section 2578
111.15 of the Revised Code and with the advice of the industrial 2579
technology and enterprise advisory council, may adopt, amend, and 2580
rescind rules necessary to implement sections 122.15 to 122.154 of 2581
the Revised Code. 2582

(H) An Edison center shall use application fees received 2583
under this section only for the costs of administering sections 2584
122.15 to 122.154 of the Revised Code. 2585

Sec. 122.17. (A) As used in this section: 2586

~~(1) "Full-time employee" means an individual who is employed 2587
for consideration for at least an average of thirty five hours a 2588
week, who renders any other standard of service generally accepted 2589
by custom or specified by contract as full time employment, or who 2590
is employed for consideration for such time or renders such 2591
service but is on family or medical leave under the federal Family 2592
and Medical Leave Act of 1993, Pub. L. No. 103-3, 107 Stat. 6, as 2593
amended, or on active duty reserve or Ohio national guard service. 2594
2595~~

~~(2) "New employee" means one of the following: 2596~~

~~(a) A full time employee first employed by a taxpayer in the 2597
project that is the subject of the agreement after the taxpayer 2598
enters into a tax credit agreement with the tax credit authority 2599
under this section; 2600~~

~~(b) A full time employee first employed by a taxpayer in the 2601
project that is the subject of the tax credit after the tax credit 2602
authority approves a project for a tax credit under this section 2603
in a public meeting, as long as the taxpayer enters into the tax 2604
credit agreement prepared by the department of development after 2605
such meeting within sixty days after receiving the agreement from 2606
the department. If the taxpayer fails to enter into the agreement 2607~~

~~within sixty days, "new employee" has the same meaning as under 2608
division (A)(2)(a) of this section. A full time employee may be 2609
considered a "new employee" of a taxpayer, despite previously 2610
having been employed by a related member of the taxpayer, if all 2611
of the following apply: 2612~~

~~(i) The related member is a party to the tax credit agreement 2613
at the time the employee is first employed with the taxpayer; 2614~~

~~(ii) The related member will remain subject to the tax 2615
imposed by section 5725.18, 5729.03, 5733.06, or 5747.02 or levied 2616
under Chapter 5751. of the Revised Code for the remainder of the 2617
term of the tax credit, and the tax credit is taken against 2618
liability for that same tax through the remainder of the term of 2619
the tax credit; and 2620~~

~~(iii) The employee was considered a new employee of the 2621
related member prior to employment with the taxpayer. 2622~~

~~Under division (A)(2)(a) or (b) of this section, if the tax 2623
credit authority determines it appropriate, "new employee" also 2624
may include an employee re-hired or called back from lay off to 2625
work in a new facility or on a new product or service established 2626
or produced by the taxpayer after entering into the agreement 2627
under this section or after the tax credit authority approves the 2628
tax credit in a public meeting. Except as otherwise provided in 2629
this paragraph, "new employee" does not include any employee of 2630
the taxpayer who was previously employed in this state by a 2631
related member of the taxpayer and whose employment was shifted to 2632
the taxpayer after the taxpayer entered into the tax credit 2633
agreement or after the tax credit authority approved the credit in 2634
a public meeting, or any employee of the taxpayer for which the 2635
taxpayer has been granted a certificate under division (B) of 2636
section 5709.66 of the Revised Code. However, if the taxpayer is 2637
engaged in the enrichment and commercialization of uranium or 2638
uranium products or is engaged in research and development 2639~~

~~activities related thereto and if the tax credit authority 2640
determines it appropriate, "new employee" may include an employee 2641
of the taxpayer who was previously employed in this state by a 2642
related member of the taxpayer and whose employment was shifted to 2643
the taxpayer after the taxpayer entered into the tax credit 2644
agreement or after the tax credit authority approved the credit in 2645
a public meeting. "New employee" does not include an employee of 2646
the taxpayer who is employed in an employment position that was 2647
relocated to a project from other operations of the taxpayer in 2648
this state or from operations of a related member of the taxpayer 2649
in this state. In addition, "new employee" does not include a 2650
child, grandchild, parent, or spouse, other than a spouse who is 2651
legally separated from the individual, of any individual who is an 2652
employee of the taxpayer and who has a direct or indirect 2653
ownership interest of at least five per cent in the profits, 2654
capital, or value of the taxpayer. Such ownership interest shall 2655
be determined in accordance with section 1563 of the Internal 2656
Revenue Code and regulations prescribed thereunder. 2657~~

~~(3) "New income Income tax revenue" means the total amount 2658
withheld under section 5747.06 of the Revised Code by the taxpayer 2659
during the taxable year, or during the calendar year that includes 2660
the tax period, from the compensation of ~~new employees for the tax~~ 2661
~~levied under Chapter 5747. of the Revised Code.~~ 2662~~

~~(4) "Related member" has the same meaning as under division 2664
(A)(6) of section 5733.042 of the Revised Code without regard to 2665
division (B) of that section each employee employed in the project 2666
to the extent the employee's withholdings are not used to 2667
determine the credit under section 122.171 of the Revised Code. 2668~~

~~(2) "Baseline income tax revenue" means income tax revenue 2669
except that the applicable withholding period is the twelve months 2670
immediately preceding the date the tax credit authority approves 2671~~

the taxpayer's application multiplied by the sum of one plus an 2672
annual pay increase factor to be determined by the tax credit 2673
authority. If the taxpayer becomes eligible for the credit after 2674
the first day of the taxpayer's taxable year or after the first 2675
day of the calendar year that includes the tax period, the 2676
taxpayer's baseline income tax revenue shall be reduced in 2677
proportion to the number of days during the taxable or calendar 2678
year for which the taxpayer was not eligible for the credit. For 2679
subsequent taxable or calendar years, "baseline income tax 2680
revenue" equals the unreduced baseline income tax revenue for the 2681
preceding taxable or calendar year multiplied by the sum of one 2682
plus the pay increase factor. 2683

(3) "Excess income tax revenue" means income tax revenue 2684
minus baseline income tax revenue. 2685

(B) The tax credit authority may make grants under this 2686
section to foster job creation in this state. Such a grant shall 2687
take the form of a refundable credit allowed against the tax 2688
imposed by section 5725.18, 5729.03, 5733.06, or 5747.02 or levied 2689
under Chapter 5751. of the Revised Code. The credit shall be 2690
claimed for the taxable years or tax periods specified in the 2691
taxpayer's agreement with the tax credit authority under division 2692
(D) of this section. With respect to taxes imposed under section 2693
5733.06 or 5747.02 or Chapter 5751. of the Revised Code, the 2694
credit shall be claimed in the order required under section 2695
5733.98, 5747.98, or 5751.98 of the Revised Code. The amount of 2696
the credit available for a taxable year or for a calendar year 2697
that includes a tax period equals the ~~new~~ excess income tax 2698
revenue for that year multiplied by the percentage specified in 2699
the agreement with the tax credit authority. Any credit granted 2700
under this section against the tax imposed by section 5733.06 or 2701
5747.02 of the Revised Code, to the extent not fully utilized 2702
against such tax for taxable years ending prior to 2008, shall 2703

automatically be converted without any action taken by the tax 2704
credit authority to a credit against the tax levied under Chapter 2705
5751. of the Revised Code for tax periods beginning on or after 2706
July 1, 2008, provided that the person to whom the credit was 2707
granted is subject to such tax. The converted credit shall apply 2708
to those calendar years in which the remaining taxable years 2709
specified in the agreement end. 2710

(C) A taxpayer or potential taxpayer who proposes a project 2711
to create new jobs in this state may apply to the tax credit 2712
authority to enter into an agreement for a tax credit under this 2713
section. The director of development shall prescribe the form of 2714
the application. After receipt of an application, the authority 2715
may enter into an agreement with the taxpayer for a credit under 2716
this section if it determines all of the following: 2717

(1) The taxpayer's project will ~~create new jobs in this state~~ 2718
increase payroll and income tax revenue; 2719

(2) The taxpayer's project is economically sound and will 2720
benefit the people of this state by increasing opportunities for 2721
employment and strengthening the economy of this state; 2722

(3) Receiving the tax credit is a major factor in the 2723
taxpayer's decision to go forward with the project. 2724

(D) An agreement under this section shall include all of the 2725
following: 2726

(1) A detailed description of the project that is the subject 2727
of the agreement; 2728

(2) The term of the tax credit, which shall not exceed 2729
fifteen years, and the first taxable year, or first calendar year 2730
that includes a tax period, for which the credit may be claimed; 2731

(3) A requirement that the taxpayer shall maintain operations 2732
at the project location for at least ~~twice the number of years as~~ 2733

~~the term of the tax credit~~ the greater of seven years or the term 2734
of the credit plus three years; 2735

(4) The percentage, as determined by the tax credit 2736
authority, of ~~new~~ excess income tax revenue that will be allowed 2737
as the amount of the credit for each taxable year or for each 2738
calendar year that includes a tax period; 2739

(5) ~~A specific method for determining how many new employees~~ 2740
~~are employed during a taxable year or during a calendar year that~~ 2741
~~includes a tax period~~ The pay increase factor to be applied to the 2742
taxpayer's baseline income tax revenue; 2743

(6) A requirement that the taxpayer annually shall report to 2744
the director of development ~~the number of new employees, the new~~ 2745
~~income tax revenue withheld in connection with the new employees,~~ 2746
~~and any~~ employment, tax withholding, investment, and other 2747
information the director needs to perform the director's duties 2748
under this section; 2749

(7) A requirement that the director of development annually 2750
~~shall verify the amounts~~ review the information reported under 2751
division (D)(6) of this section, ~~and after doing so shall issue a~~ 2752
~~certificate to the taxpayer stating that the amounts have been~~ 2753
~~verified~~ and verify compliance with the agreement; if the taxpayer 2754
is in compliance, a requirement that the director issue a 2755
certificate to the taxpayer stating that the information has been 2756
verified and identifying the amount of the credit that may be 2757
claimed for the taxable or calendar year; 2758

(8)(a) ~~A provision requiring that the taxpayer, except as~~ 2759
~~otherwise provided in division (D)(8)(b) of this section, shall~~ 2760
~~not relocate employment positions from elsewhere in this state to~~ 2761
~~the project site that is the subject of the agreement for the~~ 2762
~~lesser of five years from the date the agreement is entered into~~ 2763
~~or the number of years the taxpayer is entitled to claim the tax~~ 2764

~~credit.~~ 2765

~~(b) The taxpayer may relocate employment positions from
elsewhere in this state to the project site that is the subject of
the agreement if the director of development determines both of
the following:~~ 2766
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~~(i) That the site from which the employment positions would
be relocated is inadequate to meet market and industry conditions,
expansion plans, consolidation plans, or other business
considerations affecting the taxpayer;~~ 2770
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~~(ii) That A provision providing that the taxpayer may not
relocate a substantial number of employment positions from
elsewhere in this state to the project location unless the
director of development determines that the legislative authority
of the county, township, or municipal corporation from which the
employment positions would be relocated has been notified by the
taxpayer of the relocation.~~ 2774
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For purposes of this section, the movement of an employment
position from one political subdivision to another political
subdivision shall be considered a relocation of an employment
position, ~~but the transfer of an individual employee from one
political subdivision to another political subdivision shall not
be considered a relocation of an employment position as long as
the individual's employment position in the first political
subdivision is refilled unless the employment position in the
first political subdivision is replaced.~~ 2781
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(E) If a taxpayer fails to meet or comply with any condition
or requirement set forth in a tax credit agreement, the tax credit
authority may amend the agreement to reduce the percentage or term
of the tax credit. The reduction of the percentage or term ~~shall
take effect (1) in the taxable year immediately following the
taxable year in which the authority amends the agreement or the~~ 2790
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~~director of development notifies the taxpayer in writing of such 2796
failure, or (2) in the first tax period beginning in the calendar 2797
year immediately following the calendar year in which the 2798
authority amends the agreement or the director notifies the 2799
taxpayer in writing of such failure. If the taxpayer fails to 2800
annually report any of the information required by division (D)(6) 2801
of this section within the time required by the director, the 2802
reduction of the percentage or term may take effect in the current 2803
taxable year. If the taxpayer relocates employment positions in 2804
violation of the provision required under division (D)(8)(a) of 2805
this section, the taxpayer shall not claim the tax credit under 2806
section 5733.0610 of the Revised Code for any tax years following 2807
the calendar year in which the relocation occurs, or shall not 2808
claim the tax credit under section 5725.32, 5729.032, or 5747.058 2809
of the Revised Code for the taxable year in which the relocation 2810
occurs and any subsequent taxable years, and shall not claim the 2811
tax credit under division (A) of section 5751.50 of the Revised 2812
Code for any tax period in the calendar year in which the 2813
relocation occurs and any subsequent tax periods may take effect 2814
in the current taxable or calendar year. 2815~~

(F) Projects that consist solely of point-of-final-purchase 2816
retail facilities are not eligible for a tax credit under this 2817
section. If a project consists of both point-of-final-purchase 2818
retail facilities and nonretail facilities, only the portion of 2819
the project consisting of the nonretail facilities is eligible for 2820
a tax credit and only the ~~new~~ excess income tax revenue from ~~new~~ 2821
~~employees of~~ the nonretail facilities shall be considered when 2822
computing the amount of the tax credit. If a warehouse facility is 2823
part of a point-of-final-purchase retail facility and supplies 2824
only that facility, the warehouse facility is not eligible for a 2825
tax credit. Catalog distribution centers are not considered 2826
point-of-final-purchase retail facilities for the purposes of this 2827
division, and are eligible for tax credits under this section. 2828

(G) Financial statements and other information submitted to 2829
the department of development or the tax credit authority by an 2830
applicant or recipient of a tax credit under this section, and any 2831
information taken for any purpose from such statements or 2832
information, are not public records subject to section 149.43 of 2833
the Revised Code. However, the chairperson of the authority may 2834
make use of the statements and other information for purposes of 2835
issuing public reports or in connection with court proceedings 2836
concerning tax credit agreements under this section. Upon the 2837
request of the tax commissioner or, if the applicant or recipient 2838
is an insurance company, upon the request of the superintendent of 2839
insurance, the chairperson of the authority shall provide to the 2840
commissioner or superintendent any statement or information 2841
submitted by an applicant or recipient of a tax credit in 2842
connection with the credit. The commissioner or superintendent 2843
shall preserve the confidentiality of the statement or 2844
information. 2845

(H) A taxpayer claiming a credit under this section shall 2846
submit to the tax commissioner or, if the taxpayer is an insurance 2847
company, to the superintendent of insurance, a copy of the 2848
director of development's certificate of verification under 2849
division (D)(7) of this section with the taxpayer's tax report or 2850
return for the taxable year or for the calendar year that includes 2851
the tax period. Failure to submit a copy of the certificate with 2852
the report or return does not invalidate a claim for a credit if 2853
the taxpayer submits a copy of the certificate to the commissioner 2854
or superintendent within sixty days after the commissioner or 2855
superintendent requests it. 2856

(I) The director of development, after consultation with the 2857
tax commissioner and the superintendent of insurance and in 2858
accordance with Chapter 119. of the Revised Code, shall adopt 2859
rules necessary to implement this section. The rules may provide 2860

for recipients of tax credits under this section to be charged 2861
fees to cover administrative costs of the tax credit program. The 2862
fees collected shall be credited to the tax incentive programs 2863
operating fund created in section 122.174 of the Revised Code. At 2864
the time the director gives public notice under division (A) of 2865
section 119.03 of the Revised Code of the adoption of the rules, 2866
the director shall submit copies of the proposed rules to the 2867
chairpersons of the standing committees on economic development in 2868
the senate and the house of representatives. 2869

(J) For the purposes of this section, a taxpayer may include 2870
a partnership, a corporation that has made an election under 2871
subchapter S of chapter one of subtitle A of the Internal Revenue 2872
Code, or any other business entity through which income flows as a 2873
distributive share to its owners. A partnership, S-corporation, or 2874
other such business entity may elect to pass the credit received 2875
under this section through to the persons to whom the income or 2876
profit of the partnership, S-corporation, or other entity is 2877
distributed. The election shall be made on the annual report 2878
required under division (D)(6) of this section. The election 2879
applies to and is irrevocable for the credit for which the report 2880
is submitted. If the election is made, the credit shall be 2881
apportioned among those persons in the same proportions as those 2882
in which the income or profit is distributed. 2883

(K) If the director of development determines that a taxpayer 2884
who has received a credit under this section is not complying with 2885
the requirement under division (D)(3) of this section, the 2886
director shall notify the tax credit authority of the 2887
noncompliance. After receiving such a notice, and after giving the 2888
taxpayer an opportunity to explain the noncompliance, the tax 2889
credit authority may require the taxpayer to refund to this state 2890
a portion of the credit in accordance with the following: 2891

(1) If the taxpayer maintained operations at the project 2892

~~location for at least one and one half times the number of years
of the term of the tax credit, an amount not exceeding twenty five
per cent of the sum of any previously allowed credits under this
section;~~

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

~~(3) If the taxpayer maintained operations at the project
location for less than the number of years of the term of the tax
credit, an amount not exceeding one hundred per cent of the sum of
any previously allowed credits under this section a period less
than or equal to the term of the credit, an amount not exceeding
one hundred per cent of the sum of any credits allowed and
received under this section;~~

(2) If the taxpayer maintained operations at the project
location for a period longer than the term of the credit, but less
than the greater of seven years or the term of the credit plus
three years, an amount not exceeding fifty per cent of the sum of
any credits allowed and received under this section.

In determining the portion of the tax credit to be refunded
to this state, the tax credit authority shall consider the effect
of market conditions on the taxpayer's project and whether the
taxpayer continues to maintain other operations in this state.
After making the determination, the authority shall certify the
amount to be refunded to the tax commissioner or superintendent of
insurance, as appropriate. If the amount is certified to the
commissioner, the commissioner shall make an assessment for that
amount against the taxpayer under Chapter 5733., 5747., or 5751.
of the Revised Code. If the amount is certified to the
superintendent, the superintendent shall make an assessment for
that amount against the taxpayer under Chapter 5725. or 5729. of

the Revised Code. The time limitations on assessments under those 2925
chapters do not apply to an assessment under this division, but 2926
the commissioner or superintendent, as appropriate, shall make the 2927
assessment within one year after the date the authority certifies 2928
to the commissioner or superintendent the amount to be refunded. 2929

(L) On or before the ~~thirty-first~~ first day of ~~March~~ August 2930
each year, the director of development shall submit a report to 2931
the governor, the president of the senate, and the speaker of the 2932
house of representatives on the tax credit program under this 2933
section. The report shall include information on the number of 2934
agreements that were entered into under this section during the 2935
preceding calendar year, a description of the project that is the 2936
subject of each such agreement, and an update on the status of 2937
projects under agreements entered into before the preceding 2938
calendar year. 2939

(M) There is hereby created the tax credit authority, which 2940
consists of the director of development and four other members 2941
appointed as follows: the governor, the president of the senate, 2942
and the speaker of the house of representatives each shall appoint 2943
one member who shall be a specialist in economic development; the 2944
governor also shall appoint a member who is a specialist in 2945
taxation. Of the initial appointees, the members appointed by the 2946
governor shall serve a term of two years; the members appointed by 2947
the president of the senate and the speaker of the house of 2948
representatives shall serve a term of four years. Thereafter, 2949
terms of office shall be for four years. Initial appointments to 2950
the authority shall be made within thirty days after January 13, 2951
1993. Each member shall serve on the authority until the end of 2952
the term for which the member was appointed. Vacancies shall be 2953
filled in the same manner provided for original appointments. Any 2954
member appointed to fill a vacancy occurring prior to the 2955
expiration of the term for which the member's predecessor was 2956

appointed shall hold office for the remainder of that term. 2957
Members may be reappointed to the authority. Members of the 2958
authority shall receive their necessary and actual expenses while 2959
engaged in the business of the authority. The director of 2960
development shall serve as chairperson of the authority, and the 2961
members annually shall elect a vice-chairperson from among 2962
themselves. Three members of the authority constitute a quorum to 2963
transact and vote on the business of the authority. The majority 2964
vote of the membership of the authority is necessary to approve 2965
any such business, including the election of the vice-chairperson. 2966

The director of development may appoint a professional 2967
employee of the department of development to serve as the 2968
director's substitute at a meeting of the authority. The director 2969
shall make the appointment in writing. In the absence of the 2970
director from a meeting of the authority, the appointed substitute 2971
shall serve as chairperson. In the absence of both the director 2972
and the director's substitute from a meeting, the vice-chairperson 2973
shall serve as chairperson. 2974

(N) For purposes of the credits granted by this section 2975
against the taxes imposed under sections 5725.18 and 5729.03 of 2976
the Revised Code, "taxable year" means the period covered by the 2977
taxpayer's annual statement to the superintendent of insurance. 2978

Sec. 122.171. (A) As used in this section: 2979

(1) "Capital investment project" means a plan of investment 2980
at a project site for the acquisition, construction, renovation, 2981
or repair of buildings, machinery, or equipment, or for 2982
capitalized costs of basic research and new product development 2983
determined in accordance with generally accepted accounting 2984
principles, but does not include any of the following: 2985

(a) Payments made for the acquisition of personal property 2986
through operating leases; 2987

(b) Project costs paid before January 1, 2002; 2988

(c) Payments made to a related member as defined in section 2989
5733.042 of the Revised Code or to an ~~elected~~ consolidated elected 2990
taxpayer or a combined taxpayer as defined in section 5751.01 of 2991
the Revised Code. 2992

(2) "Eligible business" means a ~~business taxpayer and its~~ 2993
related members with Ohio operations satisfying all of the 2994
following: 2995

(a) ~~Employed an average of at least one thousand employees in~~ 2996
~~full-time employment positions at a project site during each of~~ 2997
~~the twelve months preceding the application for a tax credit under~~ 2998
~~this section; and~~ 2999

~~(b) On or after January 1, 2002, has made or has caused to be~~ 3000
~~made payments for the capital investment project, including~~ 3001
~~payments made by an unrelated third party entity as a result of a~~ 3002
~~lease of not less than twenty years in term, of either of the~~ 3003
~~following:~~ 3004

~~(i) At least two hundred~~ The taxpayer employs at least five 3005
hundred full-time equivalent employees at the time the tax credit 3006
authority grants the tax credit under this section; 3007

(b) The taxpayer makes or causes to be made payments for the 3008
capital investment project of either of the following: 3009

(i) If the taxpayer is engaged at the project site primarily 3010
as a manufacturer, at least fifty million dollars in the aggregate 3011
at the project site during a period of three consecutive calendar 3012
years, including the calendar year that includes a day of the 3013
taxpayer's taxable year or tax period with respect to which the 3014
credit is granted; 3015

~~(ii) If the average wage of all full-time employment~~ 3016
~~positions at the project site is greater than four hundred per~~ 3017

~~cent of the federal minimum wage, at least one hundred taxpayer is~~ 3018
~~engaged at the project site primarily in significant corporate~~ 3019
~~administrative functions, as defined by the director of~~ 3020
~~development by rule, at least twenty million dollars in the~~ 3021
aggregate at the project site during a period of three consecutive 3022
calendar years including the calendar year that includes a day of 3023
the taxpayer's taxable year or tax period with respect to which 3024
the credit is granted. 3025

~~(c) Is engaged at the project site primarily as a~~ 3026
~~manufacturer or is providing significant corporate administrative~~ 3027
~~functions. If the investment under division (A)(2)(b) of this~~ 3028
~~section was made by a third party entity as a result of a lease of~~ 3029
~~not less than twenty years in term, the project must include~~ 3030
~~headquarters operations that are part of a mixed use development~~ 3031
~~that includes at least two of the following: office, hotel,~~ 3032
~~research and development, or retail facilities.~~ 3033

~~(d) Has~~ The taxpayer had a capital investment project 3034
reviewed and approved by the tax credit authority as provided in 3035
divisions (C), (D), and (E) of this section. 3036

~~(3) "Full-time employment position" means a position of~~ 3037
~~employment for consideration for at least an average of~~ 3038
~~thirty five hours a week that has been filled for at least one~~ 3039
~~hundred eighty days immediately preceding the filing of an~~ 3040
~~application under this section and for at least one hundred eighty~~ 3041
~~days during each taxable year or each calendar year that includes~~ 3042
~~a tax period with respect to which the credit is granted, or is~~ 3043
~~employed in such position for consideration for such time, but is~~ 3044
~~on active duty reserve or Ohio national guard service~~ equivalent 3045
employees" means the quotient obtained by dividing the total 3046
number of hours for which employees were compensated for 3047
employment in the project by two thousand eighty. "Full-time 3048
equivalent employees" shall exclude hours that are counted for a 3049

credit under section 122.17 of the Revised Code. 3050

(4) "Income tax revenue" means the total amount withheld 3051
under section 5747.06 of the Revised Code by the taxpayer during 3052
the taxable year, or during the calendar year that includes the 3053
tax period, from the compensation of all employees employed in the 3054
project whose hours of compensation are included in calculating 3055
the number of full-time equivalent employees. 3056

~~(4)(5)~~ "Manufacturer" has the same meaning as in section 3057
5739.011 of the Revised Code. 3058

~~(5)(6)~~ "Project site" means an integrated complex of 3059
facilities in this state, as specified by the tax credit authority 3060
under this section, within a fifteen-mile radius where a taxpayer 3061
is primarily operating as an eligible business. 3062

~~(6) "Applicable corporation" means a corporation satisfying~~ 3063
~~all of the following:~~ 3064

~~(a)(i) For the entire taxable year immediately preceding the~~ 3065
~~tax year, the corporation develops software applications primarily~~ 3066
~~to provide telecommunication billing and information services~~ 3067
~~through outsourcing or licensing to domestic or international~~ 3068
~~customers.~~ 3069

~~(ii) Sales and licensing of software generated at least six~~ 3070
~~hundred million dollars in revenue during the taxable year~~ 3071
~~immediately preceding the tax year the corporation is first~~ 3072
~~entitled to claim the credit provided under division (B) of this~~ 3073
~~section.~~ 3074

~~(b) For the entire taxable year immediately preceding the tax~~ 3075
~~year, the corporation or one or more of its related members~~ 3076
~~provides customer or employee care and technical support for~~ 3077
~~clients through one or more contact centers within this state, and~~ 3078
~~the corporation and its related members together have a daily~~ 3079
~~average, based on a three hundred sixty five day year, of at least~~ 3080

~~five hundred thousand successful customer contacts through one or
more of their contact centers, wherever located.~~

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

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

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

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

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

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

~~(c) If the resulting difference is negative, the applicable~~

~~tax difference for the tax year shall be zero "Taxable year" 3112~~
~~includes, in the case of a domestic or foreign insurance company, 3113~~
~~the calendar year ending on the thirty-first day of December 3114~~
~~preceding the day the annual statement is required to be returned 3115~~
~~under section 5725.18 or 5729.02 of the Revised Code. 3116~~

(B) The tax credit authority created under section 122.17 of 3117
the Revised Code may grant tax credits under this section for the 3118
purpose of fostering job retention in this state. Upon application 3119
by an eligible business and upon consideration of the 3120
recommendation of the director of budget and management, tax 3121
commissioner, and director of development under division (C) of 3122
this section, the tax credit authority may grant to an eligible 3123
business a nonrefundable credit against the tax imposed by section 3124
~~5725.18, 5729.03, 5733.06, or 5747.02 of the Revised Code for a 3125~~
~~period up to fifteen taxable years and against the tax levied by 3126~~
~~Chapter 5751. of the Revised Code for a period of up to fifteen 3127~~
~~calendar years provided, however, that if the project site is 3128~~
~~leased, the term of the tax credit cannot exceed the lesser of 3129~~
~~fifteen years or one half the term of the lease, including any 3130~~
~~permitted renewal periods. The credit shall be in an amount not 3131~~
~~exceeding seventy five per cent of the Ohio income tax withheld 3132~~
~~from the employees of the eligible business occupying full time 3133~~
~~employment positions at the project site during the calendar year 3134~~
~~that includes the last day of such business' taxable year or tax 3135~~
~~period with respect to which the credit is granted. The amount of 3136~~
~~the credit shall not be based on the Ohio income tax withheld from 3137~~
~~full time employees for a calendar year prior to the calendar year 3138~~
~~in which the minimum investment requirement referred to in 3139~~
~~division (A)(2)(b) of this section is completed. The credit amount 3140~~
~~for a taxable year or a calendar year that includes the tax period 3141~~
~~for which a credit may be claimed equals the income tax revenue 3142~~
~~for that year multiplied by the percentage specified in the 3143~~
~~agreement with the tax credit authority. The percentage may not 3144~~

exceed seventy-five per cent. The credit shall be claimed in the 3145
order required under section 5725.98, 5729.98, 5733.98, or 5747.98 3146
of the Revised Code. In determining the percentage and term of the 3147
credit, the tax credit authority shall consider both the number of 3148
full-time equivalent employees and the value of the capital 3149
investment project. The credit amount may not be based on the 3150
income tax revenue for a calendar year before the calendar year in 3151
which the tax credit authority specifies the tax credit is to 3152
begin, and the credit shall be claimed only for the taxable years 3153
or tax periods specified in the eligible business' agreement with 3154
the tax credit authority ~~under division (E) of this section, but~~ 3155
~~in.~~ In no event shall the credit be claimed for a taxable year or 3156
tax period terminating before the date specified in the agreement. 3157
Any credit granted under this section against the tax imposed by 3158
section 5733.06 or 5747.02 of the Revised Code, to the extent not 3159
fully utilized against such tax for taxable years ending prior to 3160
2008, shall automatically be converted without any action taken by 3161
the tax credit authority to a credit against the tax levied under 3162
Chapter 5751. of the Revised Code for tax periods beginning on or 3163
after July 1, 2008, provided that the person to whom the credit 3164
was granted is subject to such tax. The converted credit shall 3165
apply to those calendar years in which the remaining taxable years 3166
specified in the agreement end. 3167

~~The credit computed under this division is in addition to any~~ 3169
~~credit allowed under division (M) of this section, which the tax~~ 3170
~~credit authority may also include in the agreement.~~ 3171

Any unused portion of a tax credit may be carried forward for 3172
not more than three additional years after the year for which the 3173
credit is granted. 3174

(C) A taxpayer that proposes a capital investment project to 3175
retain jobs in this state may apply to the tax credit authority to 3176

enter into an agreement for a tax credit under this section. The 3177
director of development shall prescribe the form of the 3178
application. After receipt of an application, the authority shall 3179
forward copies of the application to the director of budget and 3180
management, the tax commissioner, and the director of development, 3181
each of whom shall review the application to determine the 3182
economic impact the proposed project would have on the state and 3183
the affected political subdivisions and shall submit a summary of 3184
their determinations and recommendations to the authority. 3185

(D) Upon review of the determinations and recommendations 3186
described in division (C) of this section, the tax credit 3187
authority may enter into an agreement with the taxpayer for a 3188
credit under this section if the authority determines all of the 3189
following: 3190

(1) The taxpayer's capital investment project will result in 3191
the retention of ~~full-time~~ employment ~~positions~~ in this state. 3192

(2) The taxpayer is economically sound and has the ability to 3193
complete the proposed capital investment project. 3194

(3) The taxpayer intends to and has the ability to maintain 3195
operations at the project site for at least the greater of (a) the 3196
term of the credit plus three years, or (b) seven years. 3197

(4) Receiving the credit is a major factor in the taxpayer's 3198
decision to begin, continue with, or complete the project. 3199

~~(5) The political subdivisions in which the project is 3200
located have agreed to provide substantial financial support to 3201
the project. 3202~~

(E) An agreement under this section shall include all of the 3203
following: 3204

(1) A detailed description of the project that is the subject 3205
of the agreement, including the amount of the investment, the 3206

period over which the investment has been or is being made, and 3207
the number of full-time ~~employment positions~~ equivalent employees 3208
at the project site. 3209

~~(2) The method of calculating the number of full-time 3210
employment positions as specified in division (A)(3) of this 3211
section. 3212~~

~~(3) The term and percentage of the tax credit, and the first 3213
year for which the credit may be claimed. 3214~~

~~(4), and the anticipated income tax revenue to be generated. 3215~~

(2) The term of the credit, the percentage of the tax credit, 3216
the maximum annual value of tax credits that may be allowed each 3217
year, and the first year for which the credit may be claimed. 3218

(3) A requirement that the taxpayer maintain operations at 3219
the project site for at least the greater of (a) the term of the 3220
credit plus three years, or (b) seven years. 3221

~~(5)(4) A requirement that the taxpayer retain a specified 3222
number of ~~full-time employment positions~~ full-time equivalent 3223
employees at the project site and within this state for the term 3224
of the credit, including a requirement that the taxpayer continue 3225
to employ at least ~~one thousand employees in full-time employment~~ 3226
~~positions at the project site during the entire term of any~~ 3227
~~agreement, subject to division (E)(7) of this section. 3228~~~~

~~(6) five hundred full-time equivalent employees during the 3229
entire term of the agreement. 3230~~

(5) A requirement that the taxpayer annually report to the 3231
director of development ~~the number of full-time employment~~ 3232
~~positions subject to the credit, the amount of tax withheld from~~ 3233
~~employees in those positions, the amount of the payments made for~~ 3234
the employment, tax withholding, capital investment project, and 3235
any other information the director needs to perform the director's 3236

duties under this section. 3237

~~(7)(6)~~ A requirement that the director of development 3238
annually review the annual reports of the taxpayer to verify the 3239
information reported under division (E)~~(6)~~(5) of this section and 3240
compliance with the agreement. Upon verification, the director 3241
shall issue a certificate to the taxpayer stating that the 3242
information has been verified and identifying the amount of the 3243
credit for the taxable year or calendar year that includes the tax 3244
period. ~~Unless otherwise specified by the tax credit authority in~~ 3245
~~a resolution and included as part of the agreement, the director~~ 3246
~~shall not issue a certificate for any year in which the total~~ 3247
~~number of filled full-time employment positions for each day of~~ 3248
~~the calendar year divided by three hundred sixty five is less than~~ 3249
~~ninety per cent of the full-time employment positions specified in~~ 3250
~~division (E)(5) of this section. In determining the number of~~ 3251
full-time ~~employment positions~~ equivalent employees, no position 3252
shall be counted that is filled by an employee who is included in 3253
the calculation of a tax credit under section 122.17 of the 3254
Revised Code. 3255

~~(8)(a)~~ A provision requiring that the taxpayer, except as 3256
~~otherwise provided in division (E)(8)(b) of this section, shall~~ 3257
~~not relocate employment positions from elsewhere in this state to~~ 3258
~~the project site that is the subject of the agreement for the~~ 3259
~~lesser of five years from the date the agreement is entered into~~ 3260
~~or the number of years the taxpayer is entitled to claim the~~ 3261
~~credit.~~ 3262

~~(b)~~ The taxpayer may relocate employment positions from 3263
~~elsewhere in this state to the project site that is the subject of~~ 3264
~~the agreement if the director of development determines both of~~ 3265
~~the following:~~ 3266

~~(i)~~ That the site from which the employment positions would 3267
~~be relocated is inadequate to meet market and industry conditions,~~ 3268

~~expansion plans, consolidation plans, or other business
considerations affecting the taxpayer;~~ 3269
3270

~~(ii) That (7) A provision providing that the taxpayer may not
relocate a substantial number of employment positions from
elsewhere in this state to the project site unless the director of
development determines that the taxpayer notified the legislative
authority of the county, township, or municipal corporation from
which the employment positions would be relocated has been
notified of the relocation.~~ 3271
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For purposes of this section, the movement of an employment 3278
position from one political subdivision to another political 3279
subdivision shall be considered a relocation of an employment 3280
position unless the movement is confined to the project site. The 3281
transfer of an ~~individual employee~~ employment position from one 3282
political subdivision to another political subdivision shall not 3283
be considered a relocation of an employment position ~~as long as~~ 3284
~~the individual's employment position in the first political~~ 3285
~~subdivision is refilled.~~ 3286

~~(9) if the employment position in the first political
subdivision is replaced by another employment position.~~ 3287
3288

(8) A waiver by the taxpayer of any limitations periods 3289
relating to assessments or adjustments resulting from the 3290
taxpayer's failure to comply with the agreement. 3291

(F) If a taxpayer fails to meet or comply with any condition 3292
or requirement set forth in a tax credit agreement, the tax credit 3293
authority may amend the agreement to reduce the percentage or term 3294
of the credit. The reduction of the percentage or term ~~shall take~~ 3295
~~effect (1) in the taxable year immediately following the taxable~~ 3296
~~year in which the authority amends the agreement or the director~~ 3297
~~of development notifies the taxpayer in writing of such failure,~~ 3298
~~or (2) in the first tax period beginning in the calendar year~~ 3299

~~immediately following the calendar year in which the authority 3300
amends the agreement or the director notifies the taxpayer in 3301
writing of such failure. If the taxpayer fails to annually report 3302
any of the information required by division (E)(6) of this section 3303
within the time required by the director, the reduction of the 3304
percentage or term may take effect in the current taxable year. If 3305
the taxpayer relocates employment positions in violation of the 3306
provision required under division (E)(8)(a) of this section, the 3307
taxpayer shall not claim the tax credit under section 5733.0610 of 3308
the Revised Code for any tax years following the calendar year in 3309
which the relocation occurs, shall not claim the tax credit under 3310
section 5747.058 of the Revised Code for the taxable year in which 3311
the relocation occurs and any subsequent taxable years, and shall 3312
not claim the tax credit under division (A) of section 5751.50 of 3313
the Revised Code for the tax period in which the relocation occurs 3314
and any subsequent tax periods may take effect in the current 3315
taxable or calendar year. 3316~~

(G) Financial statements and other information submitted to 3317
the department of development or the tax credit authority by an 3318
applicant for or recipient of a tax credit under this section, and 3319
any information taken for any purpose from such statements or 3320
information, are not public records subject to section 149.43 of 3321
the Revised Code. However, the chairperson of the authority may 3322
make use of the statements and other information for purposes of 3323
issuing public reports or in connection with court proceedings 3324
concerning tax credit agreements under this section. Upon the 3325
request of the tax commissioner, the chairperson of the authority 3326
shall provide to the commissioner any statement or other 3327
information submitted by an applicant for or recipient of a tax 3328
credit in connection with the credit. The commissioner shall 3329
preserve the confidentiality of the statement or other 3330
information. 3331

(H) A taxpayer claiming a tax credit under this section shall 3332
submit to the tax commissioner or, in the case of an insurance 3333
company, to the superintendent of insurance, a copy of the 3334
director of development's certificate of verification under 3335
division (E)~~(7)~~(6) of this section with the taxpayer's tax report 3336
or return for the taxable year or for the calendar year that 3337
includes the tax period. Failure to submit a copy of the 3338
certificate with the report or return does not invalidate a claim 3339
for a credit if the taxpayer submits a copy of the certificate to 3340
the commissioner within sixty days after the commissioner or 3341
superintendent requests it. 3342

(I) For the purposes of this section, a taxpayer may include 3343
a partnership, a corporation that has made an election under 3344
subchapter S of chapter one of subtitle A of the Internal Revenue 3345
Code, or any other business entity through which income flows as a 3346
distributive share to its owners. A partnership, S-corporation, or 3347
other such business entity may elect to pass the credit received 3348
under this section through to the persons to whom the income or 3349
profit of the partnership, S-corporation, or other entity is 3350
distributed. The election shall be made on the annual report 3351
required under division (E)~~(6)~~(5) of this section. The election 3352
applies to and is irrevocable for the credit for which the report 3353
is submitted. If the election is made, the credit shall be 3354
apportioned among those persons in the same proportions as those 3355
in which the income or profit is distributed. 3356

(J) If the director of development determines that a taxpayer 3357
that received a tax credit under this section is not complying 3358
with the requirement under division (E)~~(4)~~(3) of this section, the 3359
director shall notify the tax credit authority of the 3360
noncompliance. After receiving such a notice, and after giving the 3361
taxpayer an opportunity to explain the noncompliance, the 3362
authority may terminate the agreement and require the taxpayer to 3363

refund to the state all or a portion of the credit claimed in 3364
previous years, as follows: 3365

(1) If the taxpayer maintained operations at the project site 3366
for less than or equal to the term of the credit, ~~the amount~~ 3367
~~required to be refunded shall not exceed the amount~~ an amount not 3368
to exceed one hundred per cent of the sum of any tax credits 3369
~~previously~~ allowed and received under this section. 3370

(2) If the taxpayer maintained operations at the project site 3371
longer than the term of the credit, but less than the greater of 3372
(a) the term of the credit plus three years, or (b) seven years, 3373
the amount required to be refunded shall not exceed fifty per cent 3374
of the sum of any tax credits ~~previously~~ allowed and received 3375
under this section. 3376

In determining the portion of the credit to be refunded to 3377
this state, the authority shall consider the effect of market 3378
conditions on the taxpayer's project and whether the taxpayer 3379
continues to maintain other operations in this state. After making 3380
the determination, the authority shall certify the amount to be 3381
refunded to the tax commissioner. ~~The~~ or the superintendent of 3382
insurance. If the taxpayer is not an insurance company, the 3383
commissioner shall make an assessment for that amount against the 3384
taxpayer under Chapter 5733., 5747., or 5751. of the Revised Code. 3385
If the taxpayer is an insurance company, the superintendent of 3386
insurance shall make an assessment under section 5725.222 or 3387
5729.102 of the Revised Code. The time limitations on assessments 3388
under those chapters and sections do not apply to an assessment 3389
under this division, but the commissioner or superintendent shall 3390
make the assessment within one year after the date the authority 3391
certifies to the commissioner or superintendent the amount to be 3392
refunded. 3393

~~If the director of development determines that a taxpayer~~ 3394
~~that received a tax credit under this section has reduced the~~ 3395

~~number of employees agreed to under division (E)(5) of this 3396
section by more than ten per cent, the director shall notify the 3397
tax credit authority of the noncompliance. After receiving such 3398
notice, and after providing the taxpayer an opportunity to explain 3399
the noncompliance, the authority may amend the agreement to reduce 3400
the percentage or term of the tax credit. The reduction in the 3401
percentage or term shall take effect in the taxable year, or in 3402
the calendar year that includes the tax period, in which the 3403
authority amends the agreement. 3404~~

(K) The director of development, after consultation with the 3405
tax commissioner and in accordance with Chapter 119. of the 3406
Revised Code, shall adopt rules necessary to implement this 3407
section. The rules may provide for recipients of tax credits under 3408
this section to be charged fees to cover administrative costs of 3409
the tax credit program. The fees collected shall be credited to 3410
the tax incentive programs operating fund created in section 3411
122.174 of the Revised Code. At the time the director gives public 3412
notice under division (A) of section 119.03 of the Revised Code of 3413
the adoption of the rules, the director shall submit copies of the 3414
proposed rules to the chairpersons of the standing committees on 3415
economic development in the senate and the house of 3416
representatives. 3417

(L) On or before the ~~thirty-first~~ first day of ~~March~~ August 3418
of each year, the director of development shall submit a report to 3419
the governor, the president of the senate, and the speaker of the 3420
house of representatives on the tax credit program under this 3421
section. The report shall include information on the number of 3422
agreements that were entered into under this section during the 3423
preceding calendar year, a description of the project that is the 3424
subject of each such agreement, and an update on the status of 3425
projects under agreements entered into before the preceding 3426
calendar year. 3427

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

~~(2) A person qualifying as an applicable corporation under this section for a tax year does not necessarily qualify as an applicable corporation for any other tax year. No person is entitled to the credit allowed under division (M) of this section for the tax year immediately following the taxable year during which the person fails to meet the requirements in divisions (A)(6)(a)(i) and (A)(6)(b) of this section. No person is entitled to the credit allowed under division (M) of this section for any tax year for which the person is not eligible for the credit provided under division (B) of this section. The aggregate amount of tax credits issued under this section during any calendar year for capital investment projects reviewed and approved by the tax credit authority may not exceed the following amounts:~~

~~(1) For 2010, thirteen million dollars;~~

~~(2) For 2011 through 2023, the amount of the limit for the preceding calendar year plus thirteen million dollars;~~

~~(3) For 2024 and each year thereafter, one hundred ninety-five million dollars.~~

~~The foregoing annual limitations do not apply to credits for capital investment projects approved by the tax credit authority before July 1, 2009.~~

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

the Revised Code. 3458

(B) The council shall consist of ~~seven~~ eight members 3459
appointed by the governor, with the advice and consent of the 3460
senate, who are selected for their knowledge of and experience in 3461
economic development financing, one member of the senate appointed 3462
by the president of the senate, one member of the house of 3463
representatives appointed by the speaker of the house of 3464
representatives, and the director of development or the director's 3465
designee. With respect to the council: 3466

(1) No more than four members of the council appointed by the 3467
governor shall be members of the same political party. 3468

(2) Each member shall hold office from the date of the 3469
member's appointment until the end of the term for which the 3470
member was appointed. 3471

(3) The terms of office for the ~~seven~~ eight members appointed 3472
by the governor shall be for five years commencing on the first 3473
day of January and ending on the thirty-first day of December. The 3474
~~seven~~ members appointed by the governor who are serving terms of 3475
office of seven years on December 30, 2004, shall continue to 3476
serve those terms, but their successors in office, including the 3477
filling of a vacancy occurring prior to the expiration of those 3478
terms, shall be appointed for terms of five years in accordance 3479
with this division. 3480

(4) Any member of the council is eligible for reappointment. 3481

(5) As a term of a member of the council appointed by the 3482
governor expires, the governor shall appoint a successor with the 3483
advice and consent of the senate. 3484

(6) Except as otherwise provided in division (B)(3) of this 3485
section, any member appointed to fill a vacancy occurring prior to 3486
the expiration of the term for which the member's predecessor was 3487
appointed shall hold office for the remainder of the predecessor's 3488

term. 3489

(7) Any member shall continue in office subsequent to the 3490
expiration date of the member's term until the member's successor 3491
takes office, or until a period of sixty days has elapsed, 3492
whichever occurs first. 3493

(8) Before entering upon duties as a member of the council, 3494
each member shall take an oath provided by Section 7 of Article 3495
XV, Ohio Constitution. 3496

(9) The governor may, at any time, remove any nonlegislative 3497
member pursuant to section 3.04 of the Revised Code. 3498

(10) Members of the council, notwithstanding section 101.26 3499
of the Revised Code with respect to members who are members of the 3500
general assembly, shall receive their necessary and actual 3501
expenses while engaged in the business of the council and shall be 3502
paid at the per diem rate of step 1, pay range 31, of section 3503
124.15 of the Revised Code. 3504

(11) Six members of the council constitute a quorum and the 3505
affirmative vote of ~~six~~ a majority of members present at a meeting 3506
of the council where a quorum is present is necessary for any 3507
action taken by the council. 3508

(12) In the event of the absence of a member appointed by the 3509
president of the senate or by the speaker of the house of 3510
representatives, the following persons may serve in the member's 3511
absence: the president of the senate or the speaker of the house, 3512
as the case may be, or a member of the senate or of the house of 3513
representatives, of the same political party as the development 3514
financing advisory council member, designated by the president of 3515
the senate or the speaker of the house. 3516

Sec. 122.603. (A)(1) Upon approval by the director of 3517
development and after entering into a participation agreement with 3518

the department of development, a participating financial 3519
institution making a capital access loan shall establish a program 3520
reserve account. The account shall be an interest-bearing account 3521
and shall contain only moneys deposited into it under the program 3522
and the interest payable on the moneys in the account. 3523

(2) All interest payable on the moneys in the program reserve 3524
account shall be added to the moneys and held as an additional 3525
loss reserve. The director may require that a portion or all of 3526
the accrued interest so held in the account be released to the 3527
department. If the director causes a release of accrued interest, 3528
the director shall deposit the released amount into the capital 3529
access loan program fund created in section 122.601 of the Revised 3530
Code. The director shall not require the release of that accrued 3531
interest more than twice in a fiscal year. 3532

(B) When a participating financial institution makes a 3533
capital access loan, it shall require the eligible business to pay 3534
to the participating financial institution a fee in an amount that 3535
is not less than one and one-half per cent, and not more than 3536
three per cent, of the principal amount of the loan. The 3537
participating financial institution shall deposit the fee into its 3538
program reserve account, and it also shall deposit into the 3539
account an amount of its own funds equal to the amount of the fee. 3540
The participating financial institution may recover from the 3541
eligible business all or part of the amount that the participating 3542
financial institution is required to deposit into the account 3543
under this division in any manner agreed to by the participating 3544
financial institution and the eligible business. 3545

(C) For each capital access loan made by a participating 3546
financial institution, the participating financial institution 3547
shall certify to the director, within a period specified by the 3548
director, that the participating financial institution has made 3549

the loan. The certification shall include the amount of the loan, 3550
the amount of the fee received from the eligible business, the 3551
amount of its own funds that the participating financial 3552
institution deposited into its program reserve account to reflect 3553
that fee, and any other information specified by the director. The 3554
certification also shall indicate if the eligible business 3555
receiving the capital access loan is a minority business 3556
enterprise as defined in section 122.71 of the Revised Code. 3557

(D)(1)(a) Upon receipt of each of the first three 3558
certifications from a participating financial institution made 3559
under division (C) of this section and subject to section 122.602 3560
of the Revised Code, the director shall disburse to the 3561
participating financial institution from the capital access loan 3562
program fund an amount equal to fifty per cent of the principal 3563
amount of the particular capital access loan for deposit into the 3564
participating financial institution's program reserve account. 3565
Thereafter, upon receipt of a certification from that 3566
participating financial institution made under division (C) of 3567
this section and subject to section 122.602 of the Revised Code, 3568
the director shall disburse to the participating financial 3569
institution from the capital access loan program fund an amount 3570
equal to ten per cent of the principal amount of the particular 3571
capital access loan for deposit into the participating financial 3572
institution's program reserve account. ~~The~~ 3573

(b) Notwithstanding division (D)(1)(a) of this section, and 3574
subject to section 122.602 of the Revised Code, upon receipt of 3575
any certification from a participating financial institution made 3576
under division (C) of this section with respect to a capital 3577
access loan made to an eligible business that is a minority 3578
business enterprise, the director shall disburse to the 3579
participating financial institution from the capital access loan 3580
program fund an amount equal to eighty per cent of the principal 3581

amount of the particular capital access loan for deposit into the 3582
participating financial institution's program reserve account. 3583

(2) The disbursement of moneys from the fund to a 3584
participating financial institution does not require approval from 3585
the controlling board. 3586

(E) If the amount in a program reserve account exceeds an 3587
amount equal to thirty-three per cent of a participating financial 3588
institution's outstanding capital access loans, the department may 3589
cause the withdrawal of the excess amount and the deposit of the 3590
withdrawn amount into the capital access loan program fund. 3591

(F)(1) The department may cause the withdrawal of the total 3592
amount in a participating financial institution's program reserve 3593
account if any of the following applies: 3594

(a) The financial institution is no longer eligible to 3595
participate in the program. 3596

(b) The participation agreement expires without renewal by 3597
the department or the financial institution. 3598

(c) The financial institution has no outstanding capital 3599
access loans. 3600

(d) The financial institution has not made a capital access 3601
loan within the preceding twenty-four months. 3602

(2) If the department causes a withdrawal under division 3603
(F)(1) of this section, the department shall deposit the withdrawn 3604
amount into the capital access loan program fund. 3605

Sec. 122.85. (A) As used in this section and in sections 3606
5733.59 and 5747.66 of the Revised Code: 3607

(1) "Tax credit-eligible production" means a motion picture 3608
production certified by the director of development under division 3609
(B) of this section as qualifying the motion picture company for a 3610

tax credit under section 5733.59 or 5747.66 of the Revised Code. 3611

(2) "Certificate owner" means a motion picture company to 3612
which a tax credit certificate is issued. 3613

(3) "Motion picture company" means an individual, 3614
corporation, partnership, limited liability company, or other form 3615
of business association producing a motion picture. 3616

(4) "Eligible production expenditures" means expenditures 3617
made after the effective date of the enactment of this section by 3618
H.B. 1 of the 128th general assembly for goods or services 3619
purchased and consumed in this state by a motion picture company 3620
directly for the production of a tax credit-eligible production. 3621
With respect to payroll for nonresident cast and crew, "eligible 3622
production expenditures" means one-tenth of the payroll 3623
expenditure. 3624

"Eligible production expenditures" includes, but is not 3625
limited to, expenditures for resident and nonresident cast and 3626
crew wages, accommodations, costs of set construction and 3627
operations, editing and related services, photography, sound 3628
synchronization, lighting, wardrobe, makeup and accessories, film 3629
processing, transfer, sound mixing, special and visual effects, 3630
music, location fees, and the purchase or rental of facilities and 3631
equipment. 3632

(5) "Motion picture" means content created in whole or in 3633
part within this state for distribution or exhibition to the 3634
general public, including, but not limited to, feature-length 3635
films; documentaries; long-form, specials, miniseries, series, and 3636
interstitial television programming; and interactive web sites. 3637
"Motion picture" does not include any television program created 3638
primarily as news, weather, or financial market reports, a 3639
production featuring sporting events, an awards show or other gala 3640
event, a production whose sole purpose is fundraising, a long-form 3641

production that primarily markets a product or service or in-house 3642
corporate advertising or other similar productions, or any 3643
production for which records are required to be maintained under 3644
18 U.S.C. 2257 with respect to sexually explicit content. 3645

(B) For the purpose of encouraging and developing a strong 3646
film industry in this state, the director of development may 3647
certify a motion picture produced by a motion picture company as a 3648
tax credit-eligible production. In the case of a television 3649
series, the director may certify the production of each episode of 3650
the series as a separate tax credit-eligible production. A motion 3651
picture company shall apply for certification of a motion picture 3652
as a tax credit-eligible production on a form and in the manner 3653
prescribed by the director. Each application shall include the 3654
following information: 3655

(1) The name and telephone number of the motion picture 3656
production company; 3657

(2) The name and telephone number of the company's contact 3658
person; 3659

(3) A list of the first preproduction date through the last 3660
production date in Ohio; 3661

(4) The Ohio production office address and telephone number; 3662

(5) The total production budget of the motion picture; 3663

(6) The total budgeted eligible production expenditures and 3664
the percentage that amount is of the total production budget of 3665
the motion picture; 3666

(7) The total percentage of the motion picture being shot in 3667
Ohio; 3668

(8) The level of employment of cast and crew who reside in 3669
Ohio; 3670

(9) A synopsis of the script; 3671

<u>(10) The shooting script;</u>	3672
<u>(11) A creative elements list that includes the names of the principal cast and crew and the producer and director;</u>	3673 3674
<u>(12) The motion picture's distribution plan, including domestic and international distribution, and sales estimates for the picture;</u>	3675 3676 3677
<u>(13) Documentation of financial ability to undertake and complete the motion picture;</u>	3678 3679
<u>(14) Estimated value of the tax credit based upon total budgeted eligible production expenditures;</u>	3680 3681
<u>(15) Any other information considered necessary by the director.</u>	3682 3683
<u>Within ninety days after certification of a motion picture as a tax credit-eligible production, the motion picture company shall present to the director of development sufficient evidence of reviewable progress. If the motion picture company fails to present sufficient evidence, the director of development may rescind the certification. Upon rescission, the director shall notify the applicant that the certification has been rescinded. Nothing in this section prohibits an applicant whose tax credit-eligible production certification has been rescinded from submitting a subsequent application for certification.</u>	3684 3685 3686 3687 3688 3689 3690 3691 3692 3693
<u>(C)(1) A motion picture company whose motion picture has been certified as a tax credit-eligible production may apply to the director of development for a refundable credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code. The director in consultation with the tax commissioner shall prescribe the form and manner of the application and the information or documentation required to be submitted with the application.</u>	3694 3695 3696 3697 3698 3699 3700
<u>The credit is determined as follows:</u>	3701

(a) If the total budgeted eligible production expenditures 3702
stated in the application submitted under division (B) of this 3703
section or the actual eligible production expenditures as finally 3704
determined under division (D) of this section, whichever is least, 3705
is less than or equal to one million two hundred thousand dollars, 3706
no credit is allowed; 3707

(b) If the total budgeted eligible production expenditures 3708
stated in the application submitted under division (B) of this 3709
section or the actual eligible production expenditures as finally 3710
determined under division (D) of this section, whichever is least, 3711
is greater than one million two hundred thousand dollars, the 3712
credit equals twenty-five per cent of the least of those eligible 3713
production expenditure amounts, subject to the limitation in 3714
division (C)(4) of this section. 3715

(2) Except as provided in division (C)(4) of this section, if 3716
the director of development approves a motion picture company's 3717
application for a credit, the director shall issue a tax credit 3718
certificate to the company. The director in consultation with the 3719
tax commissioner shall prescribe the form and manner of issuing 3720
certificates. The director shall assign a unique identifying 3721
number to each tax credit certificate and shall record the 3722
certificate in a register devised and maintained by the director 3723
for that purpose. The certificate shall state the amount of the 3724
eligible production expenditures on which the credit is based and 3725
the amount of the credit. Upon the issuance of a certificate, the 3726
director shall certify to the tax commissioner, in the form and 3727
manner requested by the tax commissioner, the name of the 3728
applicant, the amount of eligible production expenditures shown on 3729
the certificate, and any other information required by the rules 3730
adopted to administer this section. 3731

(3) The amount of eligible production expenditures for which 3732
a tax credit may be claimed is subject to inspection and 3733

examination by the tax commissioner or employees of the 3734
commissioner under section 5703.19 of the Revised Code and any 3735
other applicable law. Once the eligible production expenditures 3736
are finally determined under section 5703.19 of the Revised Code 3737
and division (D) of this section, the credit amount is not subject 3738
to adjustment unless the director determines an error was 3739
committed in the computation of the credit amount. 3740

(4) No tax credit certificate may be issued before the 3741
completion of the tax credit-eligible production. Not more than 3742
twenty million dollars of tax credit may be allowed per fiscal 3743
biennium, and not more than five million dollars of tax credit may 3744
be allowed per tax credit-eligible production. 3745

(D) A motion picture company whose motion picture has been 3746
certified as a tax credit-eligible production shall engage, at the 3747
company's expense, an independent certified public accountant to 3748
examine the company's production expenditures to identify the 3749
expenditures that qualify as eligible production expenditures. The 3750
certified public accountant shall issue a report to the company 3751
and to the director of development certifying the company's 3752
eligible production expenditures and any other information 3753
required by the director. Upon receiving and examining the report, 3754
the director may disallow any expenditure the director determines 3755
is not an eligible production expense. If the director disallows 3756
an expenditure, the director shall issue a written notice to the 3757
motion picture production company stating that the expenditure is 3758
disallowed and the reason for the disallowance. Upon examination 3759
of the report and disallowance of any expenditures, the director 3760
shall determine finally the lesser of the total budgeted eligible 3761
production expenditures stated in the application submitted under 3762
division (B) of this section or the actual eligible production 3763
expenditures for the purpose of computing the amount of the 3764
credit. 3765

(E) No credit shall be allowed under section 5733.59 or 5747.66 of the Revised Code unless the director has reviewed the report and made the determination prescribed by division (D) of this section. 3766
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(F) This state reserves the right to refuse the use of this state's name in the credits of any tax credit-eligible motion picture production. 3770
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(G)(1) The director of development in consultation with the tax commissioner may adopt rules for the administration of this section, including rules setting forth and governing the criteria for determining whether a motion picture production is a tax credit-eligible production; expenditures that qualify as eligible production expenditures; a competitive process for approving credits; and consideration of geographic distribution of credits. The rules may be adopted under Chapter 119. of the Revised Code. 3773
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(2) The director may require a reasonable application fee to cover administrative costs of the tax credit program. The fees collected shall be credited to the motion picture tax credit program operating fund, which is hereby created in the state treasury. The motion picture tax credit program operating fund shall consist of all grants, gifts, fees, and contributions made to the director of development for marketing and promotion of the motion picture industry within this state. The director of development shall use money in the fund to pay expenses related to the administration of the Ohio film office and the credit authorized by this section and sections 5733.59 and 5747.66 of the Revised Code. 3781
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Sec. 123.01. (A) The department of administrative services, 3793
in addition to those powers enumerated in Chapters 124. and 125. 3794
of the Revised Code and provided elsewhere by law, shall exercise 3795
the following powers: 3796

(1) To prepare, or contract to be prepared, by licensed 3797
engineers or architects, surveys, general and detailed plans, 3798
specifications, bills of materials, and estimates of cost for any 3799
projects, improvements, or public buildings to be constructed by 3800
state agencies that may be authorized by legislative 3801
appropriations or any other funds made available therefor, 3802
provided that the construction of the projects, improvements, or 3803
public buildings is a statutory duty of the department. This 3804
section does not require the independent employment of an 3805
architect or engineer as provided by section 153.01 of the Revised 3806
Code in the cases to which that section applies nor affect or 3807
alter the existing powers of the director of transportation. 3808

(2) To have general supervision over the construction of any 3809
projects, improvements, or public buildings constructed for a 3810
state agency and over the inspection of materials previous to 3811
their incorporation into those projects, improvements, or 3812
buildings; 3813

(3) To make contracts for and supervise the construction of 3814
any projects and improvements or the construction and repair of 3815
buildings under the control of a state agency, except contracts 3816
for the repair of buildings under the management and control of 3817
the departments of public safety, job and family services, mental 3818
health, mental retardation and developmental disabilities, 3819
rehabilitation and correction, and youth services, the bureau of 3820
workers' compensation, the rehabilitation services commission, and 3821
boards of trustees of educational and benevolent institutions and 3822
except contracts for the construction of projects that do not 3823
require the issuance of a building permit or the issuance of a 3824
certificate of occupancy and that are necessary to remediate 3825
conditions at a hazardous waste facility, solid waste facility, or 3826
other location at which the director of environmental protection 3827
has reason to believe there is a substantial threat to public 3828

health or safety or the environment. These contracts shall be made 3829
and entered into by the directors of public safety, job and family 3830
services, mental health, mental retardation and developmental 3831
disabilities, rehabilitation and correction, and youth services, 3832
the administrator of workers' compensation, the rehabilitation 3833
services commission, the boards of trustees of such institutions, 3834
and the director of environmental protection, respectively. All 3835
such contracts may be in whole or in part on unit price basis of 3836
maximum estimated cost, with payment computed and made upon actual 3837
quantities or units. 3838

(4) To prepare and suggest comprehensive plans for the 3839
development of grounds and buildings under the control of a state 3840
agency; 3841

(5) To acquire, by purchase, gift, devise, lease, or grant, 3842
all real estate required by a state agency, in the exercise of 3843
which power the department may exercise the power of eminent 3844
domain, in the manner provided by sections 163.01 to 163.22 of the 3845
Revised Code; 3846

(6) To make and provide all plans, specifications, and models 3847
for the construction and perfection of all systems of sewerage, 3848
drainage, and plumbing for the state in connection with buildings 3849
and grounds under the control of a state agency; 3850

(7) To erect, supervise, and maintain all public monuments 3851
and memorials erected by the state, except where the supervision 3852
and maintenance is otherwise provided by law; 3853

(8) To procure, by lease, storage accommodations for a state 3854
agency; 3855

(9) To lease or grant easements or licenses for unproductive 3856
and unused lands or other property under the control of a state 3857
agency. Such leases, easements, or licenses shall be granted for a 3858
period not to exceed fifteen years and shall be executed for the 3859

state by the director of administrative services and the governor 3860
and shall be approved as to form by the attorney general, provided 3861
that leases, easements, or licenses may be granted to any county, 3862
township, municipal corporation, port authority, water or sewer 3863
district, school district, library district, health district, park 3864
district, soil and water conservation district, conservancy 3865
district, or other political subdivision or taxing district, or 3866
any agency of the United States government, for the exclusive use 3867
of that agency, political subdivision, or taxing district, without 3868
any right of sublease or assignment, for a period not to exceed 3869
fifteen years, and provided that the director shall grant leases, 3870
easements, or licenses of university land for periods not to 3871
exceed twenty-five years for purposes approved by the respective 3872
university's board of trustees wherein the uses are compatible 3873
with the uses and needs of the university and may grant leases of 3874
university land for periods not to exceed forty years for purposes 3875
approved by the respective university's board of trustees pursuant 3876
to section 123.77 of the Revised Code. 3877

(10) To lease ~~office space in buildings~~ for the use of a 3878
state agency; 3879

(11) To have general supervision and care of the storerooms, 3880
offices, and buildings leased for the use of a state agency; 3881

(12) To exercise general custodial care of all real property 3882
of the state; 3883

(13) To assign and group together state offices in any city 3884
in the state and to establish, in cooperation with the state 3885
agencies involved, rules governing space requirements for office 3886
or storage use; 3887

(14) To lease for a period not to exceed forty years, 3888
pursuant to a contract providing for the construction thereof 3889
under a lease-purchase plan, buildings, structures, and other 3890

improvements for any public purpose, and, in conjunction 3891
therewith, to grant leases, easements, or licenses for lands under 3892
the control of a state agency for a period not to exceed forty 3893
years. The lease-purchase plan shall provide that at the end of 3894
the lease period, the buildings, structures, and related 3895
improvements, together with the land on which they are situated, 3896
shall become the property of the state without cost. 3897

(a) Whenever any building, structure, or other improvement is 3898
to be so leased by a state agency, the department shall retain 3899
either basic plans, specifications, bills of materials, and 3900
estimates of cost with sufficient detail to afford bidders all 3901
needed information or, alternatively, all of the following plans, 3902
details, bills of materials, and specifications: 3903

(i) Full and accurate plans suitable for the use of mechanics 3904
and other builders in the improvement; 3905

(ii) Details to scale and full sized, so drawn and 3906
represented as to be easily understood; 3907

(iii) Accurate bills showing the exact quantity of different 3908
kinds of material necessary to the construction; 3909

(iv) Definite and complete specifications of the work to be 3910
performed, together with such directions as will enable a 3911
competent mechanic or other builder to carry them out and afford 3912
bidders all needed information; 3913

(v) A full and accurate estimate of each item of expense and 3914
of the aggregate cost thereof. 3915

(b) The department shall give public notice, in such 3916
newspaper, in such form, and with such phraseology as the director 3917
of administrative services prescribes, published once each week 3918
for four consecutive weeks, of the time when and place where bids 3919
will be received for entering into an agreement to lease to a 3920
state agency a building, structure, or other improvement. The last 3921

publication shall be at least eight days preceding the day for 3922
opening the bids. The bids shall contain the terms upon which the 3923
builder would propose to lease the building, structure, or other 3924
improvement to the state agency. The form of the bid approved by 3925
the department shall be used, and a bid is invalid and shall not 3926
be considered unless that form is used without change, alteration, 3927
or addition. Before submitting bids pursuant to this section, any 3928
builder shall comply with Chapter 153. of the Revised Code. 3929

(c) On the day and at the place named for receiving bids for 3930
entering into lease agreements with a state agency, the director 3931
of administrative services shall open the bids and shall publicly 3932
proceed immediately to tabulate the bids upon duplicate sheets. No 3933
lease agreement shall be entered into until the bureau of workers' 3934
compensation has certified that the person to be awarded the lease 3935
agreement has complied with Chapter 4123. of the Revised Code, 3936
until, if the builder submitting the lowest and best bid is a 3937
foreign corporation, the secretary of state has certified that the 3938
corporation is authorized to do business in this state, until, if 3939
the builder submitting the lowest and best bid is a person 3940
nonresident of this state, the person has filed with the secretary 3941
of state a power of attorney designating the secretary of state as 3942
its agent for the purpose of accepting service of summons in any 3943
action brought under Chapter 4123. of the Revised Code, and until 3944
the agreement is submitted to the attorney general and the 3945
attorney general's approval is certified thereon. Within thirty 3946
days after the day on which the bids are received, the department 3947
shall investigate the bids received and shall determine that the 3948
bureau and the secretary of state have made the certifications 3949
required by this section of the builder who has submitted the 3950
lowest and best bid. Within ten days of the completion of the 3951
investigation of the bids, the department shall award the lease 3952
agreement to the builder who has submitted the lowest and best bid 3953
and who has been certified by the bureau and secretary of state as 3954

required by this section. If bidding for the lease agreement has 3955
been conducted upon the basis of basic plans, specifications, 3956
bills of materials, and estimates of costs, upon the award to the 3957
builder the department, or the builder with the approval of the 3958
department, shall appoint an architect or engineer licensed in 3959
this state to prepare such further detailed plans, specifications, 3960
and bills of materials as are required to construct the building, 3961
structure, or improvement. The department shall adopt such rules 3962
as are necessary to give effect to this section. The department 3963
may reject any bid. Where there is reason to believe there is 3964
collusion or combination among bidders, the bids of those 3965
concerned therein shall be rejected. 3966

(15) To acquire by purchase, gift, devise, or grant and to 3967
transfer, lease, or otherwise dispose of all real property 3968
required to assist in the development of a conversion facility as 3969
defined in section 5709.30 of the Revised Code as that section 3970
existed before its repeal by Amended Substitute House Bill 95 of 3971
the 125th general assembly; 3972

(16) To lease for a period not to exceed forty years, 3973
notwithstanding any other division of this section, the 3974
state-owned property located at 408-450 East Town Street, 3975
Columbus, Ohio, formerly the state school for the deaf, to a 3976
developer in accordance with this section. "Developer," as used in 3977
this section, has the same meaning as in section 123.77 of the 3978
Revised Code. 3979

Such a lease shall be for the purpose of development of the 3980
land for use by senior citizens by constructing, altering, 3981
renovating, repairing, expanding, and improving the site as it 3982
existed on June 25, 1982. A developer desiring to lease the land 3983
shall prepare for submission to the department a plan for 3984
development. Plans shall include provisions for roads, sewers, 3985
water lines, waste disposal, water supply, and similar matters to 3986

meet the requirements of state and local laws. The plans shall 3987
also include provision for protection of the property by insurance 3988
or otherwise, and plans for financing the development, and shall 3989
set forth details of the developer's financial responsibility. 3990

The department may employ, as employees or consultants, 3991
persons needed to assist in reviewing the development plans. Those 3992
persons may include attorneys, financial experts, engineers, and 3993
other necessary experts. The department shall review the 3994
development plans and may enter into a lease if it finds all of 3995
the following: 3996

(a) The best interests of the state will be promoted by 3997
entering into a lease with the developer; 3998

(b) The development plans are satisfactory; 3999

(c) The developer has established the developer's financial 4000
responsibility and satisfactory plans for financing the 4001
development. 4002

The lease shall contain a provision that construction or 4003
renovation of the buildings, roads, structures, and other 4004
necessary facilities shall begin within one year after the date of 4005
the lease and shall proceed according to a schedule agreed to 4006
between the department and the developer or the lease will be 4007
terminated. The lease shall contain such conditions and 4008
stipulations as the director considers necessary to preserve the 4009
best interest of the state. Moneys received by the state pursuant 4010
to this lease shall be paid into the general revenue fund. The 4011
lease shall provide that at the end of the lease period the 4012
buildings, structures, and related improvements shall become the 4013
property of the state without cost. 4014

(17) To lease to any person any tract of land owned by the 4015
state and under the control of the department, or any part of such 4016
a tract, for the purpose of drilling for or the pooling of oil or 4017

gas. Such a lease shall be granted for a period not exceeding 4018
forty years, with the full power to contract for, determine the 4019
conditions governing, and specify the amount the state shall 4020
receive for the purposes specified in the lease, and shall be 4021
prepared as in other cases. 4022

(18) To manage the use of space owned and controlled by the 4023
department, including space in property under the jurisdiction of 4024
the Ohio building authority, by doing all of the following: 4025

(a) Biennially implementing, by state agency location, a 4026
census of agency employees assigned space; 4027

(b) Periodically in the discretion of the director of 4028
administrative services: 4029

(i) Requiring each state agency to categorize the use of 4030
space allotted to the agency between office space, common areas, 4031
storage space, and other uses, and to report its findings to the 4032
department; 4033

(ii) Creating and updating a master space utilization plan 4034
for all space allotted to state agencies. The plan shall 4035
incorporate space utilization metrics. 4036

(iii) Conducting a cost-benefit analysis to determine the 4037
effectiveness of state-owned buildings; 4038

(iv) Assessing the alternatives associated with consolidating 4039
the commercial leases for buildings located in Columbus. 4040

(c) Commissioning a comprehensive space utilization and 4041
capacity study in order to determine the feasibility of 4042
consolidating existing commercially leased space used by state 4043
agencies into a new state-owned facility. 4044

(B) This section and section 125.02 of the Revised Code shall 4045
not interfere with any of the following: 4046

(1) The power of the adjutant general to purchase military 4047

supplies, or with the custody of the adjutant general of property 4048
leased, purchased, or constructed by the state and used for 4049
military purposes, or with the functions of the adjutant general 4050
as director of state armories; 4051

(2) The power of the director of transportation in acquiring 4052
rights-of-way for the state highway system, or the leasing of 4053
lands for division or resident district offices, or the leasing of 4054
lands or buildings required in the maintenance operations of the 4055
department of transportation, or the purchase of real property for 4056
garage sites or division or resident district offices, or in 4057
preparing plans and specifications for and constructing such 4058
buildings as the director may require in the administration of the 4059
department; 4060

(3) The power of the director of public safety and the 4061
registrar of motor vehicles to purchase or lease real property and 4062
buildings to be used solely as locations to which a deputy 4063
registrar is assigned pursuant to division (B) of section 4507.011 4064
of the Revised Code and from which the deputy registrar is to 4065
conduct the deputy registrar's business, the power of the director 4066
of public safety to purchase or lease real property and buildings 4067
to be used as locations for division or district offices as 4068
required in the maintenance of operations of the department of 4069
public safety, and the power of the superintendent of the state 4070
highway patrol in the purchase or leasing of real property and 4071
buildings needed by the patrol, to negotiate the sale of real 4072
property owned by the patrol, to rent or lease real property owned 4073
or leased by the patrol, and to make or cause to be made repairs 4074
to all property owned or under the control of the patrol; 4075

(4) The power of the division of liquor control in the 4076
leasing or purchasing of retail outlets and warehouse facilities 4077
for the use of the division; 4078

(5) The power of the director of development to enter into 4079

leases of real property, buildings, and office space to be used 4080
solely as locations for the state's foreign offices to carry out 4081
the purposes of section 122.05 of the Revised Code; 4082

(6) The power of the director of environmental protection to 4083
enter into environmental covenants, to grant and accept easements, 4084
or to sell property pursuant to division (G) of section 3745.01 of 4085
the Revised Code. 4086

(C) Purchases for, and the custody and repair of, buildings 4087
under the management and control of the capitol square review and 4088
advisory board, the rehabilitation services commission, the bureau 4089
of workers' compensation, or the departments of public safety, job 4090
and family services, mental health, mental retardation and 4091
developmental disabilities, and rehabilitation and correction, and 4092
buildings of educational and benevolent institutions under the 4093
management and control of boards of trustees, are not subject to 4094
the control and jurisdiction of the department of administrative 4095
services. 4096

(D) Any instrument by which real property is acquired 4097
pursuant to this section shall identify the agency of the state 4098
that has the use and benefit of the real property as specified in 4099
section 5301.012 of the Revised Code. 4100

Sec. 124.03. (A) The state personnel board of review shall 4101
exercise the following powers and perform the following duties: 4102

(1) Hear appeals, as provided by law, of employees in the 4103
classified state service from final decisions of appointing 4104
authorities or the director of administrative services relative to 4105
reduction in pay or position, job abolishments, layoff, 4106
suspension, discharge, assignment or reassignment to a new or 4107
different position classification, or refusal of the director, or 4108
anybody authorized to perform the director's functions, to 4109
reassign an employee to another classification or to reclassify 4110

the employee's position with or without a job audit under division 4111
(D) of section 124.14 of the Revised Code. As used in this 4112
division, "discharge" includes disability separations. 4113

The state personnel board of review may affirm, disaffirm, or 4114
modify the decisions of the appointing authorities or the 4115
director, as the case may be, and its decision is final. The 4116
~~board's~~ decisions of the state personnel board of review shall be 4117
consistent with the applicable classification specifications. 4118

The state personnel board of review shall not be deprived of 4119
jurisdiction to hear any appeal due to the failure of an 4120
appointing authority to file its decision with the board. Any 4121
final decision of an appointing authority or of the director not 4122
filed in the manner provided in this chapter shall be disaffirmed. 4123

The state personnel board of review may place an exempt 4124
employee, as defined in section 124.152 of the Revised Code, into 4125
a bargaining unit classification, if the state personnel board of 4126
review determines that the bargaining unit classification is the 4127
proper classification for that employee. Notwithstanding Chapter 4128
4117. of the Revised Code or instruments and contracts negotiated 4129
under it, such placements are at the ~~board's~~ discretion of the 4130
state personnel board of review. 4131

The mere failure of an employee's appointing authority to 4132
file a statement with the department of administrative services 4133
indicating that the employee is in the unclassified civil service, 4134
or the mere late filing of such a statement, does not prevent the 4135
state personnel board of review from determining that the employee 4136
is in the unclassified civil service. In determining whether an 4137
employee is in the unclassified civil service, the state personnel 4138
board of review shall consider the inherent nature of the duties 4139
of the employee's classification during the two-year period 4140
immediately preceding the appointing authority's appealable action 4141
relating to the employee. 4142

In any hearing before the state personnel board of review, 4143
including any hearing at which a record is taken that may be the 4144
basis of an appeal to a court, an employee may be represented by a 4145
person permitted to practice before the state personnel board of 4146
review who is not an attorney at law as long as the person does 4147
not receive any compensation from the employee for the 4148
representation. 4149

(2) Hear appeals, as provided by law, of appointing 4150
authorities from final decisions of the director relative to the 4151
classification or reclassification of any position in the 4152
classified state service under the jurisdiction of that appointing 4153
authority. The state personnel board of review may affirm, 4154
disaffirm, or modify the decisions of the director, and its 4155
decision is final. The ~~board's~~ decisions of the state personnel 4156
board of review shall be consistent with the applicable 4157
classification specifications. 4158

(3) Exercise the authority provided by section 124.40 of the 4159
Revised Code, for appointment, removal, and supervision of 4160
municipal and civil service township civil service commissions; 4161

(4) ~~Appoint a secretary, referees, examiners, and whatever~~ 4162
~~other~~ Utilize employees ~~are necessary provided by the state~~ 4163
employment relations board in the exercise of ~~its~~ the powers and 4164
performance of ~~its~~ the duties and functions. ~~The~~ of the state 4165
personnel board ~~shall determine appropriate education and~~ 4166
~~experience requirements for its secretary, referees, examiners,~~ 4167
~~and other employees and shall prescribe their duties. A referee or~~ 4168
~~examiner does not need to have been admitted to the practice of~~ 4169
~~law.~~ of review under this chapter; 4170

(5) Maintain a journal that shall be open to public 4171
inspection, in which it shall keep a record of all of its 4172
proceedings and of the vote of each of its members upon every 4173
action taken by it; 4174

(6) Adopt rules in accordance with Chapter 119. of the 4175
Revised Code relating to the procedure of the state personnel 4176
board of review in administering the laws it has the authority or 4177
duty to administer and for the purpose of invoking the 4178
jurisdiction of the state personnel board of review in hearing 4179
appeals of appointing authorities and employees in matters set 4180
forth in divisions (A)(1) and (2) of this section; 4181

(7) Subpoena and require the attendance and testimony of 4182
witnesses and the production of books, papers, public records, and 4183
other documentary evidence pertinent to any matter it has 4184
authority to investigate, inquire into, or hear in the same manner 4185
and to the same extent as provided by division (G) of section 4186
124.09 of the Revised Code. All witness fees shall be paid in the 4187
manner set forth in that division. 4188

(B) The state personnel board of review shall exist as a 4189
separate entity within the administrative structure of the state 4190
employment relations board. 4191

(C) The state personnel board of review shall be funded by 4192
general revenue fund appropriations. All moneys received by the 4193
state personnel board of review for copies of documents, rule 4194
books, and transcriptions shall be paid into the state treasury to 4195
the credit of the ~~transcript and other documents training,~~ 4196
~~publications, and grants~~ fund, ~~which is hereby created to defray~~ 4197
~~the cost of producing an administrative record~~ in section 4117.24 4198
of the Revised Code. 4199

Sec. 124.04. In addition to those powers enumerated in 4200
Chapters 123. and 125. of the Revised Code and as provided 4201
elsewhere by law, the powers, duties, and functions of the 4202
department of administrative services not specifically vested in 4203
and assigned to, or to be performed by, the state personnel board 4204
of review are hereby vested in and assigned to, and shall be 4205

performed by, the director of administrative services. These 4206
powers, duties, and functions shall include, but shall not be 4207
limited to, the following powers, duties, and functions: 4208

(A) To prepare, conduct, and grade all competitive 4209
examinations for positions in the classified state service; 4210

(B) To prepare, conduct, and grade all noncompetitive 4211
examinations for positions in the classified state service; 4212

(C) To prepare eligible lists containing the names of persons 4213
qualified for appointment to positions in the classified state 4214
service; 4215

(D) To prepare or amend, in accordance with section 124.14 of 4216
the Revised Code, specifications descriptive of duties, 4217
responsibilities, requirements, and desirable qualifications of 4218
the various classifications of positions in the state service; 4219

(E) To allocate and reallocate, upon the motion of the 4220
director or upon request of an appointing authority and in 4221
accordance with section 124.14 of the Revised Code, any position, 4222
office, or employment in the state service to the appropriate 4223
classification on the basis of the duties, responsibilities, 4224
requirements, and qualifications of that position, office, or 4225
employment; 4226

(F) To develop and conduct personnel recruitment services for 4227
positions in the state service; 4228

(G) To conduct research on specifications, classifications, 4229
and salaries of positions in the state service; 4230

(H) To develop and conduct personnel training programs, 4231
including supervisory training programs and best practices plans, 4232
and to develop merit hiring processes, in cooperation with 4233
appointing authorities; 4234

(I) To include periodically in communications sent to state 4235

employees both of the following:	4236
(1) Information developed under section 2108.34 of the Revised Code promoting the donation of anatomical gifts under Chapter 2108. of the Revised Code;	4237 4238 4239
(2) Information about the liver or kidney donor and bone marrow donor leave granted under section 124.139 of the Revised Code.	4240 4241 4242
(J) To enter into agreements with universities and colleges for in-service training of officers and employees in the civil service and to assist appointing authorities in recruiting qualified applicants;	4243 4244 4245 4246
(K) To appoint examiners, inspectors, clerks, and other assistants necessary in the exercise of the powers and performance of the duties and functions which the director is by law authorized and required to exercise and perform, and to prescribe the duties of all of those employees;	4247 4248 4249 4250 4251
(L) To maintain a journal, which shall be open to public inspection, in which the director shall keep a record of the director's final decision pertaining to the classification or reclassification of positions in the classified civil service of the state and assignment or reassignment of employees in the classified civil service of the state to specific position classifications;	4252 4253 4254 4255 4256 4257 4258
(M) To delegate any of the powers, functions, or duties granted or assigned to the director under this chapter to any other state agency of this state as the director considers necessary;	4259 4260 4261 4262
(N) To delegate any of the powers, functions, or duties granted or assigned to the director under this chapter to any political subdivision with the concurrence of the legislative authority of the political subdivision.	4263 4264 4265 4266

(O) To administer a state equal employment opportunity 4267
program. 4268

Sec. 124.07. (A) The director of administrative services 4269
shall appoint examiners, inspectors, clerks, and other assistants 4270
as necessary to carry out sections 124.01 to 124.64 of the Revised 4271
Code. The director may designate persons in or out of the service 4272
of the state to serve as examiners or assistants under the 4273
director's direction. An examiner or assistant shall receive the 4274
compensation for each day actually and necessarily spent in the 4275
discharge of duties as an examiner or assistant that the director 4276
determines; provided that, if the examiner or assistant is in the 4277
service of the state or any political subdivision of the state, it 4278
shall be a part of the examiner's or assistant's official duties 4279
to render those services in connection with an examination without 4280
extra compensation. 4281

(B) Each state agency shall pay the cost of the services and 4282
facilities furnished to it by the department of administrative 4283
services that are necessary to provide and maintain payroll 4284
services as prescribed in section 125.21 of the Revised Code and 4285
state merit standards as prescribed in sections 124.01 to 124.64 4286
of the Revised Code for the agency. If a state-supported college 4287
or university or a municipal corporation chooses to use the 4288
services and facilities furnished by the department that are 4289
necessary to provide and maintain the services and standards so 4290
prescribed, the state-supported college or university or municipal 4291
corporation shall pay the cost of the services and facilities that 4292
the department furnishes to it. The charges against a state 4293
agency, a state-supported college or university, or a municipal 4294
corporation shall be computed on a reasonable cost basis in 4295
accordance with procedures prescribed by the director of budget 4296
and management. Any moneys the department receives from a state 4297
agency, a state-supported college or university, or a municipal 4298

corporation under this division that are in excess of the amount 4299
necessary to pay the cost of furnishing the department's services 4300
and facilities during any fiscal year shall be either refunded to 4301
or credited for the ensuing fiscal year to the state agency, the 4302
state-supported college or university, or the municipal 4303
corporation. 4304

(C) The director of administrative services may enter into an 4305
agreement with any county, municipal corporation, or other 4306
political subdivision to furnish services and facilities of the 4307
department in the administration of a merit program or other 4308
functions related to human resources that include, but are not 4309
limited to, providing competitive examinations for positions in 4310
the classified service. The agreement shall provide that the 4311
department shall be reimbursed for the reasonable costs of those 4312
services and facilities as determined by the director. 4313

(D) All moneys received by the department as reimbursement 4314
for ~~payroll~~, a merit program, or other human resources services 4315
performed and facilities furnished under this section, such as 4316
competitive examinations administered, shall be paid into the 4317
state treasury to the credit of the human resources services fund, 4318
which is hereby created. 4319

(E) In counties of the state in which are located cities 4320
having municipal civil service commissions, the director of 4321
administrative services may designate the municipal civil service 4322
commission of the largest city within the county as the director's 4323
agent for the purpose of carrying out the provisions of sections 4324
124.01 to 124.64 of the Revised Code, within the county, that the 4325
director designates. Each municipal civil service commission 4326
designated as an agent of the director shall render to the 4327
director, at the end of each month, an itemized statement of the 4328
cost incurred by the commission for work done as the agent of the 4329
director, and the director, after approving that statement, shall 4330

pay the total amount of it to the treasurer of the municipal 4331
corporation in the same manner as other expenses of the department 4332
of administrative services. 4333

(F) The director of administrative services and the 4334
examiners, inspectors, clerks, and assistants referred to in this 4335
section shall receive, in addition to their salaries, 4336
reimbursement for necessary traveling and other expenses incurred 4337
in the actual discharge of their official duties. The director may 4338
also incur the necessary expenses for stationery, printing, and 4339
other supplies incident to the business of the department. 4340

Sec. 124.11. The civil service of the state and the several 4341
counties, cities, civil service townships, city health districts, 4342
general health districts, and city school districts of the state 4343
shall be divided into the unclassified service and the classified 4344
service. 4345

(A) The unclassified service shall comprise the following 4346
positions, which shall not be included in the classified service, 4347
and which shall be exempt from all examinations required by this 4348
chapter: 4349

(1) All officers elected by popular vote or persons appointed 4350
to fill vacancies in those offices; 4351

(2) All election officers as defined in section 3501.01 of 4352
the Revised Code; 4353

(3)(a) The members of all boards and commissions, and heads 4354
of principal departments, boards, and commissions appointed by the 4355
governor or by and with the governor's consent; 4356

(b) The heads of all departments appointed by a board of 4357
county commissioners; 4358

(c) The members of all boards and commissions and all heads 4359
of departments appointed by the mayor, or, if there is no mayor, 4360

such other similar chief appointing authority of any city or city 4361
school district; 4362

Except as otherwise provided in division (A)(17) or (C) of 4363
this section, this chapter does not exempt the chiefs of police 4364
departments and chiefs of fire departments of cities or civil 4365
service townships from the competitive classified service. 4366

(4) The members of county or district licensing boards or 4367
commissions and boards of revision, and not more than five deputy 4368
county auditors; 4369

(5) All officers and employees elected or appointed by either 4370
or both branches of the general assembly, and employees of the 4371
city legislative authority engaged in legislative duties; 4372

(6) All commissioned, warrant, and noncommissioned officers 4373
and enlisted persons in the Ohio organized militia, including 4374
military appointees in the adjutant general's department; 4375

(7)(a) All presidents, business managers, administrative 4376
officers, superintendents, assistant superintendents, principals, 4377
deans, assistant deans, instructors, teachers, and such employees 4378
as are engaged in educational or research duties connected with 4379
the public school system, colleges, and universities, as 4380
determined by the governing body of the public school system, 4381
colleges, and universities; 4382

(b) The library staff of any library in the state supported 4383
wholly or in part at public expense. 4384

(8) Four clerical and administrative support employees for 4385
each of the elective state officers, four clerical and 4386
administrative support employees for each board of county 4387
commissioners and one such employee for each county commissioner, 4388
and four clerical and administrative support employees for other 4389
elective officers and each of the principal appointive executive 4390
officers, boards, or commissions, except for civil service 4391

commissions, that are authorized to appoint such clerical and 4392
administrative support employees; 4393

(9) The deputies and assistants of state agencies authorized 4394
to act for and on behalf of the agency, or holding a fiduciary or 4395
administrative relation to that agency and those persons employed 4396
by and directly responsible to elected county officials or a 4397
county administrator and holding a fiduciary or administrative 4398
relationship to such elected county officials or county 4399
administrator, and the employees of such county officials whose 4400
fitness would be impracticable to determine by competitive 4401
examination, provided that division (A)(9) of this section shall 4402
not affect those persons in county employment in the classified 4403
service as of September 19, 1961. Nothing in division (A)(9) of 4404
this section applies to any position in a county department of job 4405
and family services created pursuant to Chapter 329. of the 4406
Revised Code. 4407

(10) Bailiffs, constables, official stenographers, and 4408
commissioners of courts of record, deputies of clerks of the 4409
courts of common pleas who supervise or who handle public moneys 4410
or secured documents, and such officers and employees of courts of 4411
record and such deputies of clerks of the courts of common pleas 4412
as the director of administrative services finds it impracticable 4413
to determine their fitness by competitive examination; 4414

(11) Assistants to the attorney general, special counsel 4415
appointed or employed by the attorney general, assistants to 4416
county prosecuting attorneys, and assistants to city directors of 4417
law; 4418

(12) Such teachers and employees in the agricultural 4419
experiment stations; such students in normal schools, colleges, 4420
and universities of the state who are employed by the state or a 4421
political subdivision of the state in student or intern 4422
classifications; and such unskilled labor positions as the 4423

director of administrative services or any municipal civil service 4424
commission may find it impracticable to include in the competitive 4425
classified service; provided such exemptions shall be by order of 4426
the commission or the director, duly entered on the record of the 4427
commission or the director with the reasons for each such 4428
exemption; 4429

(13) Any physician or dentist who is a full-time employee of 4430
the department of mental health, the department of mental 4431
retardation and developmental disabilities, or an institution 4432
under the jurisdiction of either department; and physicians who 4433
are in residency programs at the institutions; 4434

(14) Up to twenty positions at each institution under the 4435
jurisdiction of the department of mental health or the department 4436
of mental retardation and developmental disabilities that the 4437
department director determines to be primarily administrative or 4438
managerial; and up to fifteen positions in any division of either 4439
department, excluding administrative assistants to the director 4440
and division chiefs, which are within the immediate staff of a 4441
division chief and which the director determines to be primarily 4442
and distinctively administrative and managerial; 4443

(15) Noncitizens of the United States employed by the state, 4444
or its counties or cities, as physicians or nurses who are duly 4445
licensed to practice their respective professions under the laws 4446
of this state, or medical assistants, in mental or chronic disease 4447
hospitals, or institutions; 4448

(16) Employees of the governor's office; 4449

(17) Fire chiefs and chiefs of police in civil service 4450
townships appointed by boards of township trustees under section 4451
505.38 or 505.49 of the Revised Code; 4452

(18) Executive directors, deputy directors, and program 4453
directors employed by boards of alcohol, drug addiction, and 4454

mental health services under Chapter 340. of the Revised Code, and 4455
secretaries of the executive directors, deputy directors, and 4456
program directors; 4457

(19) Superintendents, and management employees as defined in 4458
section 5126.20 of the Revised Code, of county boards of mental 4459
retardation and developmental disabilities; 4460

(20) Physicians, nurses, and other employees of a county 4461
hospital who are appointed pursuant to sections 339.03 and 339.06 4462
of the Revised Code; 4463

(21) The executive director of the state medical board, who 4464
is appointed pursuant to division (B) of section 4731.05 of the 4465
Revised Code; 4466

(22) County directors of job and family services as provided 4467
in section 329.02 of the Revised Code and administrators appointed 4468
under section 329.021 of the Revised Code; 4469

(23) A director of economic development who is hired pursuant 4470
to division (A) of section 307.07 of the Revised Code; 4471

(24) Chiefs of construction and compliance, of operations and 4472
maintenance, of worker protection, and of licensing and 4473
certification in the division of ~~industrial compliance~~ labor in 4474
the department of commerce; 4475

(25) The executive director of a county transit system 4476
appointed under division (A) of section 306.04 of the Revised 4477
Code; 4478

(26) Up to five positions at each of the administrative 4479
departments listed in section 121.02 of the Revised Code and at 4480
the department of taxation, department of the adjutant general, 4481
department of education, Ohio board of regents, bureau of workers' 4482
compensation, industrial commission, state lottery commission, and 4483
public utilities commission of Ohio that the head of that 4484

administrative department or of that other state agency determines 4485
to be involved in policy development and implementation. The head 4486
of the administrative department or other state agency shall set 4487
the compensation for employees in these positions at a rate that 4488
is not less than the minimum compensation specified in pay range 4489
41 but not more than the maximum compensation specified in pay 4490
range 44 of salary schedule E-2 in section 124.152 of the Revised 4491
Code. The authority to establish positions in the unclassified 4492
service under division (A)(26) of this section is in addition to 4493
and does not limit any other authority that an administrative 4494
department or state agency has under the Revised Code to establish 4495
positions, appoint employees, or set compensation. 4496

(27) Employees of the department of agriculture employed 4497
under section 901.09 of the Revised Code; 4498

(28) For cities, counties, civil service townships, city 4499
health districts, general health districts, and city school 4500
districts, the deputies and assistants of elective or principal 4501
executive officers authorized to act for and in the place of their 4502
principals or holding a fiduciary relation to their principals; 4503

(29) Employees who receive intermittent or temporary 4504
appointments under division (B) of section 124.30 of the Revised 4505
Code; 4506

(30) Employees appointed to administrative staff positions 4507
for which an appointing authority is given specific statutory 4508
authority to set compensation; 4509

(31) Employees appointed to highway patrol cadet or highway 4510
patrol cadet candidate classifications; 4511

(32) Employees placed in the unclassified service by another 4512
section of the Revised Code. 4513

(B) The classified service shall comprise all persons in the 4514
employ of the state and the several counties, cities, city health 4515

districts, general health districts, and city school districts of 4516
the state, not specifically included in the unclassified service. 4517
Upon the creation by the board of trustees of a civil service 4518
township civil service commission, the classified service shall 4519
also comprise, except as otherwise provided in division (A)(17) or 4520
(C) of this section, all persons in the employ of a civil service 4521
township police or fire department having ten or more full-time 4522
paid employees. The classified service consists of two classes, 4523
which shall be designated as the competitive class and the 4524
unskilled labor class. 4525

(1) The competitive class shall include all positions and 4526
employments in the state and the counties, cities, city health 4527
districts, general health districts, and city school districts of 4528
the state, and, upon the creation by the board of trustees of a 4529
civil service township of a township civil service commission, all 4530
positions in a civil service township police or fire department 4531
having ten or more full-time paid employees, for which it is 4532
practicable to determine the merit and fitness of applicants by 4533
competitive examinations. Appointments shall be made to, or 4534
employment shall be given in, all positions in the competitive 4535
class that are not filled by promotion, reinstatement, transfer, 4536
or reduction, as provided in this chapter, and the rules of the 4537
director of administrative services, by appointment from those 4538
certified to the appointing officer in accordance with this 4539
chapter. 4540

(2) The unskilled labor class shall include ordinary 4541
unskilled laborers. Vacancies in the labor class for positions in 4542
service of the state shall be filled by appointment from lists of 4543
applicants registered by the director. Vacancies in the labor 4544
class for all other positions shall be filled by appointment from 4545
lists of applicants registered by a commission. The director or 4546
the commission, as applicable, by rule, shall require an applicant 4547

for registration in the labor class to furnish evidence or take 4548
tests as the director or commission considers proper with respect 4549
to age, residence, physical condition, ability to labor, honesty, 4550
sobriety, industry, capacity, and experience in the work or 4551
employment for which application is made. Laborers who fulfill the 4552
requirements shall be placed on the eligible list for the kind of 4553
labor or employment sought, and preference shall be given in 4554
employment in accordance with the rating received from that 4555
evidence or in those tests. Upon the request of an appointing 4556
officer, stating the kind of labor needed, the pay and probable 4557
length of employment, and the number to be employed, the director 4558
or commission, as applicable, shall certify from the highest on 4559
the list double the number to be employed; from this number, the 4560
appointing officer shall appoint the number actually needed for 4561
the particular work. If more than one applicant receives the same 4562
rating, priority in time of application shall determine the order 4563
in which their names shall be certified for appointment. 4564

(C) A municipal or civil service township civil service 4565
commission may place volunteer firefighters who are paid on a 4566
fee-for-service basis in either the classified or the unclassified 4567
civil service. 4568

(D) This division does not apply to persons in the 4569
unclassified service who have the right to resume positions in the 4570
classified service under sections 4121.121, 5119.071, 5120.38, 4571
5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the Revised 4572
Code. 4573

An appointing authority whose employees are paid directly by 4574
warrant of the director of budget and management may appoint a 4575
person who holds a certified position in the classified service 4576
within the appointing authority's agency to a position in the 4577
unclassified service within that agency. A person appointed 4578
pursuant to this division to a position in the unclassified 4579

service shall retain the right to resume the position and status 4580
held by the person in the classified service immediately prior to 4581
the person's appointment to the position in the unclassified 4582
service, regardless of the number of positions the person held in 4583
the unclassified service. An employee's right to resume a position 4584
in the classified service may only be exercised when an appointing 4585
authority demotes the employee to a pay range lower than the 4586
employee's current pay range or revokes the employee's appointment 4587
to the unclassified service. An employee forfeits the right to 4588
resume a position in the classified service when the employee is 4589
removed from the position in the unclassified service due to 4590
incompetence, inefficiency, dishonesty, drunkenness, immoral 4591
conduct, insubordination, discourteous treatment of the public, 4592
neglect of duty, violation of this chapter or the rules of the 4593
director of administrative services, any other failure of good 4594
behavior, any other acts of misfeasance, malfeasance, or 4595
nonfeasance in office, or conviction of a felony. An employee also 4596
forfeits the right to resume a position in the classified service 4597
upon transfer to a different agency. 4598

Reinstatement to a position in the classified service shall 4599
be to a position substantially equal to that position in the 4600
classified service held previously, as certified by the director 4601
of administrative services. If the position the person previously 4602
held in the classified service has been placed in the unclassified 4603
service or is otherwise unavailable, the person shall be appointed 4604
to a position in the classified service within the appointing 4605
authority's agency that the director of administrative services 4606
certifies is comparable in compensation to the position the person 4607
previously held in the classified service. Service in the position 4608
in the unclassified service shall be counted as service in the 4609
position in the classified service held by the person immediately 4610
prior to the person's appointment to the position in the 4611
unclassified service. When a person is reinstated to a position in 4612

the classified service as provided in this division, the person is 4613
entitled to all rights, status, and benefits accruing to the 4614
position in the classified service during the person's time of 4615
service in the position in the unclassified service. 4616

Sec. 124.14. (A)(1) The director of administrative services 4617
shall establish, and may modify or rescind, by rule, a job 4618
classification plan for all positions, offices, and employments 4619
the salaries of which are paid in whole or in part by the state. 4620
The director shall group jobs within a classification so that the 4621
positions are similar enough in duties and responsibilities to be 4622
described by the same title, to have the same pay assigned with 4623
equity, and to have the same qualifications for selection applied. 4624
The director shall, by rule, assign a classification title to each 4625
classification within the classification plan. However, the 4626
director shall consider in establishing classifications, including 4627
classifications with parenthetical titles, and assigning pay 4628
ranges such factors as duties performed only on one shift, special 4629
skills in short supply in the labor market, recruitment problems, 4630
separation rates, comparative salary rates, the amount of training 4631
required, and other conditions affecting employment. The director 4632
shall describe the duties and responsibilities of the class, 4633
establish the qualifications for being employed in each position 4634
in the class, and file with the secretary of state a copy of 4635
specifications for all of the classifications. The director shall 4636
file new, additional, or revised specifications with the secretary 4637
of state before they are used. 4638

The director shall, by rule, assign each classification, 4639
either on a statewide basis or in particular counties or state 4640
institutions, to a pay range established under section 124.15 or 4641
section 124.152 of the Revised Code. The director may assign a 4642
classification to a pay range on a temporary basis for a period of 4643
six months. The director may establish, by rule adopted under 4644

Chapter 119. of the Revised Code, experimental classification 4645
plans for some or all employees paid directly by warrant of the 4646
director of budget and management. The rule shall include 4647
specifications for each classification within the plan and shall 4648
specifically address compensation ranges, and methods for 4649
advancing within the ranges, for the classifications, which may be 4650
assigned to pay ranges other than the pay ranges established under 4651
section 124.15 or 124.152 of the Revised Code. 4652

(2) The director of administrative services may reassign to a 4653
proper classification those positions that have been assigned to 4654
an improper classification. If the compensation of an employee in 4655
such a reassigned position exceeds the maximum rate of pay for the 4656
employee's new classification, the employee shall be placed in pay 4657
step X and shall not receive an increase in compensation until the 4658
maximum rate of pay for that classification exceeds the employee's 4659
compensation. 4660

(3) The director may reassign an exempt employee, as defined 4661
in section 124.152 of the Revised Code, to a bargaining unit 4662
classification if the director determines that the bargaining unit 4663
classification is the proper classification for that employee. 4664
Notwithstanding Chapter 4117. of the Revised Code or instruments 4665
and contracts negotiated under it, these placements are at the 4666
director's discretion. 4667

(4) The director shall, by rule, assign related 4668
classifications, which form a career progression, to a 4669
classification series. The director shall, by rule, assign each 4670
classification in the classification plan a five-digit number, the 4671
first four digits of which shall denote the classification series 4672
to which the classification is assigned. When a career progression 4673
encompasses more than ten classifications, the director shall, by 4674
rule, identify the additional classifications belonging to a 4675
classification series. The additional classifications shall be 4676

part of the classification series, notwithstanding the fact that 4677
the first four digits of the number assigned to the additional 4678
classifications do not correspond to the first four digits of the 4679
numbers assigned to other classifications in the classification 4680
series. 4681

(5) The director, ~~in accordance with rules adopted under~~ 4682
~~Chapter 119. of the Revised Code, shall establish, and may~~ 4683
establish, modify, or rescind, a classification plan for county 4684
agencies that elect not to use the services and facilities of a 4685
county personnel department. The director shall establish any such 4686
classification plan by means of rules adopted under Chapter 119. 4687
of the Revised Code. The rules shall include a methodology for the 4688
establishment of titles unique to county agencies, the use of 4689
state classification titles and classification specifications for 4690
common positions, the criteria for a county to meet in 4691
establishing its own classification plan, and the establishment of 4692
what constitutes a classification series for county agencies. The 4693
director may assess a county agency that chooses to use the 4694
classification plan a usage fee the director determines. All usage 4695
fees the department of administrative services receives shall be 4696
paid into the state treasury to the credit of the human resources 4697
fund created in section 124.07 of the Revised Code. 4698

(B) Division (A) of this section and sections 124.15 and 4699
124.152 of the Revised Code do not apply to the following persons, 4700
positions, offices, and employments: 4701

(1) Elected officials; 4702

(2) Legislative employees, employees of the legislative 4703
service commission, employees in the office of the governor, 4704
employees who are in the unclassified civil service and exempt 4705
from collective bargaining coverage in the office of the secretary 4706
of state, auditor of state, treasurer of state, and attorney 4707
general, and employees of the supreme court; 4708

(3) Employees of a county children services board that 4709
establishes compensation rates under section 5153.12 of the 4710
Revised Code; 4711

(4) Any position for which the authority to determine 4712
compensation is given by law to another individual or entity; 4713

(5) Employees of the bureau of workers' compensation whose 4714
compensation the administrator of workers' compensation 4715
establishes under division (B) of section 4121.121 of the Revised 4716
Code. 4717

(C) The director may employ a consulting agency to aid and 4718
assist the director in carrying out this section. 4719

(D)(1) When the director proposes to modify a classification 4720
or the assignment of classes to appropriate pay ranges, the 4721
director shall send written notice of the proposed rule to the 4722
appointing authorities of the affected employees thirty days 4723
before a hearing on the proposed rule. The appointing authorities 4724
shall notify the affected employees regarding the proposed rule. 4725
The director also shall send those appointing authorities notice 4726
of any final rule that is adopted within ten days after adoption. 4727

(2) When the director proposes to reclassify any employee so 4728
that the employee is adversely affected, the director shall give 4729
to the employee affected and to the employee's appointing 4730
authority a written notice setting forth the proposed new 4731
classification, pay range, and salary. Upon the request of any 4732
classified employee who is not serving in a probationary period, 4733
the director shall perform a job audit to review the 4734
classification of the employee's position to determine whether the 4735
position is properly classified. The director shall give to the 4736
employee affected and to the employee's appointing authority a 4737
written notice of the director's determination whether or not to 4738
reclassify the position or to reassign the employee to another 4739

classification. An employee or appointing authority desiring a 4740
hearing shall file a written request for the hearing with the 4741
state personnel board of review within thirty days after receiving 4742
the notice. The board shall set the matter for a hearing and 4743
notify the employee and appointing authority of the time and place 4744
of the hearing. The employee, the appointing authority, or any 4745
authorized representative of the employee who wishes to submit 4746
facts for the consideration of the board shall be afforded 4747
reasonable opportunity to do so. After the hearing, the board 4748
shall consider anew the reclassification and may order the 4749
reclassification of the employee and require the director to 4750
assign the employee to such appropriate classification as the 4751
facts and evidence warrant. As provided in division (A)(1) of 4752
section 124.03 of the Revised Code, the board may determine the 4753
most appropriate classification for the position of any employee 4754
coming before the board, with or without a job audit. The board 4755
shall disallow any reclassification or reassignment classification 4756
of any employee when it finds that changes have been made in the 4757
duties and responsibilities of any particular employee for 4758
political, religious, or other unjust reasons. 4759

(E)(1) Employees of each county department of job and family 4760
services shall be paid a salary or wage established by the board 4761
of county commissioners. The provisions of section 124.18 of the 4762
Revised Code concerning the standard work week apply to employees 4763
of county departments of job and family services. A board of 4764
county commissioners may do either of the following: 4765

(a) Notwithstanding any other section of the Revised Code, 4766
supplement the sick leave, vacation leave, personal leave, and 4767
other benefits of any employee of the county department of job and 4768
family services of that county, if the employee is eligible for 4769
the supplement under a written policy providing for the 4770
supplement; 4771

(b) Notwithstanding any other section of the Revised Code, 4772
establish alternative schedules of sick leave, vacation leave, 4773
personal leave, or other benefits for employees not inconsistent 4774
with the provisions of a collective bargaining agreement covering 4775
the affected employees. 4776

(2) Division (E)(1) of this section does not apply to 4777
employees for whom the state employment relations board 4778
establishes appropriate bargaining units pursuant to section 4779
4117.06 of the Revised Code, except in either of the following 4780
situations: 4781

(a) The employees for whom the state employment relations 4782
board establishes appropriate bargaining units elect no 4783
representative in a board-conducted representation election. 4784

(b) After the state employment relations board establishes 4785
appropriate bargaining units for such employees, all employee 4786
organizations withdraw from a representation election. 4787

(F)(1) Notwithstanding any contrary provision of sections 4788
124.01 to 124.64 of the Revised Code, the board of trustees of 4789
each state university or college, as defined in section 3345.12 of 4790
the Revised Code, shall carry out all matters of governance 4791
involving the officers and employees of the university or college, 4792
including, but not limited to, the powers, duties, and functions 4793
of the department of administrative services and the director of 4794
administrative services specified in this chapter. Officers and 4795
employees of a state university or college shall have the right of 4796
appeal to the state personnel board of review as provided in this 4797
chapter. 4798

(2) Each board of trustees shall adopt rules under section 4799
111.15 of the Revised Code to carry out the matters of governance 4800
described in division (F)(1) of this section. Until the board of 4801
trustees adopts those rules, a state university or college shall 4802

continue to operate pursuant to the applicable rules adopted by 4803
the director of administrative services under this chapter. 4804

(G)(1) Each board of county commissioners may, by a 4805
resolution adopted by a majority of its members, establish a 4806
county personnel department to exercise the powers, duties, and 4807
functions specified in division (G) of this section. As used in 4808
division (G) of this section, "county personnel department" means 4809
a county personnel department established by a board of county 4810
commissioners under division (G)(1) of this section. 4811

(2)(a) Each board of county commissioners, by a resolution 4812
adopted by a majority of its members, may designate the county 4813
personnel department of the county to exercise the powers, duties, 4814
and functions ~~of the department of administrative services and the~~ 4815
~~director of administrative services~~ specified in sections 124.01 4816
to 124.64 and Chapter 325. of the Revised Code with regard to 4817
employees in the service of the county, except for the powers and 4818
duties of the state personnel board of review, which powers and 4819
duties shall not be construed as having been modified or 4820
diminished in any manner by division (G)(2) of this section, with 4821
respect to the employees for whom the board of county 4822
commissioners is the appointing authority or co-appointing 4823
authority. ~~The board of county commissioners shall deliver a~~ 4824
~~certified copy of the resolution to the director of administrative~~ 4825
~~services not later than ten working days after the resolution is~~ 4826
~~adopted, and the director shall inform the board in a writing sent~~ 4827
~~by certified mail of the date of receipt of the copy of the~~ 4828
~~resolution.~~ 4829

(b) ~~Upon the director's receipt of the copy of the~~ 4830
~~resolution, the powers, duties, and functions referred to in~~ 4831
~~division (G)(2)(a) of this section that may be exercised shall be~~ 4832
~~vested in and assigned to the county personnel department with~~ 4833
~~respect to the employees for whom the board of county~~ 4834

~~commissioners is the appointing authority or co appointing
authority.~~ 4835
4836

~~(e)~~ Nothing in division (G)(2) of this section shall be 4837
construed to limit the right of any employee who possesses the 4838
right of appeal to the state personnel board of review to continue 4839
to possess that right of appeal. 4840

~~(d)~~(c) Any board of county commissioners that has established 4841
a county personnel department may contract with the department of 4842
administrative services, another political subdivision, or an 4843
appropriate public or private entity to provide competitive 4844
testing services or other appropriate services. 4845

(3) After the county personnel department of a county has 4846
~~assumed the powers, duties, and functions of the department of~~ 4847
~~administrative services and the director of administrative~~ 4848
~~services~~ been established as described in division (G)(2) of this 4849
section, any elected official, board, agency, or other appointing 4850
authority of that county, upon written notification to the 4851
~~director~~ county personnel department, may elect to use the 4852
services and facilities of the county personnel department. Upon 4853
~~the acceptance by the director of that written notification~~ 4854
receipt of the notification by the county personnel department, 4855
the county personnel department shall exercise the powers, duties, 4856
and functions ~~of the department of administrative services and the~~ 4857
~~director~~ as described in division (G)(2) of this section with 4858
respect to the employees of that elected official, board, agency, 4859
or other appointing authority. ~~The director shall inform the~~ 4860
~~elected official, board, agency, or other appointing authority in~~ 4861
~~a writing sent by certified mail of the date of acceptance of that~~ 4862
~~written notification. Except for those employees under the~~ 4863
~~jurisdiction of the county personnel department, the director~~ 4864
~~shall continue to exercise these powers, duties, and functions~~ 4865
~~with respect to employees of the county.~~ 4866

(4) ~~When at least two years have passed since the creation of a county personnel department, a Each board of county commissioners, by a resolution adopted by a majority of its members, may disband the county personnel department and return to the department of administrative services for the administration of sections 124.01 to 124.64 and Chapter 325. of the Revised Code. The board shall deliver a certified copy of the resolution to the director of administrative services not later than ten working days after the resolution is adopted, and the director shall inform the board in a writing sent by certified mail of the date of receipt of the copy of the resolution. Upon the director's receipt of the copy of the resolution, all powers, duties, and functions previously vested in and assigned to the county personnel department shall return to the director.~~

(5) ~~When at least two years have passed since electing to use the services and facilities of a county personnel department, an Any elected official, board, agency, or appointing authority of a county may return to the department of administrative services for the administration of sections 124.01 to 124.64 and Chapter 325. of the Revised Code. The elected official, board, agency, or appointing authority shall send the director of administrative services a certified copy of the resolution that states its decision to return to the department of administrative services' jurisdiction, and the director shall inform the elected official, board, agency, or appointing authority in a writing sent by certified mail of the date of receipt of the copy of the resolution. Upon the director's receipt of the copy of the resolution, all powers, duties, and functions previously vested in and assigned to the county personnel department with respect to the employees of that elected official, board, agency, or appointing authority shall return to the director and its involvement with a county personnel department upon actual receipt by the department of a certified copy of the notification that~~

contains the decision to no longer participate. 4900

(6) The director of administrative services may, by rule 4901
adopted in accordance with Chapter 119. of the Revised Code, ~~shall~~ 4902
~~prescribe criteria and procedures for granting to each county~~ 4903
~~personnel department the powers, duties, and functions of the~~ 4904
~~department of administrative services and the director as~~ 4905
~~described in division (G)(2) of this section with respect to the~~ 4906
~~employees of an elected official, board, agency, or other~~ 4907
~~appointing authority or co-appointing authority. The rules shall~~ 4908
~~cover the following criteria and procedures:~~ 4909

~~(a) The notification to the department of administrative~~ 4910
~~services that an elected official, board, agency, or other~~ 4911
~~appointing authority of a county has elected to use the services~~ 4912
~~and facilities of the county personnel department; the following:~~ 4913

~~(b)(a)~~ A requirement that each county personnel department, 4914
in carrying out its duties, adhere to merit system principles with 4915
regard to employees of county departments of job and family 4916
services, child support enforcement agencies, and public child 4917
welfare agencies so that there is no threatened loss of federal 4918
funding for these agencies, and a requirement that the county be 4919
financially liable to the state for any loss of federal funds due 4920
to the action or inaction of the county personnel department. The 4921
costs associated with audits conducted to monitor compliance with 4922
division (G)(6)~~(b)(a)~~ of this section shall be ~~borne equally by~~ 4923
reimbursed to the department of administrative services ~~and the~~ 4924
county as determined by the director. All money the department 4925
receives for these audits shall be paid into the state treasury to 4926
the credit of the human resources fund created in section 124.07 4927
of the Revised Code. 4928

~~(c) The termination of services and facilities rendered by~~ 4929
~~the department of administrative services, to include rate~~ 4930
~~adjustments, time periods for termination, and other related~~ 4931

matters; 4932

~~(d)(b)~~ Authorization for the director of administrative 4933
services to conduct periodic audits and reviews of county 4934
personnel departments to guarantee the uniform application of ~~this~~ 4935
~~granting of the director's powers, duties, and functions exercised~~ 4936
pursuant to division (G)(2)(a) of this section. The costs of the 4937
audits and reviews shall be ~~borne equally by~~ reimbursed to the 4938
department of administrative services and as determined by the 4939
director by the county for which the services are performed. All 4940
money the department receives shall be paid into the state 4941
treasury to the credit of the human resources fund created in 4942
section 124.07 of the Revised Code. 4943

~~(e) The dissemination of audit findings under division 4944
(G)(6)(d) of this section, any appeals process relating to adverse 4945
findings by the department, and the methods whereby the county 4946
personnel program will revert to the authority of the director of 4947
administrative services due to misuse or nonuniform application of 4948
the authority granted to the county under division (G)(2) or (3) 4949
of this section.~~ 4950

(H) The director of administrative services shall establish 4951
the rate and method of compensation for all employees who are paid 4952
directly by warrant of the director of budget and management and 4953
who are serving in positions that the director of administrative 4954
services has determined impracticable to include in the state job 4955
classification plan. This division does not apply to elected 4956
officials, legislative employees, employees of the legislative 4957
service commission, employees who are in the unclassified civil 4958
service and exempt from collective bargaining coverage in the 4959
office of the secretary of state, auditor of state, treasurer of 4960
state, and attorney general, employees of the courts, employees of 4961
the bureau of workers' compensation whose compensation the 4962
administrator of workers' compensation establishes under division 4963

(B) of section 4121.121 of the Revised Code, or employees of an 4964
appointing authority authorized by law to fix the compensation of 4965
those employees. 4966

(I) The director shall set the rate of compensation for all 4967
intermittent, seasonal, temporary, emergency, and casual employees 4968
in the service of the state who are not considered public 4969
employees under section 4117.01 of the Revised Code. Those 4970
employees are not entitled to receive employee benefits. This rate 4971
of compensation shall be equitable in terms of the rate of 4972
employees serving in the same or similar classifications. This 4973
division does not apply to elected officials, legislative 4974
employees, employees of the legislative service commission, 4975
employees who are in the unclassified civil service and exempt 4976
from collective bargaining coverage in the office of the secretary 4977
of state, auditor of state, treasurer of state, and attorney 4978
general, employees of the courts, employees of the bureau of 4979
workers' compensation whose compensation the administrator 4980
establishes under division (B) of section 4121.121 of the Revised 4981
Code, or employees of an appointing authority authorized by law to 4982
fix the compensation of those employees. 4983

Sec. 124.15. (A) Board and commission members appointed prior 4984
to July 1, 1991, shall be paid a salary or wage in accordance with 4985
the following schedules of rates: 4986

Schedule B 4987

Pay Ranges and Step Values 4988

Range	Step 1	Step 2	Step 3	Step 4	
23 Hourly	5.72	5.91	6.10	6.31	4989
Annually	11897.60	12292.80	12688.00	13124.80	4990
	Step 5	Step 6			4992
Hourly	6.52	6.75			4993
Annually	13561.60	14040.00			4994

		Step 1	Step 2	Step 3	Step 4	4995
24	Hourly	6.00	6.20	6.41	6.63	4996
	Annually	12480.00	12896.00	13332.80	13790.40	4997
		Step 5	Step 6			4998
	Hourly	6.87	7.10			4999
	Annually	14289.60	14768.00			5000
		Step 1	Step 2	Step 3	Step 4	5001
25	Hourly	6.31	6.52	6.75	6.99	5002
	Annually	13124.80	13561.60	14040.00	14539.20	5003
		Step 5	Step 6			5004
	Hourly	7.23	7.41			5005
	Annually	15038.40	15412.80			5006
		Step 1	Step 2	Step 3	Step 4	5007
26	Hourly	6.63	6.87	7.10	7.32	5008
	Annually	13790.40	14289.60	14768.00	15225.60	5009
		Step 5	Step 6			5010
	Hourly	7.53	7.77			5011
	Annually	15662.40	16161.60			5012
		Step 1	Step 2	Step 3	Step 4	5013
27	Hourly	6.99	7.23	7.41	7.64	5014
	Annually	14534.20	15038.40	15412.80	15891.20	5015
		Step 5	Step 6	Step 7		5016
	Hourly	7.88	8.15	8.46		5017
	Annually	16390.40	16952.00	17596.80		5018
		Step 1	Step 2	Step 3	Step 4	5019
28	Hourly	7.41	7.64	7.88	8.15	5020
	Annually	15412.80	15891.20	16390.40	16952.00	5021
		Step 5	Step 6	Step 7		5022
	Hourly	8.46	8.79	9.15		5023
	Annually	17596.80	18283.20	19032.00		5024
		Step 1	Step 2	Step 3	Step 4	5025
29	Hourly	7.88	8.15	8.46	8.79	5026
	Annually	16390.40	16952.00	17596.80	18283.20	5027

		Step 5	Step 6	Step 7		5028
	Hourly	9.15	9.58	10.01		5029
	Annually	19032.00	19926.40	20820.80		5030
		Step 1	Step 2	Step 3	Step 4	5031
30	Hourly	8.46	8.79	9.15	9.58	5032
	Annually	17596.80	18283.20	19032.00	19926.40	5033
		Step 5	Step 6	Step 7		5034
	Hourly	10.01	10.46	10.99		5035
	Annually	20820.80	21756.80	22859.20		5036
		Step 1	Step 2	Step 3	Step 4	5037
31	Hourly	9.15	9.58	10.01	10.46	5038
	Annually	19032.00	19962.40	20820.80	21756.80	5039
		Step 5	Step 6	Step 7		5040
	Hourly	10.99	11.52	12.09		5041
	Annually	22859.20	23961.60	25147.20		5042
		Step 1	Step 2	Step 3	Step 4	5043
32	Hourly	10.01	10.46	10.99	11.52	5044
	Annually	20820.80	21756.80	22859.20	23961.60	5045
		Step 5	Step 6	Step 7	Step 8	5046
	Hourly	12.09	12.68	13.29	13.94	5047
	Annually	25147.20	26374.40	27643.20	28995.20	5048
		Step 1	Step 2	Step 3	Step 4	5049
33	Hourly	10.99	11.52	12.09	12.68	5050
	Annually	22859.20	23961.60	25147.20	26374.40	5051
		Step 5	Step 6	Step 7	Step 8	5052
	Hourly	13.29	13.94	14.63	15.35	5053
	Annually	27643.20	28995.20	30430.40	31928.00	5054
		Step 1	Step 2	Step 3	Step 4	5055
34	Hourly	12.09	12.68	13.29	13.94	5056
	Annually	25147.20	26374.40	27643.20	28995.20	5057
		Step 5	Step 6	Step 7	Step 8	5058
	Hourly	14.63	15.35	16.11	16.91	5059
	Annually	30430.40	31928.00	33508.80	35172.80	5060

		Step 1	Step 2	Step 3	Step 4	5061
35	Hourly	13.29	13.94	14.63	15.35	5062
	Annually	27643.20	28995.20	30430.40	31928.00	5063
		Step 5	Step 6	Step 7	Step 8	5064
	Hourly	16.11	16.91	17.73	18.62	5065
	Annually	33508.80	35172.80	36878.40	38729.60	5066
		Step 1	Step 2	Step 3	Step 4	5067
36	Hourly	14.63	15.35	16.11	16.91	5068
	Annually	30430.40	31928.00	33508.80	35172.80	5069
		Step 5	Step 6	Step 7	Step 8	5070
	Hourly	17.73	18.62	19.54	20.51	5071
	Annually	36878.40	38729.60	40643.20	42660.80	5072
	Schedule C					5073
		Pay Range and Values				5074
	Range	Minimum		Maximum		5075
41	Hourly	10.44		15.72		5076
	Annually	21715.20		32697.60		5077
42	Hourly	11.51		17.35		5078
	Annually	23940.80		36088.00		5079
43	Hourly	12.68		19.12		5080
	Annually	26374.40		39769.60		5081
44	Hourly	13.99		20.87		5082
	Annually	29099.20		43409.60		5083
45	Hourly	15.44		22.80		5084
	Annually	32115.20		47424.00		5085
46	Hourly	17.01		24.90		5086
	Annually	35380.80		51792.00		5087
47	Hourly	18.75		27.18		5088
	Annually	39000.00		56534.40		5089
48	Hourly	20.67		29.69		5090
	Annually	42993.60		61755.20		5091
49	Hourly	22.80		32.06		5092
	Annually	47424.00		66684.80		5093

(B) The pay schedule of all employees shall be on a biweekly basis, with amounts computed on an hourly basis. 5094
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(C) Part-time employees shall be compensated on an hourly basis for time worked, at the rates shown in division (A) of this section or in section 124.152 of the Revised Code. 5096
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(D) The salary and wage rates in division (A) of this section or in section 124.152 of the Revised Code represent base rates of compensation and may be augmented by the provisions of section 124.181 of the Revised Code. In those cases where lodging, meals, laundry, or other personal services are furnished an employee in the service of the state, the actual costs or fair market value of the personal services shall be paid by the employee in such amounts and manner as determined by the director of administrative services and approved by the director of budget and management, and those personal services shall not be considered as a part of the employee's compensation. An appointing authority that appoints employees in the service of the state, with the approval of the director of administrative services and the director of budget and management, may establish payments to employees for uniforms, tools, equipment, and other requirements of the department and payments for the maintenance of them. 5099
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The director of administrative services may review collective bargaining agreements entered into under Chapter 4117. of the Revised Code that cover employees in the service of the state and determine whether certain benefits or payments provided to the employees covered by those agreements should also be provided to employees in the service of the state who are exempt from collective bargaining coverage and are paid in accordance with section 124.152 of the Revised Code or are listed in division (B)(2) or (4) of section 124.14 of the Revised Code. On completing the review, the director of administrative services, with the approval of the director of budget and management, may provide to 5115
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some or all of these employees any payment or benefit, except for 5126
salary, contained in such a collective bargaining agreement even 5127
if it is similar to a payment or benefit already provided by law 5128
to some or all of these employees. Any payment or benefit so 5129
provided shall not exceed the highest level for that payment or 5130
benefit specified in such a collective bargaining agreement. The 5131
director of administrative services shall not provide, and the 5132
director of budget and management shall not approve, any payment 5133
or benefit to such an employee under this division unless the 5134
payment or benefit is provided pursuant to a collective bargaining 5135
agreement to a state employee who is in a position with similar 5136
duties as, is supervised by, or is employed by the same appointing 5137
authority as, the employee to whom the benefit or payment is to be 5138
provided. 5139

As used in this division, "payment or benefit already 5140
provided by law" includes, but is not limited to, bereavement, 5141
personal, vacation, administrative, and sick leave, disability 5142
benefits, holiday pay, and pay supplements provided under the 5143
Revised Code, but does not include wages or salary. 5144

(E) New employees paid in accordance with schedule B of 5145
division (A) of this section or schedule E-1 of section 124.152 of 5146
the Revised Code shall be employed at the minimum rate established 5147
for the range unless otherwise provided. Employees with 5148
qualifications that are beyond the minimum normally required for 5149
the position and that are determined by the director to be 5150
exceptional may be employed in, or may be transferred or promoted 5151
to, a position at an advanced step of the range. Further, in time 5152
of a serious labor market condition when it is relatively 5153
impossible to recruit employees at the minimum rate for a 5154
particular classification, the entrance rate may be set at an 5155
advanced step in the range by the director of administrative 5156
services. This rate may be limited to geographical regions of the 5157

state. Appointments made to an advanced step under the provision 5158
regarding exceptional qualifications shall not affect the step 5159
assignment of employees already serving. However, anytime the 5160
hiring rate of an entire classification is advanced to a higher 5161
step, all incumbents of that classification being paid at a step 5162
lower than that being used for hiring, shall be advanced beginning 5163
at the start of the first pay period thereafter to the new hiring 5164
rate, and any time accrued at the lower step will be used to 5165
calculate advancement to a succeeding step. If the hiring rate of 5166
a classification is increased for only a geographical region of 5167
the state, only incumbents who work in that geographical region 5168
shall be advanced to a higher step. When an employee in the 5169
unclassified service changes from one state position to another or 5170
is appointed to a position in the classified service, or if an 5171
employee in the classified service is appointed to a position in 5172
the unclassified service, the employee's salary or wage in the new 5173
position shall be determined in the same manner as if the employee 5174
were an employee in the classified service. When an employee in 5175
the unclassified service who is not eligible for step increases is 5176
appointed to a classification in the classified service under 5177
which step increases are provided, future step increases shall be 5178
based on the date on which the employee last received a pay 5179
increase. If the employee has not received an increase during the 5180
previous year, the date of the appointment to the classified 5181
service shall be used to determine the employee's annual step 5182
advancement eligibility date. In reassigning any employee to a 5183
classification resulting in a pay range increase or to a new pay 5184
range as a result of a promotion, an increase pay range 5185
adjustment, or other classification change resulting in a pay 5186
range increase, the director shall assign such employee to the 5187
step in the new pay range that will provide an increase of 5188
approximately four per cent if the new pay range can accommodate 5189
the increase. When an employee is being assigned to a 5190

classification or new pay range as the result of a class plan 5191
change, if the employee has completed a probationary period, the 5192
employee shall be placed in a step no lower than step two of the 5193
new pay range. If the employee has not completed a probationary 5194
period, the employee may be placed in step one of the new pay 5195
range. Such new salary or wage shall become effective on such date 5196
as the director determines. 5197

(F) If employment conditions and the urgency of the work 5198
require such action, the director of administrative services may, 5199
upon the application of a department head, authorize payment at 5200
any rate established within the range for the class of work, for 5201
work of a casual or intermittent nature or on a project basis. 5202
Payment at such rates shall not be made to the same individual for 5203
more than three calendar months in any one calendar year. Any such 5204
action shall be subject to the approval of the director of budget 5205
and management as to the availability of funds. This section and 5206
sections 124.14 and 124.152 of the Revised Code do not repeal any 5207
authority of any department or public official to contract with or 5208
fix the compensation of professional persons who may be employed 5209
temporarily for work of a casual nature or for work on a project 5210
basis. 5211

(G)(1) Except as provided in division (G)(2) of this section, 5212
each state employee paid in accordance with schedule B of this 5213
section or schedule E-1 of section 124.152 of the Revised Code 5214
shall be eligible for advancement to succeeding steps in the range 5215
for the employee's class or grade according to the schedule 5216
established in this division. Beginning on the first day of the 5217
pay period within which the employee completes the prescribed 5218
probationary period in the employee's classification with the 5219
state, each employee shall receive an automatic salary adjustment 5220
equivalent to the next higher step within the pay range for the 5221
employee's class or grade. 5222

Each employee paid in accordance with schedule E-1 of section 124.152 of the Revised Code shall be eligible to advance to the next higher step until the employee reaches the top step in the range for the employee's class or grade, if the employee has maintained satisfactory performance in accordance with criteria established by the employee's appointing authority. Those step advancements shall not occur more frequently than once in any twelve-month period.

When an employee is promoted or reassigned to a higher pay range, the employee's step indicator shall return to "0" or be adjusted to account for a probationary period, as appropriate. Step advancement shall not be affected by demotion. A promoted employee shall advance to the next higher step of the pay range on the first day of the pay period in which the required probationary period is completed. Step advancement shall become effective at the beginning of the pay period within which the employee attains the necessary length of service. Time spent on authorized leave of absence shall be counted for this purpose.

If determined to be in the best interest of the state service, the director of administrative services may, either statewide or in selected agencies, adjust the dates on which annual step advancements are received by employees paid in accordance with schedule E-1 of section 124.152 of the Revised Code.

(2)(a)(i) Except as provided in division (G)(2)(a)(ii) of this section, there shall be a moratorium on step advancements under division (G)(1) of this section from the pay period beginning June 29, 2003, through the pay period ending June 25, 2005. Step advancements shall resume with the pay period beginning June 26, 2005. Upon the resumption of step advancements, there shall be no retroactive step advancements for the period the moratorium was in effect. The moratorium shall not affect an

employee's performance evaluation schedule. 5255

(ii) During the moratorium under division (G)(2)(a)(i) of 5256
this section, an employee who is hired or promoted and serves a 5257
probationary period in the employee's new position shall advance 5258
to the next step in the employee's pay range upon successful 5259
completion of the employee's probationary period. Thereafter, the 5260
employee is subject to the moratorium. 5261

(b) The moratorium under division (G)(2)(a)(i) of this 5262
section shall apply to the employees of the secretary of state, 5263
the auditor of state, the treasurer of state, and the attorney 5264
general, who are subject to this section unless the secretary of 5265
state, the auditor of state, the treasurer of state, or the 5266
attorney general decides to exempt the office's employees from the 5267
moratorium and so notifies the director of administrative services 5268
in writing on or before July 1, 2003. 5269

(H) Employees in appointive managerial or professional 5270
positions paid in accordance with schedule C of this section or 5271
schedule E-2 of section 124.152 of the Revised Code may be 5272
appointed at any rate within the appropriate pay range. This rate 5273
of pay may be adjusted higher or lower within the respective pay 5274
range at any time the appointing authority so desires as long as 5275
the adjustment is based on the employee's ability to successfully 5276
administer those duties assigned to the employee. Salary 5277
adjustments shall not be made more frequently than once in any 5278
six-month period under this provision to incumbents holding the 5279
same position and classification. 5280

(I) When an employee is assigned to duty outside this state, 5281
the employee may be compensated, upon request of the department 5282
head and with the approval of the director of administrative 5283
services, at a rate not to exceed fifty per cent in excess of the 5284
employee's current base rate for the period of time spent on that 5285
duty. 5286

(J) Unless compensation for members of a board or commission is otherwise specifically provided by law, the director of administrative services shall establish the rate and method of payment for members of boards and commissions pursuant to the pay schedules listed in section 124.152 of the Revised Code.

(K) Regular full-time employees in positions assigned to classes within the instruction and education administration series under the rules of the director of administrative services, except certificated employees on the instructional staff of the state school for the blind or the state school for the deaf, whose positions are scheduled to work on the basis of an academic year rather than a full calendar year, shall be paid according to the pay range assigned by such rules but only during those pay periods included in the academic year of the school where the employee is located.

(1) Part-time or substitute teachers or those whose period of employment is other than the full academic year shall be compensated for the actual time worked at the rate established by this section.

(2) Employees governed by this division are exempt from sections 124.13 and 124.19 of the Revised Code.

(3) Length of service for the purpose of determining eligibility for step advancements as provided by division (G) of this section and for the purpose of determining eligibility for longevity pay supplements as provided by division (E) of section 124.181 of the Revised Code shall be computed on the basis of one full year of service for the completion of each academic year.

(L) ~~The superintendent of the state school for the deaf and the superintendent of the state school for the blind shall, subject to the approval of the superintendent of public instruction,~~ shall carry out both of the following:

(1) Annually, between the first day of April and the last day of June, establish for the ensuing fiscal year a schedule of hourly rates for the compensation of each certificated employee on the instructional staff of ~~that superintendent's respective~~ the state school for the deaf and the state school for the blind, constructed as follows:

(a) Determine for each level of training, experience, and other professional qualification for which an hourly rate is set forth in the current schedule, the per cent that rate is of the rate set forth in such schedule for a teacher with a bachelor's degree and no experience. If there is more than one such rate for such a teacher, the lowest rate shall be used to make the computation.

(b) Determine which six city, local, and exempted village school districts with territory in Franklin county have in effect on, or have adopted by, the first day of April for the school year that begins on the ensuing first day of July, teacher salary schedules with the highest minimum salaries for a teacher with a bachelor's degree and no experience;

(c) Divide the sum of such six highest minimum salaries by ten thousand five hundred sixty;

(d) Multiply each per cent determined in division (L)(1)(a) of this section by the quotient obtained in division (L)(1)(c) of this section;

(e) One hundred five per cent of each product thus obtained shall be the hourly rate for the corresponding level of training, experience, or other professional qualification in the schedule for the ensuing fiscal year.

(2) Annually, assign each certificated employee on the instructional staff of the ~~superintendent's~~ respective school to an hourly rate on the schedule that is commensurate with the

employee's training, experience, and other professional 5349
qualifications. 5350

If an employee is employed on the basis of an academic year, 5351
the employee's annual salary shall be calculated by multiplying 5352
the employee's assigned hourly rate times one thousand seven 5353
hundred sixty. If an employee is not employed on the basis of an 5354
academic year, the employee's annual salary shall be calculated in 5355
accordance with the following formula: 5356

(a) Multiply the number of days the employee is required to 5357
work pursuant to the employee's contract by eight; 5358

(b) Multiply the product of division (L)(2)(a) of this 5359
section by the employee's assigned hourly rate. 5360

Each employee shall be paid an annual salary in biweekly 5361
installments. The amount of each installment shall be calculated 5362
by dividing the employee's annual salary by the number of biweekly 5363
installments to be paid during the year. 5364

Sections 124.13 and 124.19 of the Revised Code do not apply 5365
to an employee who is paid under this division. 5366

As used in this division, "academic year" means the number of 5367
days in each school year that the schools are required to be open 5368
for instruction with pupils in attendance. Upon completing an 5369
academic year, an employee paid under this division shall be 5370
deemed to have completed one year of service. An employee paid 5371
under this division is eligible to receive a pay supplement under 5372
division (L)(1), (2), or (3) of section 124.181 of the Revised 5373
Code for which the employee qualifies, but is not eligible to 5374
receive a pay supplement under division (L)(4) or (5) of that 5375
section. An employee paid under this division is eligible to 5376
receive a pay supplement under division (L)(6) of section 124.181 5377
of the Revised Code for which the employee qualifies, except that 5378
the supplement is not limited to a maximum of five per cent of the 5379

employee's regular base salary in a calendar year. 5380

(M) Division (A) of this section does not apply to "exempt 5381
employees," as defined in section 124.152 of the Revised Code, who 5382
are paid under that section. 5383

Notwithstanding any other provisions of this chapter, when an 5384
employee transfers between bargaining units or transfers out of or 5385
into a bargaining unit, the director of administrative services 5386
shall establish the employee's compensation and adjust the maximum 5387
leave accrual schedule as the director deems equitable. 5388

Sec. 124.152. (A)(1) Except as provided in divisions (A)(2) 5389
and (3) of this section, each exempt employee shall be paid a 5390
salary or wage in accordance with schedule E-1 or schedule E-2 of 5391
division (B), or (C), ~~or (D)~~ of this section, as applicable. 5392

(2) Each exempt employee who holds a position in the 5393
unclassified civil service pursuant to division (A)(26) or (30) of 5394
section 124.11 of the Revised Code may be paid a salary or wage in 5395
accordance with schedule E-1 of division (B) or (C), schedule E-1 5396
for step seven only of division (D) or (E), or schedule E-2 of 5397
division (B), or (C), ~~(D), (E), (F), or (G)~~ of this section, as 5398
applicable. 5399

(3)(a) Except as provided in division (A)(3)(b) of this 5400
section, each exempt employee who was paid a salary or wage at 5401
step 7 in the employee's pay range on June 28, 2003, in accordance 5402
with the applicable schedule E-1 of former section 124.152 of the 5403
Revised Code and who continued to be so paid on June 29, 2003, 5404
shall be paid a salary or wage in the corresponding pay range in 5405
schedule E-1 for step seven only of division (D) or (E), ~~(F), or~~ 5406
~~(G)~~ of this section, as applicable, for as long as the employee 5407
remains in the position the employee held as of July 1, 2003. 5408

(b) Except as provided in division (A)(3)(c) of this section, 5409

if an exempt employee who is being paid a salary or wage in 5410
accordance with schedule E-1 for step seven only of division (D) 5411
or (E), ~~(F)~~, ~~or~~ ~~(G)~~ of this section, as applicable, moves to 5412
another position, the employee shall not receive a salary or wage 5413
for that position or any other position in the future in 5414
accordance with that schedule. 5415

(c) If an exempt employee who is being paid a salary or wage 5416
in accordance with schedule E-1 for step seven only of division 5417
(D) or (E), ~~(F)~~, ~~or~~ ~~(G)~~ of this section, as applicable, moves to 5418
another position assigned to pay range 12 or above, the appointing 5419
authority may assign the employee to be paid a salary or wage in 5420
the appropriate pay range for that position in accordance with the 5421
applicable schedule E-1 for step seven only, provided that the 5422
appointing authority so notifies the director of administrative 5423
services in writing at the time the employee is appointed to that 5424
position. 5425

~~(B) Beginning on the first day of the pay period that 5426
includes July 1, 2006, each exempt employee who must be paid in 5427
accordance with schedule E-1 or schedule E-2 of this section shall 5428
be paid a salary or wage in accordance with the following schedule 5429
of rates: 5430~~

~~Schedule E-1 5431~~

~~Pay Ranges and Step Values 5432~~

		Step	Step	Step	Step	Step	Step	
	Range	1	2	3	4	5	6	
1	Hourly	9.40	9.82	10.24	10.68			5435
	Annually	19552	20426	21299	22214			5436
2	Hourly	11.40	11.88	12.40	12.94			5437
	Annually	23712	24710	25792	26915			5438
3	Hourly	11.94	12.48	13.03	13.60			5439
	Annually	24835	25958	27102	28288			5440
4	Hourly	12.54	13.10	13.72	14.34			5441

	Annually	26083	27248	28538	29827		5442	
5	Hourly	13.15	13.75	14.34	14.97		5443	
	Annually	27352	28600	29827	31138		5444	
6	Hourly	13.86	14.43	15.07	15.69		5445	
	Annually	28829	30014	31346	32635		5446	
7	Hourly	14.72	15.27	15.88	16.44	17.08	5447	
	Annually	30618	31762	33030	34195	35526	5448	
8	Hourly	15.56	16.24	16.95	17.71	18.46	5449	
	Annually	32365	33779	35256	36837	38397	5450	
9	Hourly	16.60	17.46	18.32	19.23	20.21	5451	
	Annually	34528	36317	38106	39998	42037	5452	
10	Hourly	17.91	18.89	19.90	21.05	22.18	5453	
	Annually	37253	39291	41392	43784	46134	5454	
11	Hourly	19.50	20.64	21.84	23.06	24.38	5455	
	Annually	40560	42931	45427	47965	50710	5456	
12	Hourly	21.51	22.72	23.94	25.27	26.68	28.13	5457
	Annually	44741	47258	49795	52562	55494	58510	5458
13	Hourly	23.71	25.01	26.39	27.80	29.36	30.96	5459
	Annually	49317	52021	54891	57824	61069	64397	5460
14	Hourly	26.08	27.55	29.03	30.62	32.35	34.15	5461
	Annually	54246	57304	60382	63690	67288	71032	5462
15	Hourly	28.64	30.25	31.96	33.72	35.59	37.55	5463
	Annually	59571	62920	66477	70138	74027	78104	5464
16	Hourly	31.58	33.33	35.17	37.14	39.19	41.43	5465
	Annually	65686	69326	73154	77251	81515	86174	5466
17	Hourly	34.80	36.72	38.78	40.92	43.20	45.61	5467
	Annually	72384	76378	80662	85114	89856	94869	5468
18	Hourly	38.35	40.47	42.75	45.10	47.60	50.26	5469
	Annually	79768	84178	88920	93808	99008	104541	5470
	Schedule E-2						5471	
	Range			Minimum		Maximum	5472	
41	Hourly			16.23		34.77	5473	
	Annually			33758		72322	5474	

42	Hourly	17.89	38.41	5475
	Annually	37211	79893	5476
43	Hourly	19.70	42.30	5477
	Annually	40976	87984	5478
44	Hourly	21.73	46.21	5479
	Annually	45198	96117	5480
45	Hourly	24.01	50.44	5481
	Annually	49941	104915	5482
46	Hourly	26.43	55.13	5483
	Annually	54974	114670	5484
47	Hourly	29.14	60.16	5485
	Annually	60611	125133	5486
48	Hourly	32.14	65.65	5487
	Annually	66851	136552	5488
49	Hourly	35.44	70.89	5489
	Annually	73715	147451	5490

~~(C) Beginning on the first day of the pay period that includes July 1, 2007, each exempt employee who must be paid in accordance with schedule E 1 or schedule E 2 of this section shall be paid a salary or wage in accordance with the following schedule of rates:~~

~~Schedule E 1~~

~~Pay Ranges and Step Values~~

		Step	Step	Step	Step	Step	Step	
	Range	1	2	3	4	5	6	
1	Hourly	9.73	10.16	10.60	11.05			5500
	Annually	20238	21133	22048	22984			5501
2	Hourly	11.80	12.30	12.83	13.39			5502
	Annually	24544	25584	26686	27851			5503
3	Hourly	12.36	12.92	13.49	14.08			5504
	Annually	25709	26874	28059	29286			5505
4	Hourly	12.98	13.56	14.20	14.84			5506

	Annually	26998	28205	29536	30867		5507	
5	Hourly	13.61	14.23	14.84	15.49		5508	
	Annually	28309	29598	30867	32219		5509	
6	Hourly	14.35	14.94	15.60	16.24		5510	
	Annually	29848	31075	32448	33779		5511	
7	Hourly	15.24	15.80	16.44	17.02	17.68	5512	
	Annually	31699	32864	34195	35402	36774	5513	
8	Hourly	16.10	16.81	17.54	18.33	19.11	5514	
	Annually	33488	34965	36483	38126	39749	5515	
9	Hourly	17.18	18.07	18.96	19.90	20.92	5516	
	Annually	35734	37586	39437	41392	43514	5517	
10	Hourly	18.54	19.55	20.60	21.79	22.96	5518	
	Annually	38563	40664	42848	45323	47757	5519	
11	Hourly	20.18	21.36	22.60	23.87	25.23	5520	
	Annually	41974	44429	47008	49650	52478	5521	
12	Hourly	22.26	23.52	24.78	26.15	27.61	29.11	5522
	Annually	46301	48922	51542	54392	57429	60549	5523
13	Hourly	24.54	25.89	27.31	28.77	30.39	32.04	5524
	Annually	51043	53851	56805	59842	63211	66643	5525
14	Hourly	26.99	28.51	30.05	31.69	33.48	35.35	5526
	Annually	56139	59301	62504	65915	69638	73528	5527
15	Hourly	29.64	31.31	33.08	34.90	36.84	38.86	5528
	Annually	61651	65125	68806	72592	76627	80829	5529
16	Hourly	32.69	34.50	36.40	38.44	40.56	42.88	5530
	Annually	67995	71760	75712	79955	84365	89190	5531
17	Hourly	36.02	38.01	40.14	42.35	44.71	47.21	5532
	Annually	74922	79061	83491	88088	92997	98197	5533
18	Hourly	39.69	41.89	44.25	46.68	49.27	52.02	5534
	Annually	82555	87131	92040	97094	102482	108202	5535
	Schedule E-2						5536	
	Range		Minimum		Maximum		5537	
41	Hourly		16.23		35.99		5538	
	Annually		33758		74859		5539	

42	Hourly	17.89	39.75	5540
	Annually	37211	82680	5541
43	Hourly	19.70	43.78	5542
	Annually	40976	91062	5543
44	Hourly	21.73	47.83	5544
	Annually	45198	99486	5545
45	Hourly	24.01	52.21	5546
	Annually	49941	108597	5547
46	Hourly	26.43	57.06	5548
	Annually	54974	118685	5549
47	Hourly	29.14	62.27	5550
	Annually	60611	129522	5551
48	Hourly	32.14	67.95	5552
	Annually	66851	141336	5553
49	Hourly	35.44	73.37	5554
	Annually	73715	152610	5555

(D) Beginning on the first day of the pay period that 5556
includes July 1, ~~2008~~ 2009, each exempt employee who must be paid 5557
in accordance with schedule E-1 or schedule E-2 of this section 5558
shall be paid a salary or wage in accordance with the following 5559
schedule of rates: 5560

Schedule E-1 5561

		Pay Ranges and Step Values						5562
		Step	Step	Step	Step	Step	Step	5563
	Range	1	2	3	4	5	6	5564
1	Hourly	10.07	10.52	10.97	11.44			5565
	Annually	20946	21882	22818	23795			5566
2	Hourly	12.21	12.73	13.28	13.86			5567
	Annually	25397	26478	27622	28829			5568
3	Hourly	12.79	13.37	13.96	14.57			5569
	Annually	26603	27810	29037	30306			5570
4	Hourly	13.43	14.03	14.70	15.36			5571

		<u>12.89</u>	<u>13.47</u>	<u>14.11</u>	<u>14.75</u>			
	Annually	27934	29182	30576	31949	5572		
		<u>26811</u>	<u>28018</u>	<u>29349</u>	<u>30680</u>			
5	Hourly	14.09	14.73	15.36	16.03	5573		
		<u>13.53</u>	<u>14.14</u>	<u>14.75</u>	<u>15.39</u>			
	Annually	29307	30638	31949	33342	5574		
		<u>28142</u>	<u>29411</u>	<u>30680</u>	<u>32011</u>			
6	Hourly	14.85	15.46	16.15	16.81	5575		
		<u>14.26</u>	<u>14.84</u>	<u>15.50</u>	<u>16.14</u>			
	Annually	30888	32157	33592	34965	5576		
		<u>29611</u>	<u>30867</u>	<u>32240</u>	<u>33571</u>			
7	Hourly	15.77	16.35	17.02	17.62	18.30	5577	
		<u>15.14</u>	<u>15.70</u>	<u>16.34</u>	<u>16.92</u>	<u>17.57</u>		
	Annually	32802	34008	35402	36650	38064	5578	
		<u>31491</u>	<u>32656</u>	<u>33987</u>	<u>35194</u>	<u>36546</u>		
8	Hourly	16.66	17.40	18.15	18.97	19.78	5579	
		<u>15.91</u>	<u>16.62</u>	<u>17.33</u>	<u>18.12</u>	<u>18.89</u>		
	Annually	34653	36192	37752	39458	41142	5580	
		<u>33093</u>	<u>34570</u>	<u>36046</u>	<u>37690</u>	<u>39291</u>		
9	Hourly	17.78	18.70	19.62	20.60	21.65	5581	
		<u>16.98</u>	<u>17.86</u>	<u>18.74</u>	<u>19.67</u>	<u>20.68</u>		
	Annually	36982	38896	40810	42848	45032	5582	
		<u>35318</u>	<u>37149</u>	<u>38979</u>	<u>40914</u>	<u>43014</u>		
10	Hourly	19.19	20.23	21.32	22.55	23.76	5583	
		<u>18.33</u>	<u>19.32</u>	<u>20.36</u>	<u>21.54</u>	<u>22.69</u>		
	Annually	39915	42078	44346	46904	49421	5584	
		<u>38126</u>	<u>40186</u>	<u>42349</u>	<u>44803</u>	<u>47195</u>		
11	Hourly	20.89	22.11	23.39	24.71	26.11	5585	
		<u>19.95</u>	<u>21.12</u>	<u>22.34</u>	<u>23.60</u>	<u>24.94</u>		
	Annually	43451	45989	48651	51397	54309	5586	
		<u>41496</u>	<u>43930</u>	<u>46467</u>	<u>49088</u>	<u>51875</u>		
12	Hourly	23.04	24.34	25.65	27.07	28.58	30.13	5587
		<u>21.89</u>	<u>23.12</u>	<u>24.37</u>	<u>25.72</u>	<u>27.15</u>	<u>28.62</u>	

	Annually	47923	50627	53352	56306	59446	62670	5588
		<u>45531</u>	<u>48090</u>	<u>50690</u>	<u>53498</u>	<u>56472</u>	<u>59530</u>	
13	Hourly	25.40	26.80	28.27	29.78	31.45	33.16	5589
		<u>24.13</u>	<u>25.46</u>	<u>26.86</u>	<u>28.29</u>	<u>29.88</u>	<u>31.50</u>	
	Annually	52832	55744	58802	61942	65416	68973	5590
		<u>50190</u>	<u>52957</u>	<u>55869</u>	<u>58843</u>	<u>62150</u>	<u>65520</u>	
14	Hourly	27.93	29.51	31.10	32.80	34.65	36.59	5591
		<u>26.53</u>	<u>28.03</u>	<u>29.55</u>	<u>31.16</u>	<u>32.92</u>	<u>34.76</u>	
	Annually	58094	61381	64688	68224	72072	76107	5592
		<u>55182</u>	<u>58302</u>	<u>61464</u>	<u>64813</u>	<u>68474</u>	<u>72301</u>	
15	Hourly	30.68	32.41	34.24	36.12	38.13	40.22	5593
		<u>29.15</u>	<u>30.79</u>	<u>32.53</u>	<u>34.31</u>	<u>36.22</u>	<u>38.21</u>	
	Annually	63814	67413	71219	75130	79310	83658	5594
		<u>60632</u>	<u>64043</u>	<u>67662</u>	<u>71365</u>	<u>75338</u>	<u>79477</u>	
16	Hourly	33.83	35.71	37.67	39.79	41.98	44.38	5595
		<u>32.14</u>	<u>33.92</u>	<u>35.79</u>	<u>37.80</u>	<u>39.88</u>	<u>42.16</u>	
	Annually	70366	74277	78354	82763	87318	92310	5596
		<u>66851</u>	<u>70554</u>	<u>74443</u>	<u>78264</u>	<u>82950</u>	<u>87693</u>	
17	Hourly	37.28	39.34	41.54	43.83	46.27	48.86	5597
		<u>35.42</u>	<u>37.37</u>	<u>39.46</u>	<u>41.64</u>	<u>43.96</u>	<u>46.42</u>	
	Annually	77542	81827	86403	91166	96242	101629	5598
		<u>73674</u>	<u>77730</u>	<u>82077</u>	<u>86611</u>	<u>91437</u>	<u>96554</u>	
18	Hourly	41.08	43.36	45.80	48.31	50.99	53.84	5599
		<u>39.03</u>	<u>41.19</u>	<u>43.51</u>	<u>45.89</u>	<u>48.44</u>	<u>51.15</u>	
	Annually	85446	90189	95264	100485	106059	111987	5600
		<u>81182</u>	<u>85675</u>	<u>90501</u>	<u>95451</u>	<u>100755</u>	<u>106392</u>	
	Schedule E-2							5601
	Range			Minimum			Maximum	5602
41	Hourly			16.23			37.25	5603
				<u>15.58</u>				
	Annually			33758			77480	5604
				<u>32406</u>				
42	Hourly			17.89			41.14	5605

		<u>17.08</u>		
	Annually	37211	85571	5606
		<u>35526</u>		
43	Hourly	19.70	45.31	5607
		<u>18.81</u>		
	Annually	40976	94245	5608
		<u>39125</u>		
44	Hourly	21.73	49.50	5609
		<u>20.75</u>		
	Annually	45198	102960	5610
		<u>43160</u>		
45	Hourly	24.01	54.04	5611
		<u>22.81</u>		
	Annually	49941	112403	5612
		<u>47445</u>		
46	Hourly	26.43	59.06	5613
		<u>25.11</u>		
	Annually	54974	122845	5614
		<u>52229</u>		
47	Hourly	29.14	64.45	5615
		<u>27.68</u>		
	Annually	60611	134056	5616
		<u>57574</u>		
48	Hourly	32.14	70.33	5617
		<u>30.53</u>		
	Annually	66851	146286	5618
		<u>63502</u>		
49	Hourly	35.44	75.94	5619
		<u>33.67</u>		
	Annually	73715	157955	5620
		<u>70034</u>		

~~(E) Beginning on the first day of the pay period that~~ 5621
~~includes July 1, 2006, each exempt employee who must be paid in~~ 5622

~~accordance with schedule E-1 for step seven only shall be paid a~~ 5623
~~salary or wage in accordance with the following schedule of rates:~~ 5624

~~Schedule E-1 for Step Seven Only~~ 5625

~~Pay Ranges and Step Seven Values~~ 5626

~~Range~~ 5627

~~12 Hourly 29.68~~ 5628

~~Annually 61734~~ 5629

~~13 Hourly 32.66~~ 5630

~~Annually 67933~~ 5631

~~14 Hourly 36.01~~ 5632

~~Annually 74901~~ 5633

~~15 Hourly 39.61~~ 5634

~~Annually 82389~~ 5635

~~16 Hourly 43.70~~ 5636

~~Annually 90896~~ 5637

~~17 Hourly 48.13~~ 5638

~~Annually 100110~~ 5639

~~18 Hourly 53.02~~ 5640

~~Annually 110282~~ 5641

~~(F) Beginning on the first day of the pay period that~~ 5642

~~includes July 1, 2007, each exempt employee who must be paid in~~ 5643

~~accordance with schedule E-1 for step seven only shall be paid a~~ 5644

~~salary or wage in accordance with the following schedule of rates:~~ 5645

~~Schedule E-1 for Step Seven Only~~ 5646

~~Pay Ranges and Step Values~~ 5647

~~Range~~ 5648

~~12 Hourly 30.72~~ 5649

~~Annually 63898~~ 5650

~~13 Hourly 33.80~~ 5651

~~Annually 70304~~ 5652

~~14 Hourly 37.27~~ 5653

~~Annually 77522~~ 5654

15	Hourly	41.00	5655
	Annually	85280	5656
16	Hourly	45.23	5657
	Annually	94078	5658
17	Hourly	49.81	5659
	Annually	103605	5660
18	Hourly	54.88	5661
	Annually	114150	5662

(C) Beginning on the first day of the pay period that includes July 1, 2011, each exempt employee who must be paid in accordance with schedule E-1 or schedule E-2 of this section shall be paid a salary or wage in accordance with the following schedule of rates:

Schedule E-1

Pay Ranges and Step Values

		<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	
	Range	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	
1	Hourly	<u>10.07</u>	<u>10.52</u>	<u>10.97</u>	<u>11.44</u>			5672
	Annually	<u>20946</u>	<u>21882</u>	<u>22818</u>	<u>23795</u>			5673
2	Hourly	<u>12.21</u>	<u>12.73</u>	<u>13.28</u>	<u>13.86</u>			5674
	Annually	<u>25397</u>	<u>26478</u>	<u>27622</u>	<u>28829</u>			5675
3	Hourly	<u>12.79</u>	<u>13.37</u>	<u>13.96</u>	<u>14.57</u>			5676
	Annually	<u>26603</u>	<u>27810</u>	<u>29037</u>	<u>30306</u>			5677
4	Hourly	<u>13.43</u>	<u>14.03</u>	<u>14.70</u>	<u>15.36</u>			5678
	Annually	<u>27934</u>	<u>29182</u>	<u>30576</u>	<u>31949</u>			5679
5	Hourly	<u>14.09</u>	<u>14.73</u>	<u>15.36</u>	<u>16.03</u>			5680
	Annually	<u>29307</u>	<u>30638</u>	<u>31949</u>	<u>33342</u>			5681
6	Hourly	<u>14.85</u>	<u>15.46</u>	<u>16.15</u>	<u>16.81</u>			5682
	Annually	<u>30888</u>	<u>32157</u>	<u>33592</u>	<u>34965</u>			5683
7	Hourly	<u>15.77</u>	<u>16.35</u>	<u>17.02</u>	<u>17.62</u>	<u>18.30</u>		5684
	Annually	<u>32802</u>	<u>34008</u>	<u>35402</u>	<u>36650</u>	<u>38064</u>		5685
8	Hourly	<u>16.66</u>	<u>17.40</u>	<u>18.15</u>	<u>18.97</u>	<u>19.78</u>		5686

	<u>Annually</u>	<u>34653</u>	<u>36192</u>	<u>37752</u>	<u>39458</u>	<u>41142</u>		5687
<u>9</u>	<u>Hourly</u>	<u>17.78</u>	<u>18.70</u>	<u>19.62</u>	<u>20.60</u>	<u>21.65</u>		5688
	<u>Annually</u>	<u>36982</u>	<u>38896</u>	<u>40810</u>	<u>42848</u>	<u>45032</u>		5689
<u>10</u>	<u>Hourly</u>	<u>19.19</u>	<u>20.23</u>	<u>21.32</u>	<u>22.55</u>	<u>23.76</u>		5690
	<u>Annually</u>	<u>39915</u>	<u>42078</u>	<u>44346</u>	<u>46904</u>	<u>49421</u>		5691
<u>11</u>	<u>Hourly</u>	<u>20.89</u>	<u>22.11</u>	<u>23.39</u>	<u>24.71</u>	<u>26.11</u>		5692
	<u>Annually</u>	<u>43451</u>	<u>45989</u>	<u>48651</u>	<u>51397</u>	<u>54309</u>		5693
<u>12</u>	<u>Hourly</u>	<u>23.04</u>	<u>24.34</u>	<u>25.65</u>	<u>27.07</u>	<u>28.58</u>	<u>30.13</u>	5694
	<u>Annually</u>	<u>47923</u>	<u>50627</u>	<u>53352</u>	<u>56306</u>	<u>59446</u>	<u>62670</u>	5695
<u>13</u>	<u>Hourly</u>	<u>25.40</u>	<u>26.80</u>	<u>28.27</u>	<u>29.78</u>	<u>31.45</u>	<u>33.16</u>	5696
	<u>Annually</u>	<u>52832</u>	<u>55744</u>	<u>58802</u>	<u>61942</u>	<u>65416</u>	<u>68973</u>	5697
<u>14</u>	<u>Hourly</u>	<u>27.93</u>	<u>29.51</u>	<u>31.10</u>	<u>32.80</u>	<u>34.65</u>	<u>36.59</u>	5698
	<u>Annually</u>	<u>58094</u>	<u>61381</u>	<u>64688</u>	<u>68224</u>	<u>72072</u>	<u>76107</u>	5699
<u>15</u>	<u>Hourly</u>	<u>30.68</u>	<u>32.41</u>	<u>34.24</u>	<u>36.12</u>	<u>38.13</u>	<u>40.22</u>	5700
	<u>Annually</u>	<u>63814</u>	<u>67413</u>	<u>71219</u>	<u>75130</u>	<u>79310</u>	<u>83658</u>	5701
<u>16</u>	<u>Hourly</u>	<u>33.83</u>	<u>35.71</u>	<u>37.67</u>	<u>39.79</u>	<u>41.98</u>	<u>44.38</u>	5702
	<u>Annually</u>	<u>70366</u>	<u>74277</u>	<u>78354</u>	<u>82763</u>	<u>87318</u>	<u>92310</u>	5703
<u>17</u>	<u>Hourly</u>	<u>37.28</u>	<u>39.34</u>	<u>41.54</u>	<u>43.83</u>	<u>46.27</u>	<u>48.86</u>	5704
	<u>Annually</u>	<u>77542</u>	<u>81827</u>	<u>86403</u>	<u>91166</u>	<u>96242</u>	<u>101629</u>	5705
<u>18</u>	<u>Hourly</u>	<u>41.08</u>	<u>43.36</u>	<u>45.80</u>	<u>48.31</u>	<u>50.99</u>	<u>53.84</u>	5706
	<u>Annually</u>	<u>85446</u>	<u>90189</u>	<u>95264</u>	<u>100485</u>	<u>106059</u>	<u>111987</u>	5707
	<u>Schedule E-2</u>							5708
	<u>Range</u>		<u>Minimum</u>		<u>Maximum</u>			5709
<u>41</u>	<u>Hourly</u>		<u>16.23</u>		<u>37.25</u>			5710
	<u>Annually</u>		<u>33758</u>		<u>77480</u>			5711
<u>42</u>	<u>Hourly</u>		<u>17.89</u>		<u>41.14</u>			5712
	<u>Annually</u>		<u>37211</u>		<u>85571</u>			5713
<u>43</u>	<u>Hourly</u>		<u>19.70</u>		<u>45.31</u>			5714
	<u>Annually</u>		<u>40976</u>		<u>94245</u>			5715
<u>44</u>	<u>Hourly</u>		<u>21.73</u>		<u>49.50</u>			5716
	<u>Annually</u>		<u>45198</u>		<u>102960</u>			5717
<u>45</u>	<u>Hourly</u>		<u>24.01</u>		<u>54.04</u>			5718
	<u>Annually</u>		<u>49941</u>		<u>112403</u>			5719

<u>46</u>	<u>Hourly</u>	<u>26.43</u>	<u>59.06</u>	5720
	<u>Annually</u>	<u>54974</u>	<u>122845</u>	5721
<u>47</u>	<u>Hourly</u>	<u>29.14</u>	<u>64.45</u>	5722
	<u>Annually</u>	<u>60611</u>	<u>134056</u>	5723
<u>48</u>	<u>Hourly</u>	<u>32.14</u>	<u>70.33</u>	5724
	<u>Annually</u>	<u>66851</u>	<u>146286</u>	5725
<u>49</u>	<u>Hourly</u>	<u>35.44</u>	<u>75.94</u>	5726
	<u>Annually</u>	<u>73715</u>	<u>157955</u>	5727

(G)(D) Beginning on the first day of the pay period that 5728
includes July 1, ~~2008~~ 2009, each exempt employee who must be paid 5729
in accordance with salary schedule E-1 for step seven only shall 5730
be paid a salary or wage in accordance with the following schedule 5731
of rates: 5732

Schedule E-1 for Step Seven Only 5733

Pay Ranges and Step Values 5734

	Range			5735
12	Hourly	31.80 <u>30.21</u>		5736
	Annually	66144 <u>62837</u>		5737
13	Hourly	34.98 <u>33.23</u>		5738
	Annually	72758 <u>69118</u>		5739
14	Hourly	38.57 <u>36.64</u>		5740
	Annually	80226 <u>76211</u>		5741
15	Hourly	42.44 <u>40.32</u>		5742
	Annually	88275 <u>83866</u>		5743
16	Hourly	46.81 <u>44.47</u>		5744
	Annually	97365 <u>92498</u>		5745
17	Hourly	51.55 <u>48.97</u>		5746
	Annually	107224		5747
		<u>101858</u>		
18	Hourly	56.80 <u>53.96</u>		5748
	Annually	118144		5749
		<u>112237</u>		

(E) Beginning on the first day of the pay period that 5750
includes July 1, 2011, each exempt employee who must be paid in 5751
accordance with salary schedule E-1 for step seven only shall be 5752
paid a salary or wage in accordance with the following schedule of 5753
rates: 5754

Schedule E-1 for Step Seven Only 5755

Pay Ranges and Step Values 5756

	<u>Range</u>		
<u>12</u>	<u>Hourly</u>	<u>31.80</u>	5758
	<u>Annually</u>	<u>66144</u>	5759
<u>13</u>	<u>Hourly</u>	<u>34.98</u>	5760
	<u>Annually</u>	<u>72758</u>	5761
<u>14</u>	<u>Hourly</u>	<u>38.57</u>	5762
	<u>Annually</u>	<u>80226</u>	5763
<u>15</u>	<u>Hourly</u>	<u>42.44</u>	5764
	<u>Annually</u>	<u>88275</u>	5765
<u>16</u>	<u>Hourly</u>	<u>46.81</u>	5766
	<u>Annually</u>	<u>97365</u>	5767
<u>17</u>	<u>Hourly</u>	<u>51.55</u>	5768
	<u>Annually</u>	<u>107224</u>	5769
<u>18</u>	<u>Hourly</u>	<u>56.80</u>	5770
	<u>Annually</u>	<u>118144</u>	5771

~~(H)~~(F) As used in this section, "exempt employee" means a 5772
permanent full-time or permanent part-time employee paid directly 5773
by warrant of the director of budget and management whose position 5774
is included in the job classification plan established under 5775
division (A) of section 124.14 of the Revised Code but who is not 5776
considered a public employee for the purposes of Chapter 4117. of 5777
the Revised Code. As used in this section, "exempt employee" also 5778
includes a permanent full-time or permanent part-time employee of 5779
the secretary of state, auditor of state, treasurer of state, or 5780
attorney general who has not been placed in an appropriate 5781

bargaining unit by the state employment relations board. 5782

Sec. 124.18. (A) Forty hours shall be the standard work week 5783
for all employees whose salary or wage is paid in whole or in part 5784
by the state or by any state-supported college or university. When 5785
any employee whose salary or wage is paid in whole or in part by 5786
the state or by any state-supported college or university is 5787
required by an authorized administrative authority to be in an 5788
active pay status more than forty hours in any calendar week, the 5789
employee shall be compensated for such time over forty hours, 5790
except as otherwise provided in this section, at one and one-half 5791
times the employee's regular rate of pay. The use of sick leave or 5792
any leave used in lieu of sick leave shall not be considered to be 5793
active pay status for the purposes of earning overtime or 5794
compensatory time by employees whose wages are paid directly by 5795
warrant of the director of budget and management. A flexible-hours 5796
employee is not entitled to compensation for overtime work unless 5797
the employee's authorized administrative authority required the 5798
employee to be in active pay status for more than forty hours in a 5799
calendar week, regardless of the number of hours the employee 5800
works on any day in the same calendar week. 5801

Such compensation for overtime work shall be paid no later 5802
than at the conclusion of the next succeeding pay period. 5803

If the employee elects to take compensatory time off in lieu 5804
of overtime pay for any overtime worked, such compensatory time 5805
shall be granted by the employee's administrative superior, on a 5806
time and one-half basis, at a time mutually convenient to the 5807
employee and the administrative superior. Compensatory time is not 5808
available for use until it appears on the employee's earning 5809
statement and the compensation described in the earning statement 5810
is available to the employee. 5811

An employee may accrue compensatory time to a maximum of two 5812

hundred forty hours, except that public safety employees and other 5813
employees who meet the criteria established in the "Federal Fair 5814
Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, 5815
as amended, may accrue a maximum of four hundred eighty hours of 5816
compensatory time. An employee shall be paid at the employee's 5817
regular rate of pay for any hours of compensatory time accrued in 5818
excess of these maximum amounts if the employee has not used the 5819
compensatory time within one hundred eighty days after it is 5820
granted, if the employee transfers to another agency of the state, 5821
or if a change in the employee's status exempts the employee from 5822
the payment of overtime compensation. Upon the termination of 5823
employment, any employee with accrued but unused compensatory time 5824
shall be paid for that time at a rate that is the greater of the 5825
employee's final regular rate of pay or the employee's average 5826
regular rate of pay during the employee's last three years of 5827
employment with the state. 5828

No overtime, as described in this section, can be paid unless 5829
it has been authorized by the authorized administrative authority. 5830
Employees may be exempted from the payment of compensation as 5831
required by this section only under the criteria for exemption 5832
from the payment of overtime compensation established in the 5833
"Federal Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 5834
U.S.C.A. 207, 213, as amended. With the approval of the director 5835
of administrative services, the appointing authority may establish 5836
a policy to grant compensatory time or to pay compensation to 5837
state employees who are exempt from overtime compensation. With 5838
the approval of the board of county commissioners, a county human 5839
services department may establish a policy to grant compensatory 5840
time or to pay compensation to employees of the department who are 5841
exempt from overtime compensation. 5842

(B)(1) ~~An~~ Except as otherwise provided in section 124.19 of 5843
the Revised Code, an employee, whose salary or wage is paid in 5844

whole or in part by the state, shall be paid for the holidays 5845
declared in that section ~~124.19 of the Revised Code~~ and shall not 5846
be required to work on those holidays, unless, in the opinion of 5847
the employee's responsible administrative authority, failure to 5848
work on those holidays would impair the public service. An 5849
employee paid directly by warrant of the director of budget and 5850
management who is scheduled to work on a holiday and who does not 5851
report to work the day before, the day of, or the day after the 5852
holiday due to an illness of the employee or of a member of the 5853
employee's immediate family shall not receive holiday pay as 5854
provided by this division, unless the employee can provide 5855
documentation of extenuating circumstances that prohibited the 5856
employee from so reporting to work. An employee also shall not be 5857
paid for a holiday unless the employee was in active pay status on 5858
the scheduled work day immediately preceding the holiday, except 5859
that an employee need not be in active pay status on that work day
in order to be paid for the holiday if the employee is furloughed
on that work day under section 124.392 of the Revised Code. 5862

(2) If any of the holidays declared in section 124.19 of the 5864
Revised Code falls on Saturday, the Friday immediately preceding 5865
shall be observed as the holiday. If any of the holidays declared 5866
in section 124.19 of the Revised Code falls on Sunday, the Monday 5867
immediately succeeding shall be observed as the holiday. Employees 5868
whose work schedules are based on the requirements of a 5869
seven-days-a-week work operation shall observe holidays on the 5870
actual days specified in section 124.19 of the Revised Code. 5871

(3) If an employee's work schedule is other than Monday 5872
through Friday, the employee shall be entitled to eight hours of 5873
holiday pay for holidays observed on the employee's day off 5874
regardless of the day of the week on which they are observed. 5875

(4) A full-time permanent employee is entitled to a minimum 5876

of eight hours of pay for each holiday regardless of the 5877
employee's work shift and work schedule. A flexible-hours 5878
employee, who is normally scheduled to work in excess of eight 5879
hours on a day on which a holiday falls, either shall be required 5880
to work an alternate schedule for that week or shall receive 5881
additional holiday pay for the hours the employee is normally 5882
scheduled to work. Such an alternate schedule may require a 5883
flexible-hours employee to work five shifts consisting of eight 5884
hours each during the week including the holiday, and, in that 5885
case, the employee shall receive eight hours of holiday pay for 5886
the day the holiday is observed. 5887

(5) Part-time permanent employees shall receive holiday pay 5888
on a pro-rated basis, based upon the daily average of actual hours 5889
worked, excluding overtime hours worked, in the previous calendar 5890
quarter. The figure shall be calculated for the preceding calendar 5891
quarter on the first day of January, April, July, and October of 5892
each year. 5893

(6) When an employee who is eligible for overtime pay under 5894
this section is required by the employee's responsible 5895
administrative authority to work on the day observed as a holiday, 5896
the employee shall be entitled to pay for such time worked at one 5897
and one-half times the employee's regular rate of pay in addition 5898
to the employee's regular pay, or to be granted compensatory time 5899
off at time and one-half thereafter, at the employee's option. 5900
Payment at such rate shall be excluded in the calculation of hours 5901
in active pay status. 5902

(C) Each appointing authority may designate the number of 5903
employees in an agency who are flexible-hours employees. The 5904
appointing authority may establish for each flexible-hours 5905
employee a specified minimum number of hours to be worked each day 5906
that is consistent with the "Federal Fair Labor Standards Act of 5907
1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as amended. 5908

(D) This section shall be uniformly administered for 5909
employees as defined in section 124.01 of the Revised Code and by 5910
the personnel departments of state-supported colleges and 5911
universities for employees of state-supported colleges and 5912
universities. If employees are not paid directly by warrant of the 5913
director of budget and management, the political subdivision shall 5914
determine whether the use of sick leave shall be considered to be 5915
active pay status for purposes of those employees earning overtime 5916
or compensatory time. 5917

(E) Policies relating to the payment of overtime pay or the 5918
granting of compensatory time off shall be adopted by the chief 5919
administrative officer of the house of representatives for 5920
employees of the house of representatives, by the clerk of the 5921
senate for employees of the senate, and by the director of the 5922
legislative service commission for all other legislative 5923
employees. 5924

(F) As used in this section, "regular rate of pay" means the 5925
base rate of pay an employee receives plus any pay supplements 5926
received pursuant to section 124.181 of the Revised Code. 5927

Sec. 124.19. (A)(1) State holidays shall be the first day of 5928
January, the third Monday in January, the third Monday in 5929
February, the day designated in the "Act of June 28, 1968," 82 5930
Stat. 250, 5 U.S.C. 6103, as amended, for the commemoration of 5931
Memorial day, the fourth day of July, the first Monday in 5932
September, the second Monday in October, the eleventh day of 5933
November, the fourth Thursday in November, the twenty-fifth day of 5934
December, and any day appointed and recommended by the governor of 5935
this state or the president of the United States. ~~Employees~~ Except 5936
as provided in division (A)(2) of this section, employees shall be 5937
paid for these holidays as specified in section 124.18 of the 5938
Revised Code. 5939

(2)(a) Except as provided in division (A)(2)(b) of this 5940
section, if the governor declares a fiscal emergency under section 5941
126.05 of the Revised Code, the governor may place a moratorium on 5942
the receipt of pay by employees paid by warrant of the director of 5943
budget and management for any of the holidays listed in division 5944
(A)(1) of this section during the period from July 1, 2009, 5945
through June 30, 2011. 5946

The moratorium applies to employees of the secretary of 5947
state, auditor of state, treasurer of state, and attorney general 5948
who are subject to this section, unless the secretary of state, 5949
auditor of state, treasurer of state, or attorney general chooses 5950
to exempt the office's employees from the moratorium and so 5951
notifies the director of administrative services in writing not 5952
later than thirty days before the date of the unpaid holiday. 5953

The moratorium does not apply to the officers and employees 5954
of the judicial branch who are subject to this section, unless the 5955
chief justice of the supreme court determines that these officers 5956
and employees will be subject to the moratorium and so notifies 5957
the director of administrative services in writing, in accordance 5958
with guidance established by the director, not later than thirty 5959
days before the date of the unpaid holiday. 5960

The moratorium does not apply to the employees of the general 5961
assembly and legislative agencies who are subject to this section, 5962
unless the president of the senate and speaker of the house of 5963
representatives jointly determine that these employees will be 5964
subject to the moratorium and so notify the director of 5965
administrative services in writing, in accordance with guidance 5966
established by the director, not later than thirty days before the 5967
date of the unpaid holiday. 5968

(b) During the period from July 1, 2009, through June 30, 5969
2011, those employees who are subject to a moratorium imposed by 5970
division (A)(2)(a) of this section and who are required by their 5971

appointing authorities to work on the holidays listed in division 5972
(A)(1) of this section shall be paid at their regular rate of pay 5973
for any such time worked on the holiday, subject to any applicable 5974
overtime provisions of the "Federal Fair Labor Standards Act of 5975
1938," 52 Stat. 1069, 29 U.S.C. 207, 213, as amended. 5976

(B) The board of trustees of a community college, technical 5977
college, state community college, or state university or college 5978
as defined in division (A)(1) of section 3345.12 of the Revised 5979
Code may, for all employees of the college or university, observe 5980
on days other than those specified in division (A) of this section 5981
any of the holidays otherwise observed on the third Monday in 5982
January, the third Monday in February, and the second Monday in 5983
October. 5984

Sec. 124.23. (A) All applicants for positions and places in 5985
the classified service shall be subject to examination, except for 5986
applicants for positions as professional or certified service and 5987
paraprofessional employees of county boards of mental retardation 5988
and developmental disabilities, who shall be hired in the manner 5989
provided in section 124.241 of the Revised Code. 5990

(B) Any examination administered under this section shall be 5991
public and be open to all citizens of the United States and those 5992
persons who have legally declared their intentions of becoming 5993
United States citizens, ~~within certain limitations to be~~ 5994
~~determined by.~~ For examinations administered for positions in the 5995
service of the state, the director of administrative services may 5996
determine certain limitations as to citizenship, age, experience, 5997
education, health, habit, and moral character. ~~Any~~ 5998

(C) Any person who has completed service in the uniformed 5999
services, who has been honorably discharged from the uniformed 6000
services or transferred to the reserve with evidence of 6001
satisfactory service, and who is a resident of this state and any 6002

member of the national guard or a reserve component of the armed 6003
forces of the United States who has completed more than one 6004
hundred eighty days of active duty service pursuant to an 6005
executive order of the president of the United States or an act of 6006
the congress of the United States may file with the director a 6007
certificate of service or honorable discharge, and, upon this 6008
filing, the person shall receive additional credit of twenty per 6009
cent of the person's total grade given in the regular examination 6010
in which the person receives a passing grade. 6011

As used in this division, "service in the uniformed services" 6012
and "uniformed services" have the same meanings as in the 6013
"Uniformed Services Employment and Reemployment Rights Act of 6014
1994," 108 Stat. 3149, 38 U.S.C.A. 4303. 6015

~~(C)~~(D) An examination may include an evaluation of such 6016
factors as education, training, capacity, knowledge, manual 6017
dexterity, and physical or psychological fitness. An examination 6018
shall consist of one or more tests in any combination. Tests may 6019
be written, oral, physical, demonstration of skill, or an 6020
evaluation of training and experiences and shall be designed to 6021
fairly test the relative capacity of the persons examined to 6022
discharge the particular duties of the position for which 6023
appointment is sought. Tests may include structured interviews, 6024
assessment centers, work simulations, examinations of knowledge, 6025
skills, and abilities, and any other acceptable testing methods. 6026
If minimum or maximum requirements are established for any 6027
examination, they shall be specified in the examination 6028
announcement. 6029

~~(D)~~(E) The director of administrative services shall have 6030
control of all examinations administered for positions in the 6031
service of the state and all other examinations the director 6032
administers as provided in section 124.07 of the Revised Code, 6033
except as otherwise provided in sections 124.01 to 124.64 of the 6034

Revised Code. ~~No~~ 6035

(F) No questions in any examination shall relate to political 6036
or religious opinions or affiliations. No credit for seniority, 6037
efficiency, or any other reason shall be added to an applicant's 6038
examination grade unless the applicant achieves at least the 6039
minimum passing grade on the examination without counting that 6040
extra credit. 6041

~~(E)~~(G) Except as otherwise provided in sections 124.01 to 6042
124.64 of the Revised Code, the director of administrative 6043
services shall give reasonable notice of the time, place, and 6044
general scope of every competitive examination for appointment ~~to~~ 6045
~~a position in the civil service~~ that the director administers for 6046
positions in the service of the state. The director shall send 6047
written, printed, or electronic notices of every examination to be 6048
conducted for positions in the ~~state~~ classified civil service of 6049
the state to each agency of the type the director of job and 6050
family services specifies and, in the case of a county in which no 6051
such agency is located, to the clerk of the court of common pleas 6052
of that county and to the clerk of each city located within that 6053
county. Those notices shall be posted in conspicuous public places 6054
in the designated agencies or the courthouse, and city hall of the 6055
cities, of the counties in which no designated agency is located 6056
for at least two weeks preceding any examination involved, and in 6057
a conspicuous place in the office of the director of 6058
administrative services for at least two weeks preceding any 6059
examination involved. In case of examinations limited by the 6060
director to a district, county, city, or department, the director 6061
shall provide by rule for adequate publicity of an examination in 6062
the district, county, city, or department within which competition 6063
is permitted. 6064

Sec. 124.321. (A) Whenever it becomes necessary for an 6065

appointing authority to reduce its work force, the appointing 6066
authority shall lay off employees or abolish their positions in 6067
accordance with sections 124.321 to 124.327 of the Revised Code 6068
~~and. If the affected work force is in the service of the state,~~ 6069
~~the reduction shall also be in compliance with~~ the rules of the 6070
director of administrative services. 6071

(B)(1) Employees may be laid off as a result of a lack of 6072
funds within an appointing authority. For appointing authorities 6073
that employ persons whose salary or wage is paid by warrant of the 6074
director of budget and management, the director of budget and 6075
management shall be responsible for determining, consistent with 6076
the rules adopted under division (B)(3) of this section, whether a 6077
lack of funds exists. For appointing authorities that employ 6078
persons whose salary or wage is paid other than by warrant of the 6079
director of budget and management, the appointing authority itself 6080
shall determine whether a lack of funds exists ~~and shall file a~~ 6081
~~statement of rationale and supporting documentation with the~~ 6082
~~director of administrative services prior to sending the layoff~~ 6083
~~notice.~~ 6084

(2) As used in this division, a "lack of funds" means an 6085
appointing authority has a current or projected deficiency of 6086
funding to maintain current, or to sustain projected, levels of 6087
staffing and operations. This section does not require any 6088
transfer of money between funds in order to offset a deficiency or 6089
projected deficiency of funding for programs funded by the federal 6090
government, special revenue accounts, or proprietary accounts. 6091
Whenever a program receives funding through a grant or similar 6092
mechanism, a lack of funds shall be presumed for the positions 6093
assigned to and the employees who work under the grant or similar 6094
mechanism if, for any reason, the funding is reduced or withdrawn. 6095

(3) The director of budget and management shall adopt rules, 6097

under Chapter 119. of the Revised Code, for agencies whose 6098
employees are paid by warrant of the director of budget and 6099
management, for determining whether a lack of funds exists. 6100

(C)(1) Employees may be laid off as a result of lack of work 6101
within an appointing authority. For appointing authorities whose 6102
employees are paid by warrant of the director of budget and 6103
management, the director of administrative services shall 6104
determine, consistent with the rules adopted under division (F) of 6105
this section, whether a lack of work exists. All other appointing 6106
authorities shall themselves determine whether a lack of work 6107
exists ~~and shall file a statement of rationale and supporting~~ 6108
~~documentation with the director of administrative services prior~~ 6109
~~to sending the layoff notice.~~ 6110

(2) As used in this division, a "lack of work" means an 6111
appointing authority has a current or projected decrease in 6112
workload that requires a reduction of current or projected 6113
staffing levels in its organization or structure. The 6114
determination of a lack of work shall indicate the current or 6115
projected decrease in workload and whether the current or 6116
projected staffing levels of the appointing authority will be 6117
excessive. 6118

(D)(1) Employees may be laid off as a result of abolishment 6119
of positions. As used in this division, "abolishment" means the 6120
deletion of a position or positions from the organization or 6121
structure of an appointing authority. 6122

For purposes of this division, an appointing authority may 6123
abolish positions for any one or any combination of the following 6124
reasons: as a result of a reorganization for the efficient 6125
operation of the appointing authority, for reasons of economy, or 6126
for lack of work. 6127

(2)(a) Reasons of economy permitting an appointing authority 6128

to abolish a position and to lay off the holder of that position 6129
under this division shall be determined at the time the appointing 6130
authority proposes to abolish the position. The reasons of economy 6131
shall be based on the appointing authority's estimated amount of 6132
savings with respect to salary, benefits, and other matters 6133
associated with the abolishment of the position, except that the 6134
reasons of economy associated with the position's abolishment 6135
instead may be based on the appointing authority's estimated 6136
amount of savings with respect to salary and benefits only, if: 6137

(i) Either the appointing authority's operating appropriation 6138
has been reduced by an executive or legislative action, or the 6139
appointing authority has a current or projected deficiency in 6140
funding to maintain current or projected levels of staffing and 6141
operations; and 6142

(ii) In the case of a position in the service of the state, 6143
it files a notice of the position's abolishment with the director 6144
of administrative services within one year of the occurrence of 6145
the applicable circumstance described in division (D)(2)(a)(i) of 6146
this section. 6147

(b) The following principles apply when a circumstance 6148
described in division (D)(2)(a)(i) of this section would serve to 6149
authorize an appointing authority to abolish a position and to lay 6150
off the holder of the position under this division based on the 6151
appointing authority's estimated amount of savings with respect to 6152
salary and benefits only: 6153

(i) The position's abolishment shall be done in good faith 6154
and not as a subterfuge for discipline. 6155

(ii) If a circumstance affects a specific program only, the 6156
appointing authority only may abolish a position within that 6157
program. 6158

(iii) If a circumstance does not affect a specific program 6159

only, the appointing authority may identify a position that it 6160
considers appropriate for abolishment based on the reasons of 6161
economy. 6162

(3) Each appointing authority shall determine itself whether 6163
any position should be abolished. An appointing authority 6164
abolishing any position in the service of the state shall file a 6165
statement of rationale and supporting documentation with the 6166
director of administrative services prior to sending the notice of 6167
abolishment. 6168

If an abolishment results in a reduction of the work force, 6169
the appointing authority shall follow the procedures for laying 6170
off employees, subject to the following modifications: 6171

(a) The employee whose position has been abolished shall have 6172
the right to fill an available vacancy within the employee's 6173
classification. 6174

(b) If the employee whose position has been abolished has 6175
more retention points than any other employee serving in the same 6176
classification, the employee with the fewest retention points 6177
shall be displaced. 6178

(c) If the employee whose position has been abolished has the 6179
fewest retention points in the classification, the employee shall 6180
have the right to fill an available vacancy in a lower 6181
classification in the classification series. 6182

(d) If the employee whose position has been abolished has the 6183
fewest retention points in the classification, the employee shall 6184
displace the employee with the fewest retention points in the next 6185
or successively lower classification in the classification series. 6186

(E) Notwithstanding any contrary provision of the 6187
displacement procedure described in section 124.324 of the Revised 6188
Code for employees to displace other employees during a layoff, 6189
the director of administrative services or a county appointing 6190

authority may establish a paper lay-off process under which 6191
employees who are to be laid off or displaced may be required, 6192
before the date of their paper layoff, to preselect their options 6193
for displacing other employees. 6194

(F) The director of administrative services shall adopt rules 6195
under Chapter 119. of the Revised Code for the determination of 6196
lack of work within an appointing authority, for the abolishment 6197
of positions by an appointing authority, and for the 6198
implementation of this section as it relates to positions in the 6199
service of the state. 6200

Sec. 124.324. (A) A laid-off employee has the right to 6201
displace the employee with the fewest retention points in the 6202
following order: 6203

(1) Within the classification from which the employee was 6204
laid off; 6205

(2) Within the classification series from which the employee 6206
was laid off; 6207

(3) Within the classification the employee held immediately 6208
prior to holding the classification from which the employee was 6209
laid off, except that the employee may not displace employees in a 6210
classification if the employee does not meet the minimum 6211
qualifications of the classification or if the employee last held 6212
the classification more than three years prior to the date on 6213
which the employee was laid off. 6214

If, after exercising displacement rights, an employee is 6215
subject to further layoff action, the employee's displacement 6216
rights shall be in accordance with the classification from which 6217
the employee was first laid off. 6218

The director of administrative services shall verify the 6219
calculation of the retention points of all employees in the 6220

service of the state in an affected classification in accordance 6221
with section 124.325 of the Revised Code. 6222

(B) Following the order of layoff, an employee laid off in 6223
the classified civil service shall displace another employee 6224
within the same appointing authority or independent institution 6225
and layoff jurisdiction in the following manner: 6226

(1) Each laid-off employee possessing more retention points 6227
shall displace the employee with the fewest retention points in 6228
the next lower classification or successively lower classification 6229
in the same classification series. 6230

(2) Any employee displaced by an employee possessing more 6231
retention points shall displace the employee with the fewest 6232
retention points in the next lower classification or successively 6233
lower classification in the same classification series. This 6234
process shall continue, if necessary, until the employee with the 6235
fewest retention points in the lowest classification of the 6236
classification series of the same appointing authority or 6237
independent institution has been reached and, if necessary, laid 6238
off. 6239

(C) Employees shall notify the appointing authority of their 6240
intention to exercise their displacement rights, within five days 6241
after receiving notice of layoff. This division does not apply if 6242
the director of administrative services has established a paper 6243
lay-off process pursuant to division (E) of section 124.321 of the 6244
Revised Code that includes a different notification requirement 6245
for employees exercising their displacement rights under that 6246
process. 6247

(D) No employee shall displace an employee for whose position 6248
or classification there are certain position-specific minimum 6249
qualifications, as established by the appointing authority and 6250
reviewed for validity by the department of administrative 6251

services, or as established by bona fide occupational 6252
qualification, unless the employee desiring to displace another 6253
employee possesses the requisite position-specific minimum 6254
qualifications for the position or classification. 6255

(E) If an employee exercising displacement rights must 6256
displace an employee in another county within the same layoff 6257
district, the displacement shall not be construed to be a 6258
transfer. 6259

(F) The director of administrative services shall adopt rules 6260
under Chapter 119. of the Revised Code for the implementation of 6261
this section as it relates to positions in the service of the 6262
state. 6263

Sec. 124.325. (A) Retention points to reflect the length of 6264
continuous service and efficiency in service for all employees 6265
affected by a layoff shall be verified by the director of 6266
administrative services for positions in the service of the state. 6267

(B) An employee's length of continuous service will be 6268
carried from one layoff jurisdiction to another so long as no 6269
break in service occurs between transfers or appointments. 6270

(C) If two or more employees have an identical number of 6271
retention points, employees having the shortest period of 6272
continuous service shall be laid off first. 6273

(D)(1) As used in this division, "affected employee" means a 6274
city employee who becomes a county employee, or a county employee 6275
who becomes a city employee, as the result of any of the 6276
following: 6277

(a) The merger of a city and a county office; 6278

(b) The merger of city and county functions or duties; 6279

(c) The transfer of functions or duties between a city and 6280
county. 6281

(2) For purposes of this section, the new employer of any 6282
affected employee shall treat the employee's prior service with a 6283
former employer as if it had been served with the new employer. 6284

(E) The director of administrative services shall adopt rules 6285
in accordance with Chapter 119. of the Revised Code to establish a 6286
system for the assignment of retention points for each employee in 6287
the service of the state in a classification affected by a layoff 6288
and for determining, in those instances where employees in the 6289
service of the state have identical retention points, which 6290
employee shall be laid off first. 6291

Sec. 124.34. (A) The tenure of every officer or employee in 6292
the classified service of the state and the counties, civil 6293
service townships, cities, city health districts, general health 6294
districts, and city school districts of the state, holding a 6295
position under this chapter, shall be during good behavior and 6296
efficient service. No officer or employee shall be reduced in pay 6297
or position, fined, suspended, or removed, or have the officer's 6298
or employee's longevity reduced or eliminated, except as provided 6299
in section 124.32 of the Revised Code, and for incompetency, 6300
inefficiency, dishonesty, drunkenness, immoral conduct, 6301
insubordination, discourteous treatment of the public, neglect of 6302
duty, violation of any policy or work rule of the officer's or 6303
employee's appointing authority, violation of this chapter or the 6304
rules of the director of administrative services or the 6305
commission, any other failure of good behavior, any other acts of 6306
misfeasance, malfeasance, or nonfeasance in office, or conviction 6307
of a felony. The denial of a one-time pay supplement or a bonus to 6308
an officer or employee is not a reduction in pay for purposes of 6309
this section. 6310

This section does not apply to any modifications or 6311
reductions in pay authorized by section 124.152 or 124.392 of the 6312

Revised Code. 6313

An appointing authority may require an employee who is 6314
suspended to report to work to serve the suspension. An employee 6315
serving a suspension in this manner shall continue to be 6316
compensated at the employee's regular rate of pay for hours 6317
worked. The disciplinary action shall be recorded in the 6318
employee's personnel file in the same manner as other disciplinary 6319
actions and has the same effect as a suspension without pay for 6320
the purpose of recording disciplinary actions. 6321

A finding by the appropriate ethics commission, based upon a 6322
preponderance of the evidence, that the facts alleged in a 6323
complaint under section 102.06 of the Revised Code constitute a 6324
violation of Chapter 102., section 2921.42, or section 2921.43 of 6325
the Revised Code may constitute grounds for dismissal. Failure to 6326
file a statement or falsely filing a statement required by section 6327
102.02 of the Revised Code may also constitute grounds for 6328
dismissal. The tenure of an employee in the career professional 6329
service of the department of transportation is subject to section 6330
5501.20 of the Revised Code. 6331

Conviction of a felony is a separate basis for reducing in 6332
pay or position, suspending, or removing an officer or employee, 6333
even if the officer or employee has already been reduced in pay or 6334
position, suspended, or removed for the same conduct that is the 6335
basis of the felony. An officer or employee may not appeal to the 6336
state personnel board of review or the commission any disciplinary 6337
action taken by an appointing authority as a result of the 6338
officer's or employee's conviction of a felony. If an officer or 6339
employee removed under this section is reinstated as a result of 6340
an appeal of the removal, any conviction of a felony that occurs 6341
during the pendency of the appeal is a basis for further 6342
disciplinary action under this section upon the officer's or 6343
employee's reinstatement. 6344

A person convicted of a felony immediately forfeits the person's status as a classified employee in any public employment on and after the date of the conviction for the felony. If an officer or employee is removed under this section as a result of being convicted of a felony or is subsequently convicted of a felony that involves the same conduct that was the basis for the removal, the officer or employee is barred from receiving any compensation after the removal notwithstanding any modification or disaffirmance of the removal, unless the conviction for the felony is subsequently reversed or annulled.

Any person removed for conviction of a felony is entitled to a cash payment for any accrued but unused sick, personal, and vacation leave as authorized by law. If subsequently reemployed in the public sector, the person shall qualify for and accrue these forms of leave in the manner specified by law for a newly appointed employee and shall not be credited with prior public service for the purpose of receiving these forms of leave.

As used in this division, "felony" means any of the following:

(1) A felony that is an offense of violence as defined in section 2901.01 of the Revised Code;

(2) A felony that is a felony drug abuse offense as defined in section 2925.01 of the Revised Code;

(3) A felony under the laws of this or any other state or the United States that is a crime of moral turpitude;

(4) A felony involving dishonesty, fraud, or theft;

(5) A felony that is a violation of section 2921.05, 2921.32, or 2921.42 of the Revised Code.

(B) In case of a reduction, a suspension of forty or more work hours in the case of an employee exempt from the payment of

overtime compensation, a suspension of twenty-four or more work 6375
hours in the case of an employee required to be paid overtime 6376
compensation, a fine of forty or more hours' pay in the case of an 6377
employee exempt from the payment of overtime compensation, a fine 6378
of twenty-four or more hours' pay in the case of an employee 6379
required to be paid overtime compensation, or removal, except for 6380
the reduction or removal of a probationary employee, the 6381
appointing authority shall serve the employee with a copy of the 6382
order of reduction, fine, suspension, or removal, which order 6383
shall state the reasons for the action. 6384

Within ten days following the date on which the order is 6385
served or, in the case of an employee in the career professional 6386
service of the department of transportation, within ten days 6387
following the filing of a removal order, the employee, except as 6388
otherwise provided in this section, may file an appeal of the 6389
order in writing with the state personnel board of review or the 6390
commission. For purposes of this section, the date on which an 6391
order is served is the date of hand delivery of the order or the 6392
date of delivery of the order by certified United States mail, 6393
whichever occurs first. If an appeal is filed, the board or 6394
commission shall forthwith notify the appointing authority and 6395
shall hear, or appoint a trial board to hear, the appeal within 6396
thirty days from and after its filing with the board or 6397
commission. The board, commission, or trial board may affirm, 6398
disaffirm, or modify the judgment of the appointing authority. 6399
However, in an appeal of a removal order based upon a violation of 6400
a last chance agreement, the board, commission, or trial board may 6401
only determine if the employee violated the agreement and thus 6402
affirm or disaffirm the judgment of the appointing authority. 6403

In cases of removal or reduction in pay for disciplinary 6404
reasons, either the appointing authority or the officer or 6405
employee may appeal from the decision of the state personnel board 6406

of review or the commission, and any such appeal shall be to the 6407
court of common pleas of the county in which the appointing 6408
authority is located, or to the court of common pleas of Franklin 6409
county, as provided by section 119.12 of the Revised Code. 6410

(C) In the case of the suspension for any period of time, or 6411
a fine, demotion, or removal, of a chief of police, a chief of a 6412
fire department, or any member of the police or fire department of 6413
a city or civil service township, who is in the classified civil 6414
service, the appointing authority shall furnish the chief or 6415
member with a copy of the order of suspension, fine, demotion, or 6416
removal, which order shall state the reasons for the action. The 6417
order shall be filed with the municipal or civil service township 6418
civil service commission. Within ten days following the filing of 6419
the order, the chief or member may file an appeal, in writing, 6420
with the commission. If an appeal is filed, the commission shall 6421
forthwith notify the appointing authority and shall hear, or 6422
appoint a trial board to hear, the appeal within thirty days from 6423
and after its filing with the commission, and it may affirm, 6424
disaffirm, or modify the judgment of the appointing authority. An 6425
appeal on questions of law and fact may be had from the decision 6426
of the commission to the court of common pleas in the county in 6427
which the city or civil service township is situated. The appeal 6428
shall be taken within thirty days from the finding of the 6429
commission. 6430

(D) A violation of division (A)(7) of section 2907.03 of the 6431
Revised Code is grounds for termination of employment of a 6432
nonteaching employee under this section. 6433

(E) As used in this section, "last chance agreement" means an 6434
agreement signed by both an appointing authority and an officer or 6435
employee of the appointing authority that describes the type of 6436
behavior or circumstances that, if it occurs, will automatically 6437
lead to removal of the officer or employee without the right of 6438

appeal to the state personnel board of review or the appropriate 6439
commission. 6440

Sec. 124.381. Each employee of the department of 6441
rehabilitation and correction, the department of mental health, 6442
the department of mental retardation and developmental 6443
disabilities, the Ohio veteran's home agency, or who works at the 6444
Ohio schools for the deaf and blind, and each employee of the 6445
department of youth services as established in division (A) of 6446
section 124.14 of the Revised Code who suffers bodily injury 6447
inflicted by an inmate, patient, client, youth, or student in the 6448
facilities of these agencies during the time the employee is 6449
lawfully carrying out the assigned duties of the employee's 6450
position shall be paid the employee's total rate of pay during the 6451
period the employee is disabled as a result of that injury, but in 6452
no case to exceed one hundred twenty work days, in lieu of 6453
workers' compensation. Pay made according to this section shall 6454
not be charged to the employee's accumulation of sick leave 6455
credit. 6456

The director of administrative services shall adopt rules for 6457
the administration of the occupational injury leave program. The 6458
rules shall include, but not be limited to, provisions for 6459
determining a disability, for filing a claim for leave under this 6460
section, and for allowing or denying claims for the leave. 6461

During the time an employee is receiving injury compensation 6462
as provided in this section, the employee shall be exempt from the 6463
accumulation of vacation leave credit under section 124.134 of the 6464
Revised Code but shall continue to receive sick leave credit and 6465
personal leave credit under sections 124.382 and 124.386 of the 6466
Revised Code. 6467

In any case when an employee's disability, as covered by this 6468
section, extends beyond one hundred twenty work days, the employee 6469

shall immediately become subject to sections 124.382 and 124.385 6470
of the Revised Code regarding sick leave and disability leave 6471
benefits. 6472

An appointing authority may apply to the director of 6473
administrative services to grant injury leave in accordance with 6474
this section to law enforcement personnel employed by the agency. 6475

Sec. 124.392. (A) As used in this section, "~~exempt employee~~" 6476
~~has the same meaning as in section 124.152 of the Revised Code~~ 6477
"fiscal emergency" means a fiscal emergency declared by the 6478
governor under section 126.05 of the Revised Code. 6479

(B) The director of administrative services ~~may~~ shall, in 6480
consultation with the director of budget and management, establish 6481
a voluntary ~~cost savings program~~ or mandatory furlough programs 6482
for ~~exempt employees~~ any employee paid by warrant of the director 6483
of budget and management, regardless of funding sources, as 6484
necessary to reduce state personnel expenditures in the event of a 6485
fiscal emergency. The director shall adopt rules ~~in accordance~~ 6486
~~with~~ under Chapter 119. of the Revised Code to provide for the 6487
administration of the ~~program~~ programs. 6488

Sec. 124.821. The health care spending account fund is hereby 6489
created in the state treasury. The director of administrative 6490
services shall use money in the fund to make payments with regard 6491
to the participation of state employees in flexible spending 6492
accounts for certain nonreimbursed medical and dental expenses 6493
under section 125 of the Internal Revenue Code. All investment 6494
earnings on money in the fund shall be credited to the fund. 6495

Sec. 124.822. The dependent care spending account fund is 6496
hereby created in the state treasury. The director of 6497
administrative services shall use money in the fund to make 6498
payments with regard to the participation of state employees in 6499

flexible spending accounts for work-related dependent care 6500
expenses under section 125 of the Internal Revenue Code. All 6501
investment earnings on money in the fund shall be credited to the 6502
fund. 6503

Sec. 124.86. There is hereby created in the state treasury 6504
the employee educational development fund, to be used to pay the 6505
state administrative costs of any education program undertaken 6506
pursuant to specific collective bargaining agreements identified 6507
in uncodified law governing expenditure of the fund. The director 6508
of administrative services shall establish, and shall obtain the 6509
approval of the director of budget and management for, a charge 6510
for each such program that is sufficient only to recover those 6511
costs. All money collected from such a charge shall be deposited 6512
to the credit of the fund, and all interest earned on the fund 6513
shall accrue to the fund. The director of administrative services 6514
shall administer the fund in accordance with the respective 6515
collective bargaining agreements and may adopt rules for the 6516
purpose of this administration. 6517

Sec. 125.22. (A) The department of administrative services 6518
shall establish the central service agency to perform ~~routine~~ and 6519
provide support for the following boards and commissions: 6520

- (1) Architects board; 6521
- (2) Barber board; 6522
- (3) State chiropractic board; 6523
- (4) State board of cosmetology; 6524
- (5) Accountancy board; 6525
- (6) State dental board; 6526
- (7) State board of optometry; 6527

(8) Ohio occupational therapy, physical therapy, and athletic trainers board;	6528 6529
(9) State board of registration for professional engineers and surveyors;	6530 6531
(10) State board of sanitarian registration;	6532
(11) Board of embalmers and funeral directors;	6533
(12) State board of psychology;	6534
(13) Ohio optical dispensers board;	6535
(14) Board of <u>speech-language</u> pathology and audiology;	6536
(15) Counselor, social worker, and marriage and family therapist board;	6537 6538
(16) State veterinary medical licensing board;	6539
(17) Ohio board of dietetics;	6540
(18) Commission on Hispanic-Latino affairs;	6541
(19) Ohio respiratory care board;	6542
(20) Ohio commission on African American males;	6543
(21) Chemical dependency professionals board;	6544
<u>(21) State medical board;</u>	6545
<u>(22) Board of nursing;</u>	6546
<u>(23) State board of pharmacy;</u>	6547
<u>(24) Ohio medical transportation board;</u>	6548
<u>(25) Ohio athletic commission;</u>	6549
<u>(26) Board of motor vehicle collision repair;</u>	6550
<u>(27) Manufactured homes commission;</u>	6551
<u>(28) Board of orthotics, prosthetics, and pedorthics;</u>	6552
<u>(29) State board of career colleges and schools.</u>	6553

(B)(1) Notwithstanding any other section of the Revised Code, 6554
the agency shall perform and provide the following ~~routine~~ support 6555
services for the boards and commissions named in division (A) of 6556
this section unless the controlling board exempts a board or 6557
commission from this requirement on the recommendation of the 6558
director of administrative services: 6559

(a) ~~Preparing~~ Make recommendations regarding and preparing 6560
and processing payroll and other personnel documents; 6561

(b) Preparing and processing vouchers, purchase orders, 6562
encumbrances, and other accounting documents; 6563

(c) Maintaining ledgers of accounts and balances; 6564

(d) Preparing and monitoring budgets and allotment plans in 6565
consultation with the boards and commissions; 6566

(e) Other ~~routine~~ support services that the director of 6567
administrative services considers appropriate to achieve 6568
efficiency. 6569

(2) The agency may perform and provide other services which a 6570
board or commission named in division (A) of this section 6571
delegates to the agency and the agency accepts. 6572

(3) The agency may perform and provide any service for any 6573
professional or occupational licensing board not named in division 6574
(A) of this section or any commission if the board or commission 6575
requests such service and the agency accepts. 6576

(C) The director of administrative services shall be the 6577
appointing authority for the agency. 6578

(D) The agency shall determine the fees to be charged to the 6579
boards and commissions, which shall be in proportion to the 6580
services performed or provided for each board or commission. 6581

(E) Each board or commission named in division (A) of this 6582
section and any other board or commission requesting services from 6583

the agency shall pay these fees to the agency from the general 6584
revenue fund maintenance account of the board or commission or 6585
from such other fund as the operating expenses of the board or 6586
commission are paid. Any amounts set aside for a fiscal year by a 6587
board or commission to allow for the payment of fees shall be used 6588
only for the services performed or provided by the agency in that 6589
fiscal year. All receipts collected by the agency shall be 6590
deposited in the state treasury to the credit of the central 6591
service agency fund, which is hereby created. All expenses 6592
incurred by the agency in performing or providing services for the 6593
boards or commissions shall be paid from the fund. 6594

~~(F) Nothing in this section shall be construed as a grant of 6595
authority for the central service agency to initiate or deny 6596
personnel or fiscal actions for the boards and commissions. 6597~~

Sec. 126.05. On or before the tenth day of each month, the 6598
director of budget and management shall furnish to the governor 6599
statements in such form as the governor requires showing the 6600
condition of the general revenue fund. The statements shall 6601
provide a summary of the status of appropriations to enable the 6602
governor to exercise and maintain effective supervision and 6603
control over the expenditures of the state. The director shall 6604
also furnish statements the governor requests showing the 6605
condition of any other fund. 6606

If the governor ascertains that the available revenue 6607
receipts and balances for the general revenue fund for the current 6608
fiscal year will in all probability be less than the 6609
appropriations for the year, ~~he~~ the governor shall issue such 6610
orders to the state agencies as will prevent their expenditures 6611
and incurred obligations from exceeding such revenue receipts and 6612
balances. 6613

If the governor ascertains that the available revenue 6614

receipts and balances for any fund other than the general revenue 6615
fund for the current fiscal year will in all probability be less 6616
than the appropriations for the year, ~~he~~ the governor may issue 6617
such orders to the state agencies as will prevent their 6618
expenditures and incurred obligations from exceeding such revenue 6619
receipts and balances. 6620

If the governor ascertains that the available revenue 6621
receipts and balances in any fund or across funds will in all 6622
probability be less than the appropriations for the year, the 6623
governor may declare a fiscal emergency and may issue such orders 6624
as necessary to the director of budget and management to reduce 6625
expenditures, or to the director of administrative services to 6626
implement personnel actions consistent therewith, including, but 6627
not limited to, furlough programs under section 124.392 of the 6628
Revised Code. 6629

As used in this section, "expenditures and incurred 6630
obligations" includes all moneys expended or obligated pursuant to 6631
appropriations by the general assembly that are calculated and 6632
distributed pursuant to a distribution formula in law. 6633

Sec. 126.21. (A) The director of budget and management shall 6634
do all of the following: 6635

(1) Keep all necessary accounting records; 6636

(2) Prescribe and maintain the accounting system of the state 6637
and establish appropriate accounting procedures and charts of 6638
accounts; 6639

(3) Establish procedures for the use of written, electronic, 6640
optical, or other communications media for approving and reviewing 6641
payment vouchers; 6642

(4) Reconcile, in the case of any variation between the 6643
amount of any appropriation and the aggregate amount of items of 6644

the appropriation, with the advice and assistance of the state 6645
agency affected by it and the legislative service commission, 6646
totals so as to correspond in the aggregate with the total 6647
appropriation. In the case of a conflict between the item and the 6648
total of which it is a part, the item shall be considered the 6649
intended appropriation. 6650

(5) Evaluate on an ongoing basis and, if necessary, recommend 6651
improvements to the internal controls used in state agencies; 6652

(6) Authorize the establishment of petty cash accounts. The 6653
director may withdraw approval for any petty cash account and 6654
require the officer in charge to return to the state treasury any 6655
unexpended balance shown by the officer's accounts to be on hand. 6656
Any officer who is issued a warrant for petty cash shall render a 6657
detailed account of the expenditures of the petty cash and shall 6658
report when requested the balance of petty cash on hand at any 6659
time. 6660

(7) Process orders, invoices, vouchers, claims, and payrolls 6661
and prepare financial reports and statements; 6662

(8) Perform extensions, reviews, and compliance checks prior 6663
to or after approving a payment as the director considers 6664
necessary; 6665

(9) Issue the official comprehensive annual financial report 6666
of the state. The report shall cover all funds of the state 6667
reporting entity and shall include basic financial statements and 6668
required supplementary information prepared in accordance with 6669
generally accepted accounting principles and other information as 6670
the director provides. All state agencies, authorities, 6671
institutions, offices, retirement systems, and other component 6672
units of the state reporting entity as determined by the director 6673
shall furnish the director whatever financial statements and other 6674
information the director requests for the report, in the form, at 6675

the times, covering the periods, and with the attestation the 6676
director prescribes. The information for state institutions of 6677
higher education, as defined in section 3345.011 of the Revised 6678
Code, shall be submitted to the chancellor by the Ohio board of 6679
regents. The board shall establish a due date by which each such 6680
institution shall submit the information to the board, but no such 6681
date shall be later than one hundred twenty days after the end of 6682
the state fiscal year unless a later date is approved by the 6683
director. 6684

(B) In addition to the director's duties under division (A) 6685
of this section, the director may establish and administer one or 6686
more state payment card programs that permit or require state 6687
agencies to use a payment card to purchase equipment, materials, 6688
supplies, or services in accordance with guidelines issued by the 6689
director. The chief administrative officer of a state agency that 6690
uses a payment card for such purposes shall ensure that purchases 6691
made with the card are made in accordance with the guidelines 6692
issued by the director and do not exceed the unexpended, 6693
unencumbered, unobligated balance in the appropriation to be 6694
charged for the purchase. State agencies may participate in only 6695
those state payment card programs that the director establishes 6696
pursuant to this section. 6697

(C) In addition to the director's duties under divisions (A) 6698
and (B) of this section, the director may enter into any contract 6699
or agreement necessary for and incidental to the performance of 6700
the director's duties or the duties of the office of budget and 6701
management, including, but not limited to, contracts relating to 6702
the consolidation of statewide financing functions and common 6703
transactional processes. 6704

(D) In addition to the director's duties under divisions (A), 6705
(B), and (C) of this section, the director may appoint and fix the 6706
compensation of employees of the office of budget and management 6707

whose primary duties include the consolidation of statewide 6708
financing functions and common transactional processes. 6709

Sec. 126.24. The OAKS support organization fund is hereby 6710
created in the state treasury for the purpose of paying the 6711
operating expenses incurred by providing information technology 6712
services in support of the state's enterprise resource planning 6713
system. The fund shall consist of cash transfers from the 6714
accounting and budgeting fund and the human resources services 6715
fund, and other revenues designated to support the operating costs 6716
of the Ohio administrative knowledge system. All investment 6717
earnings of the fund shall be credited to the fund. 6718

Sec. 127.16. (A) Upon the request of either a state agency or 6719
the director of budget and management and after the controlling 6720
board determines that an emergency or a sufficient economic reason 6721
exists, the controlling board may approve the making of a purchase 6722
without competitive selection as provided in division (B) of this 6723
section. 6724

(B) Except as otherwise provided in this section, no state 6725
agency, using money that has been appropriated to it directly, 6726
shall: 6727

(1) Make any purchase from a particular supplier, that would 6728
amount to fifty thousand dollars or more when combined with both 6729
the amount of all disbursements to the supplier during the fiscal 6730
year for purchases made by the agency and the amount of all 6731
outstanding encumbrances for purchases made by the agency from the 6732
supplier, unless the purchase is made by competitive selection or 6733
with the approval of the controlling board; 6734

(2) Lease real estate from a particular supplier, if the 6735
lease would amount to seventy-five thousand dollars or more when 6736
combined with both the amount of all disbursements to the supplier 6737

during the fiscal year for real estate leases made by the agency 6738
and the amount of all outstanding encumbrances for real estate 6739
leases made by the agency from the supplier, unless the lease is 6740
made by competitive selection or with the approval of the 6741
controlling board. 6742

(C) Any person who authorizes a purchase in violation of 6743
division (B) of this section shall be liable to the state for any 6744
state funds spent on the purchase, and the attorney general shall 6745
collect the amount from the person. 6746

(D) Nothing in division (B) of this section shall be 6747
construed as: 6748

(1) A limitation upon the authority of the director of 6749
transportation as granted in sections 5501.17, 5517.02, and 6750
5525.14 of the Revised Code; 6751

(2) Applying to medicaid provider agreements under Chapter 6752
5111. of the Revised Code or payments or provider agreements under 6753
the disability medical assistance program established under 6754
Chapter 5115. of the Revised Code; 6755

(3) Applying to the purchase of examinations from a sole 6756
supplier by a state licensing board under Title XLVII of the 6757
Revised Code; 6758

(4) Applying to entertainment contracts for the Ohio state 6759
fair entered into by the Ohio expositions commission, provided 6760
that the controlling board has given its approval to the 6761
commission to enter into such contracts and has approved a total 6762
budget amount for such contracts as agreed upon by commission 6763
action, and that the commission causes to be kept itemized records 6764
of the amounts of money spent under each contract and annually 6765
files those records with the clerk of the house of representatives 6766
and the clerk of the senate following the close of the fair; 6767

(5) Limiting the authority of the chief of the division of 6768

mineral resources management to contract for reclamation work with 6769
an operator mining adjacent land as provided in section 1513.27 of 6770
the Revised Code; 6771

(6) Applying to investment transactions and procedures of any 6772
state agency, except that the agency shall file with the board the 6773
name of any person with whom the agency contracts to make, broker, 6774
service, or otherwise manage its investments, as well as the 6775
commission, rate, or schedule of charges of such person with 6776
respect to any investment transactions to be undertaken on behalf 6777
of the agency. The filing shall be in a form and at such times as 6778
the board considers appropriate. 6779

(7) Applying to purchases made with money for the per cent 6780
for arts program established by section 3379.10 of the Revised 6781
Code; 6782

(8) Applying to purchases made by the rehabilitation services 6783
commission of services, or supplies, that are provided to persons 6784
with disabilities, or to purchases made by the commission in 6785
connection with the eligibility determinations it makes for 6786
applicants of programs administered by the social security 6787
administration; 6788

(9) Applying to payments by the department of job and family 6789
services under section 5111.13 of the Revised Code for group 6790
health plan premiums, deductibles, coinsurance, and other 6791
cost-sharing expenses; 6792

(10) Applying to any agency of the legislative branch of the 6793
state government; 6794

(11) Applying to agreements or contracts entered into under 6795
section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the 6796
Revised Code; 6797

(12) Applying to purchases of services by the adult parole 6798
authority under section 2967.14 of the Revised Code or by the 6799

department of youth services under section 5139.08 of the Revised Code;	6800 6801
(13) Applying to dues or fees paid for membership in an organization or association;	6802 6803
(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;	6804 6805
(15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;	6806 6807 6808 6809
(16) Applying to purchases of tickets for passenger air transportation;	6810 6811
(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;	6812 6813 6814
(18) Applying to the judicial branch of state government;	6815
(19) Applying to purchases of liquor for resale by the division of liquor control;	6816 6817
(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;	6818 6819 6820
(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;	6821 6822 6823 6824
(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;	6825 6826 6827
(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;	6828 6829

(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;

(25) Applying to purchases from a qualified nonprofit agency pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of the Revised Code;

(26) Applying to payments by the department of job and family services to the United States department of health and human services for printing and mailing notices pertaining to the tax refund offset program of the internal revenue service of the United States department of the treasury;

(27) Applying to contracts entered into by the department of mental retardation and developmental disabilities under section 5123.18 of the Revised Code;

(28) Applying to payments made by the department of mental health under a physician recruitment program authorized by section 5119.101 of the Revised Code;

(29) Applying to contracts entered into with persons by the director of commerce for unclaimed funds collection and remittance efforts as provided in division (F) of section 169.03 of the Revised Code. The director shall keep an itemized accounting of unclaimed funds collected by those persons and amounts paid to them for their services.

(30) Applying to purchases made by a state institution of higher education in accordance with the terms of a contract between the vendor and an inter-university purchasing group comprised of purchasing officers of state institutions of higher education;

(31) Applying to the department of job and family services' purchases of health assistance services under the children's

health insurance program part I provided for under section 5101.50 6861
of the Revised Code, the children's health insurance program part 6862
II provided for under section 5101.51 of the Revised Code, or the 6863
children's health insurance program part III provided for under 6864
section 5101.52 of the Revised Code, or the children's buy-in 6865
program provided for under sections 5101.5211 to 5101.5216 of the 6866
Revised Code; 6867

(32) Applying to payments by the attorney general from the 6868
reparations fund to hospitals and other emergency medical 6869
facilities for performing medical examinations to collect physical 6870
evidence pursuant to section 2907.28 of the Revised Code; 6871

(33) Applying to contracts with a contracting authority or 6872
administrative receiver under division (B) of section 5126.056 of 6873
the Revised Code; 6874

(34) Applying to ~~reimbursements paid to the United States~~ 6875
~~department of veterans affairs for pharmaceutical and patient~~ 6876
~~supply purchases made on behalf of the Ohio veterans' home agency~~ 6877
purchases of goods and services by the department of veterans 6878
services in accordance with the terms of contracts entered into by 6879
the United States department of veterans affairs; 6880

~~(35) Applying to agreements entered into with terminal~~ 6881
~~distributors of dangerous drugs under section 173.79 of the~~ 6882
~~Revised Code;~~ 6883

~~(36)~~ Applying to payments by the superintendent of the bureau 6884
of criminal identification and investigation to the federal bureau 6885
of investigation for criminal records checks pursuant to section 6886
109.572 of the Revised Code. 6887

(E) When determining whether a state agency has reached the 6888
cumulative purchase thresholds established in divisions (B)(1) and 6889
(2) of this section, all of the following purchases by such agency 6890
shall not be considered: 6891

(1) Purchases made through competitive selection or with
controlling board approval; 6892
6893

(2) Purchases listed in division (D) of this section; 6894

(3) For the purposes of the threshold of division (B)(1) of
this section only, leases of real estate. 6895
6896

(F) As used in this section, "competitive selection," 6897
"purchase," "supplies," and "services" have the same meanings as 6898
in section 125.01 of the Revised Code. 6899

Sec. 131.33. (A) No state agency shall incur an obligation 6900
which exceeds the agency's current appropriation authority. 6901
~~Unexpended~~ Except as provided in division (D) of this section, 6902
unexpended balances of appropriations shall, at the close of the 6903
period for which the appropriations are made, revert to the funds 6904
from which the appropriations were made, except that the director 6905
of budget and management shall transfer such unexpended balances 6906
from the first fiscal year to the second fiscal year of an 6907
agency's appropriations to the extent necessary for voided 6908
warrants to be reissued pursuant to division (C) of section 126.37 6909
of the Revised Code. 6910

Except as provided in this section, appropriations made to a 6911
specific fiscal year shall be expended only to pay liabilities 6912
incurred within that fiscal year. 6913

(B) All payrolls shall be charged to the allotments of the 6914
fiscal quarters in which the applicable payroll vouchers are 6915
certified by the director of budget and management in accordance 6916
with section 126.07 of the Revised Code. As used in this ~~section~~ 6917
division, "payrolls" means any payment made in accordance with 6918
section 125.21 of the Revised Code. 6919

(C) Legal liabilities from prior fiscal years for which there 6920
is no reappropriation authority shall be discharged from the 6921

unencumbered balances of current appropriations. 6922

(D)(1) Federal grant funds obligated by the department of job 6923
and family services for financial allocations to county family 6924
services agencies and local workforce investment boards may, at 6925
the discretion of the director of job and family services, be 6926
available for expenditure for the duration of the federal grant 6927
period of obligation and liquidation, as follows: 6928

(a) At the end of the state fiscal year, all unexpended 6929
county family services agency and local workforce investment board 6930
financial allocations obligated from federal grant funds may 6931
continue to be valid for expenditure during subsequent state 6932
fiscal years. 6933

(b) The financial allocations described in division (D)(1)(a) 6934
of this section shall be reconciled at the end of the federal 6935
grant period of availability or as required by federal law, 6936
regardless of the state fiscal year of the appropriation. 6937

(2) The director of job and family services may adopt rules 6938
in accordance with section 111.15 of the Revised Code, as if they 6939
were internal management rules, as necessary to implement division 6940
(D) of this section. 6941

(3) As used in division (D) of this section: 6942

(a) "County family services agency" has the same meaning as 6943
in section 307.981 of the Revised Code. 6944

(b) "Local workforce investment board" means a local 6945
workforce investment board established under section 117 of the 6946
"Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 2832, 6947
as amended. 6948

Sec. 141.04. (A) The annual salaries of the chief justice of 6949
the supreme court and of the justices and judges named in this 6950
section payable from the state treasury are as follows, rounded to 6951

the nearest fifty dollars: 6952

(1) For the chief justice of the supreme court, the following 6953
amounts effective in the following years: 6954

(a) Beginning January 1, 2000, one hundred twenty-four 6955
thousand nine hundred dollars; 6956

(b) Beginning January 1, 2001, one hundred twenty-eight 6957
thousand six hundred fifty dollars; 6958

(c) After 2001, the amount determined under division (E)(1) 6959
of this section. 6960

(2) For the justices of the supreme court, the following 6961
amounts effective in the following years: 6962

(a) Beginning January 1, 2000, one hundred seventeen thousand 6963
two hundred fifty dollars; 6964

(b) Beginning January 1, 2001, one hundred twenty thousand 6965
seven hundred fifty dollars; 6966

(c) After 2001, the amount determined under division (E)(1) 6967
of this section. 6968

(3) For the judges of the courts of appeals, the following 6969
amounts effective in the following years: 6970

(a) Beginning January 1, 2000, one hundred nine thousand two 6971
hundred fifty dollars; 6972

(b) Beginning January 1, 2001, one hundred twelve thousand 6973
five hundred fifty dollars; 6974

(c) After 2001, the amount determined under division (E)(1) 6975
of this section. 6976

(4) For the judges of the courts of common pleas, the 6977
following amounts effective in the following years: 6978

(a) Beginning January 1, 2000, one hundred thousand five 6979
hundred dollars, reduced by an amount equal to the annual 6980

compensation paid to that judge from the county treasury pursuant 6981
to section 141.05 of the Revised Code; 6982

(b) Beginning January 1, 2001, one hundred three thousand 6983
five hundred dollars, reduced by an amount equal to the annual 6984
compensation paid to that judge from the county treasury pursuant 6985
to section 141.05 of the Revised Code; 6986

(c) After 2001, the aggregate annual salary amount determined 6987
under division (E)(2) of this section reduced by an amount equal 6988
to the annual compensation paid to that judge from the county 6989
treasury pursuant to section 141.05 of the Revised Code. 6990

(5) For the full-time judges of a municipal court or the 6991
part-time judges of a municipal court of a territory having a 6992
population of more than fifty thousand, the following amounts 6993
effective in the following years, which amounts shall be in 6994
addition to all amounts received pursuant to divisions (B)(1)(a) 6995
and (2) of section 1901.11 of the Revised Code from municipal 6996
corporations and counties: 6997

(a) Beginning January 1, 2000, thirty-two thousand six 6998
hundred fifty dollars; 6999

(b) Beginning January 1, 2001, thirty-five thousand five 7000
hundred dollars; 7001

(c) After 2001, the amount determined under division (E)(3) 7002
of this section. 7003

(6) For judges of a municipal court designated as part-time 7004
judges by section 1901.08 of the Revised Code, other than 7005
part-time judges to whom division (A)(5) of this section applies, 7006
and for judges of a county court, the following amounts effective 7007
in the following years, which amounts shall be in addition to any 7008
amounts received pursuant to division (A) of section 1901.11 of 7009
the Revised Code from municipal corporations and counties or 7010
pursuant to division (A) of section 1907.16 of the Revised Code 7011

from counties: 7012

(a) Beginning January 1, 2000, eighteen thousand eight 7013
hundred dollars; 7014

(b) Beginning January 1, 2001, twenty thousand four hundred 7015
fifty dollars; 7016

(c) After 2001, the amount determined under division (E)(4) 7017
of this section. 7018

(B) Except as provided in section 1901.121 of the Revised 7019
Code, except as otherwise provided in this division, and except 7020
for the compensation to which the judges described in division 7021
(A)(5) of this section are entitled pursuant to divisions 7022
(B)(1)(a) and (2) of section 1901.11 of the Revised Code, the 7023
annual salary of the chief justice of the supreme court and of 7024
each justice or judge listed in division (A) of this section shall 7025
be paid in equal monthly installments from the state treasury. If 7026
the chief justice of the supreme court or any justice or judge 7027
listed in division (A)(2), (3), or (4) of this section delivers a 7028
written request to be paid biweekly to the administrative director 7029
of the supreme court prior to the first day of January of any 7030
year, the annual salary of the chief justice or the justice or 7031
judge that is listed in division (A)(2), (3), or (4) of this 7032
section shall be paid, during the year immediately following the 7033
year in which the request is delivered to the administrative 7034
director of the supreme court, biweekly from the state treasury. 7035

(C) Upon the death of the chief justice or a justice of the 7036
supreme court during that person's term of office, an amount shall 7037
be paid in accordance with section 2113.04 of the Revised Code, or 7038
to that person's estate. The amount shall equal the amount of the 7039
salary that the chief justice or justice would have received 7040
during the remainder of the unexpired term or an amount equal to 7041
the salary of office for two years, whichever is less. 7042

(D) Neither the chief justice of the supreme court nor any justice or judge of the supreme court, the court of appeals, the court of common pleas, or the probate court shall hold any other office of trust or profit under the authority of this state or the United States.

(E)(1) Each ~~calendar~~ year from 2002 through 2008, the annual salaries of the chief justice of the supreme court and of the justices and judges named in divisions (A)(2) and (3) of this section shall be increased by an amount equal to the adjustment percentage for that year multiplied by the compensation paid the preceding year pursuant to division (A)(1), (2), or (3) of this section.

(2) Each ~~calendar~~ year from 2002 through 2008, the aggregate annual salary payable under division (A)(4) of this section to the judges named in that division shall be increased by an amount equal to the adjustment percentage for that year multiplied by the aggregate compensation paid the preceding year pursuant to division (A)(4) of this section and section 141.05 of the Revised Code.

(3) Each ~~calendar~~ year from 2002 through 2008, the salary payable from the state treasury under division (A)(5) of this section to the judges named in that division shall be increased by an amount equal to the adjustment percentage for that year multiplied by the aggregate compensation paid the preceding year pursuant to division (A)(5) of this section and division (B)(1)(a) of section 1901.11 of the Revised Code.

(4) Each ~~calendar~~ year from 2002 through 2008, the salary payable from the state treasury under division (A)(6) of this section to the judges named in that division shall be increased by an amount equal to the adjustment percentage for that year multiplied by the aggregate compensation paid the preceding year pursuant to division (A)(6) of this section and division (A) of

section 1901.11 of the Revised Code from municipal corporations 7075
and counties or division (A) of section 1907.16 of the Revised 7076
Code from counties. 7077

(F) In addition to the salaries payable pursuant to this 7078
section, the chief justice of the supreme court and the justices 7079
of the supreme court shall be entitled to a vehicle allowance of 7080
five hundred dollars per month, payable from the state treasury. 7081
The allowance shall be increased on the first day of January of 7082
each odd numbered year by an amount equal to the percentage 7083
increase, if any, in the consumer price index for the immediately 7084
preceding twenty-four month period for which information is 7085
available. 7086

(G) As used in this section: 7087

(1) The "adjustment percentage" for a year is the lesser of 7088
the following: 7089

(a) Three per cent; 7090

(b) The percentage increase, if any, in the consumer price 7091
index over the twelve-month period that ends on the thirtieth day 7092
of September of the immediately preceding year, rounded to the 7093
nearest one-tenth of one per cent. 7094

(2) "Consumer price index" has the same meaning as in section 7095
101.27 of the Revised Code. 7096

(3) "Salary" does not include any portion of the cost, 7097
premium, or charge for health, medical, hospital, dental, or 7098
surgical benefits, or any combination of those benefits, covering 7099
the chief justice of the supreme court or a justice or judge named 7100
in this section and paid on the chief justice's or the justice's 7101
or judge's behalf by a governmental entity. 7102

Sec. 145.012. (A) "Public employee," as defined in division 7103
(A) of section 145.01 of the Revised Code, does not include any 7104

person:	7105
(1) Who is employed by a private, temporary-help service and performs services under the direction of a public employer or is employed on a contractual basis as an independent contractor under a personal service contract with a public employer;	7106 7107 7108 7109
(2) Who is an emergency employee serving on a temporary basis in case of fire, snow, earthquake, flood, or other similar emergency;	7110 7111 7112
(3) Who is employed in a program established pursuant to the "Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 1501;	7113 7114 7115
(4) Who is an appointed member of either the motor vehicle salvage dealers board or the motor vehicle dealer's board whose rate and method of payment are determined pursuant to division (J) of section 124.15 of the Revised Code;	7116 7117 7118 7119
(5) Who is employed as an election worker and paid less than five hundred dollars per calendar year for that service;	7120 7121
(6) Who is employed as a firefighter in a position requiring satisfactory completion of a firefighter training course approved under former section 3303.07 or section 4765.55 of the Revised Code or conducted under section 3737.33 of the Revised Code except for the following:	7122 7123 7124 7125 7126
(a) Any firefighter who has elected under section 145.013 of the Revised Code to remain a contributing member of the public employees retirement system;	7127 7128 7129
(b) Any firefighter who was eligible to transfer from the public employees retirement system to the Ohio police and fire pension fund under section 742.51 or 742.515 of the Revised Code and did not elect to transfer;	7130 7131 7132 7133
(c) Any firefighter who has elected under section 742.516 of	7134

the Revised Code to transfer from the Ohio police and fire pension fund to the public employees retirement system.

(7) Who is a member of the board of health of a city or general health district, which pursuant to sections 3709.051 and 3709.07 of the Revised Code includes a combined health district, and whose compensation for attendance at meetings of the board is set forth in division (B) of section 3709.02 or division (B) of section 3709.05 of the Revised Code, as appropriate;

(8) Who participates in an alternative retirement plan established under Chapter 3305. of the Revised Code;

(9) Who is a member of the board of directors of a sanitary district established under Chapter 6115. of the Revised Code;

(10) Who is a member of the unemployment compensation advisory council.

(B) No inmate of a correctional institution operated by the department of rehabilitation and correction, no patient in a hospital for the mentally ill or criminally insane operated by the department of mental health, no resident in an institution for the mentally retarded operated by the department of mental retardation and developmental disabilities, no resident admitted as a patient of a veterans' home operated under Chapter 5907. of the Revised Code, and no resident of a county home shall be considered as a public employee for the purpose of establishing membership or calculating service credit or benefits under this chapter. Nothing in this division shall be construed to affect any service credit attained by any person who was a public employee before becoming an inmate, patient, or resident at any institution listed in this division, or the payment of any benefit for which such a person or such a person's beneficiaries otherwise would be eligible.

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Sec. 145.298. (A) As used in this section: 7165

(1) "State employing unit" means an employing unit described 7166
in division (A)(2) of section 145.297 of the Revised Code. 7167

(2) "State institution" means a state correctional facility, 7168
a state institution for the mentally ill, or a state institution 7169
for the care, treatment, and training of the mentally retarded. 7170

(B) ~~In (1) Prior to July 1, 2009, in~~ the event of a proposal 7171
to close a state institution or lay off, within a six-month 7172
period, a number of persons employed at an institution that equals 7173
or exceeds the lesser of fifty or ten per cent of the persons 7174
employed at the institution, the employing unit responsible for 7175
the institution's operation shall establish a retirement incentive 7176
plan for persons employed at the institution. 7177

(2) On and after July 1, 2009, in the event of a proposal to 7178
close a state institution or lay off, within a six-month period, a 7179
number of persons employed at an institution that equals or 7180
exceeds the lesser of two hundred or thirty per cent of the 7181
persons employed at the institution, the employing unit 7182
responsible for the institution's operation shall establish a 7183
retirement incentive plan for persons employed at the institution. 7184

(C) ~~In (1) Prior to July 1, 2009, in~~ the event of a proposal, 7185
other than ~~a proposal~~ the proposals described in division (B) of 7186
this section, to lay off, within a six-month period, a number of 7187
employees of a state employing unit that equals or exceeds the 7188
lesser of fifty or ten per cent of the employing unit's employees, 7189
the employing unit shall establish a retirement incentive plan for 7190
employees of the employing unit. 7191

(2) On and after July 1, 2009, in the event of a proposal, 7192
other than the proposals described in division (B) of this 7193
section, to lay off, within a six-month period, a number of 7194

employees of a state employing unit that equals or exceeds the 7195
lesser of two hundred or thirty per cent of the employing unit's 7196
employees, the employing unit shall establish a retirement 7197
incentive plan for employees of the employing unit. 7198

(D)(1) A retirement incentive plan established under this 7199
section shall be consistent with the requirements of section 7200
145.297 of the Revised Code, except as provided in division (D)(2) 7201
of this section and except that the plan shall go into effect at 7202
the time the layoffs or proposed closings are announced and shall 7203
remain in effect until the date of the layoffs or closings. 7204

(2) A retirement incentive plan established under this 7205
section due to the proposed closing of a state institution by the 7206
department of mental health prior to July 1, 1997, shall be 7207
consistent with the requirements of section 145.297 of the Revised 7208
Code, except as follows: 7209

(a) The employing unit shall purchase at least three years of 7210
service credit for each participating employee, except that it 7211
shall not purchase more service credit than the amount allowed by 7212
division (D) of section 145.297 of the Revised Code; 7213

(b) The plan shall go into effect at the time the proposed 7214
closing is announced and shall remain in effect at least until the 7215
date of the closing. 7216

(3) If the employing unit already has a retirement incentive 7217
plan in effect, the plan shall remain in effect at least until the 7218
date of the layoffs or closings. The employing unit may revise the 7219
existing plan to provide greater benefits, but if it revises the 7220
plan, it shall give written notice of the changes to all employees 7221
who have elected to participate in the original plan, and it shall 7222
provide the greater benefits to all employees who participate in 7223
the plan, whether their elections to participate were made before 7224
or after the date of the revision. 7225

Sec. 149.43. (A) As used in this section:	7226
(1) "Public record" means records kept by any public office,	7227
including, but not limited to, state, county, city, village,	7228
township, and school district units, and records pertaining to the	7229
delivery of educational services by an alternative school in this	7230
state kept by the nonprofit or for-profit entity operating the	7231
alternative school pursuant to section 3313.533 of the Revised	7232
Code. "Public record" does not mean any of the following:	7233
(a) Medical records;	7234
(b) Records pertaining to probation and parole proceedings or	7235
to proceedings related to the imposition of community control	7236
sanctions and post-release control sanctions;	7237
(c) Records pertaining to actions under section 2151.85 and	7238
division (C) of section 2919.121 of the Revised Code and to	7239
appeals of actions arising under those sections;	7240
(d) Records pertaining to adoption proceedings, including the	7241
contents of an adoption file maintained by the department of	7242
health under section 3705.12 of the Revised Code;	7243
(e) Information in a record contained in the putative father	7244
registry established by section 3107.062 of the Revised Code,	7245
regardless of whether the information is held by the department of	7246
job and family services or, pursuant to section 3111.69 of the	7247
Revised Code, the office of child support in the department or a	7248
child support enforcement agency;	7249
(f) Records listed in division (A) of section 3107.42 of the	7250
Revised Code or specified in division (A) of section 3107.52 of	7251
the Revised Code;	7252
(g) Trial preparation records;	7253
(h) Confidential law enforcement investigatory records;	7254

(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	7255 7256
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	7257 7258
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	7259 7260 7261 7262
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	7263 7264 7265 7266
(m) Intellectual property records;	7267
(n) Donor profile records;	7268
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	7269 7270
(p) Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT residential and familial information;	7271 7272 7273 7274
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;	7275 7276 7277 7278 7279
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	7280 7281
(s) Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under sections 307.621 to 307.629 of	7282 7283 7284

the Revised Code, and child fatality review data submitted by the 7285
child fatality review board to the department of health or a 7286
national child death review database, other than the report 7287
prepared pursuant to division (A) of section 307.626 of the 7288
Revised Code; 7289

(t) Records provided to and statements made by the executive 7290
director of a public children services agency or a prosecuting 7291
attorney acting pursuant to section 5153.171 of the Revised Code 7292
other than the information released under that section; 7293

(u) Test materials, examinations, or evaluation tools used in 7294
an examination for licensure as a nursing home administrator that 7295
the board of examiners of nursing home administrators administers 7296
under section 4751.04 of the Revised Code or contracts under that 7297
section with a private or government entity to administer; 7298

(v) Records the release of which is prohibited by state or 7299
federal law; 7300

(w) Proprietary information of or relating to any person that 7301
is submitted to or compiled by the Ohio venture capital authority 7302
created under section 150.01 of the Revised Code; 7303

(x) Information reported and evaluations conducted pursuant 7304
to section 3701.072 of the Revised Code; 7305

(y) Financial statements and data any person submits for any 7306
purpose to the Ohio housing finance agency or the controlling 7307
board in connection with applying for, receiving, or accounting 7308
for financial assistance from the agency, and information that 7309
identifies any individual who benefits directly or indirectly from 7310
financial assistance from the agency; 7311

(z) Records listed in section 5101.29 of the Revised Code. 7312

(aa) Discharges recorded with a county recorder under section 7313
317.24 of the Revised Code, as specified in division (B)(2) of 7314

that section. 7315

(2) "Confidential law enforcement investigatory record" means 7316
any record that pertains to a law enforcement matter of a 7317
criminal, quasi-criminal, civil, or administrative nature, but 7318
only to the extent that the release of the record would create a 7319
high probability of disclosure of any of the following: 7320

(a) The identity of a suspect who has not been charged with 7321
the offense to which the record pertains, or of an information 7322
source or witness to whom confidentiality has been reasonably 7323
promised; 7324

(b) Information provided by an information source or witness 7325
to whom confidentiality has been reasonably promised, which 7326
information would reasonably tend to disclose the source's or 7327
witness's identity; 7328

(c) Specific confidential investigatory techniques or 7329
procedures or specific investigatory work product; 7330

(d) Information that would endanger the life or physical 7331
safety of law enforcement personnel, a crime victim, a witness, or 7332
a confidential information source. 7333

(3) "Medical record" means any document or combination of 7334
documents, except births, deaths, and the fact of admission to or 7335
discharge from a hospital, that pertains to the medical history, 7336
diagnosis, prognosis, or medical condition of a patient and that 7337
is generated and maintained in the process of medical treatment. 7338

(4) "Trial preparation record" means any record that contains 7339
information that is specifically compiled in reasonable 7340
anticipation of, or in defense of, a civil or criminal action or 7341
proceeding, including the independent thought processes and 7342
personal trial preparation of an attorney. 7343

(5) "Intellectual property record" means a record, other than 7344

a financial or administrative record, that is produced or 7345
collected by or for faculty or staff of a state institution of 7346
higher learning in the conduct of or as a result of study or 7347
research on an educational, commercial, scientific, artistic, 7348
technical, or scholarly issue, regardless of whether the study or 7349
research was sponsored by the institution alone or in conjunction 7350
with a governmental body or private concern, and that has not been 7351
publicly released, published, or patented. 7352

(6) "Donor profile record" means all records about donors or 7353
potential donors to a public institution of higher education 7354
except the names and reported addresses of the actual donors and 7355
the date, amount, and conditions of the actual donation. 7356

(7) "Peace officer, parole officer, prosecuting attorney, 7357
assistant prosecuting attorney, correctional employee, youth 7358
services employee, firefighter, or EMT residential and familial 7359
information" means any information that discloses any of the 7360
following about a peace officer, parole officer, prosecuting 7361
attorney, assistant prosecuting attorney, correctional employee, 7362
youth services employee, firefighter, or EMT: 7363

(a) The address of the actual personal residence of a peace 7364
officer, parole officer, assistant prosecuting attorney, 7365
correctional employee, youth services employee, firefighter, or 7366
EMT, except for the state or political subdivision in which the 7367
peace officer, parole officer, assistant prosecuting attorney, 7368
correctional employee, youth services employee, firefighter, or 7369
EMT resides; 7370

(b) Information compiled from referral to or participation in 7371
an employee assistance program; 7372

(c) The social security number, the residential telephone 7373
number, any bank account, debit card, charge card, or credit card 7374
number, or the emergency telephone number of, or any medical 7375

information pertaining to, a peace officer, parole officer, 7376
prosecuting attorney, assistant prosecuting attorney, correctional 7377
employee, youth services employee, firefighter, or EMT; 7378

(d) The name of any beneficiary of employment benefits, 7379
including, but not limited to, life insurance benefits, provided 7380
to a peace officer, parole officer, prosecuting attorney, 7381
assistant prosecuting attorney, correctional employee, youth 7382
services employee, firefighter, or EMT by the peace officer's, 7383
parole officer's, prosecuting attorney's, assistant prosecuting 7384
attorney's, correctional employee's, youth services employee's, 7385
firefighter's, or EMT's employer; 7386

(e) The identity and amount of any charitable or employment 7387
benefit deduction made by the peace officer's, parole officer's, 7388
prosecuting attorney's, assistant prosecuting attorney's, 7389
correctional employee's, youth services employee's, firefighter's, 7390
or EMT's employer from the peace officer's, parole officer's, 7391
prosecuting attorney's, assistant prosecuting attorney's, 7392
correctional employee's, youth services employee's, firefighter's, 7393
or EMT's compensation unless the amount of the deduction is 7394
required by state or federal law; 7395

(f) The name, the residential address, the name of the 7396
employer, the address of the employer, the social security number, 7397
the residential telephone number, any bank account, debit card, 7398
charge card, or credit card number, or the emergency telephone 7399
number of the spouse, a former spouse, or any child of a peace 7400
officer, parole officer, prosecuting attorney, assistant 7401
prosecuting attorney, correctional employee, youth services 7402
employee, firefighter, or EMT; 7403

(g) A photograph of a peace officer who holds a position or 7404
has an assignment that may include undercover or plain clothes 7405
positions or assignments as determined by the peace officer's 7406
appointing authority. 7407

As used in divisions (A)(7) and (B)(9) of this section, 7408
"peace officer" has the same meaning as in section 109.71 of the 7409
Revised Code and also includes the superintendent and troopers of 7410
the state highway patrol; it does not include the sheriff of a 7411
county or a supervisory employee who, in the absence of the 7412
sheriff, is authorized to stand in for, exercise the authority of, 7413
and perform the duties of the sheriff. 7414

As used in divisions (A)(7) and (B)(5) of this section, 7415
"correctional employee" means any employee of the department of 7416
rehabilitation and correction who in the course of performing the 7417
employee's job duties has or has had contact with inmates and 7418
persons under supervision. 7419

As used in divisions (A)(7) and (B)(5) of this section, 7420
"youth services employee" means any employee of the department of 7421
youth services who in the course of performing the employee's job 7422
duties has or has had contact with children committed to the 7423
custody of the department of youth services. 7424

As used in divisions (A)(7) and (B)(9) of this section, 7425
"firefighter" means any regular, paid or volunteer, member of a 7426
lawfully constituted fire department of a municipal corporation, 7427
township, fire district, or village. 7428

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 7429
means EMTs-basic, EMTs-I, and paramedics that provide emergency 7430
medical services for a public emergency medical service 7431
organization. "Emergency medical service organization," 7432
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 7433
section 4765.01 of the Revised Code. 7434

(8) "Information pertaining to the recreational activities of 7435
a person under the age of eighteen" means information that is kept 7436
in the ordinary course of business by a public office, that 7437
pertains to the recreational activities of a person under the age 7438

of eighteen years, and that discloses any of the following: 7439

(a) The address or telephone number of a person under the age 7440
of eighteen or the address or telephone number of that person's 7441
parent, guardian, custodian, or emergency contact person; 7442

(b) The social security number, birth date, or photographic 7443
image of a person under the age of eighteen; 7444

(c) Any medical record, history, or information pertaining to 7445
a person under the age of eighteen; 7446

(d) Any additional information sought or required about a 7447
person under the age of eighteen for the purpose of allowing that 7448
person to participate in any recreational activity conducted or 7449
sponsored by a public office or to use or obtain admission 7450
privileges to any recreational facility owned or operated by a 7451
public office. 7452

(9) "Community control sanction" has the same meaning as in 7453
section 2929.01 of the Revised Code. 7454

(10) "Post-release control sanction" has the same meaning as 7455
in section 2967.01 of the Revised Code. 7456

(11) "Redaction" means obscuring or deleting any information 7457
that is exempt from the duty to permit public inspection or 7458
copying from an item that otherwise meets the definition of a 7459
"record" in section 149.011 of the Revised Code. 7460

(12) "Designee" and "elected official" have the same meanings 7461
as in section 109.43 of the Revised Code. 7462

(B)(1) Upon request and subject to division (B)(8) of this 7463
section, all public records responsive to the request shall be 7464
promptly prepared and made available for inspection to any person 7465
at all reasonable times during regular business hours. Subject to 7466
division (B)(8) of this section, upon request, a public office or 7467
person responsible for public records shall make copies of the 7468

requested public record available at cost and within a reasonable 7469
period of time. If a public record contains information that is 7470
exempt from the duty to permit public inspection or to copy the 7471
public record, the public office or the person responsible for the 7472
public record shall make available all of the information within 7473
the public record that is not exempt. When making that public 7474
record available for public inspection or copying that public 7475
record, the public office or the person responsible for the public 7476
record shall notify the requester of any redaction or make the 7477
redaction plainly visible. A redaction shall be deemed a denial of 7478
a request to inspect or copy the redacted information, except if 7479
federal or state law authorizes or requires a public office to 7480
make the redaction. 7481

(2) To facilitate broader access to public records, a public 7482
office or the person responsible for public records shall organize 7483
and maintain public records in a manner that they can be made 7484
available for inspection or copying in accordance with division 7485
(B) of this section. A public office also shall have available a 7486
copy of its current records retention schedule at a location 7487
readily available to the public. If a requester makes an ambiguous 7488
or overly broad request or has difficulty in making a request for 7489
copies or inspection of public records under this section such 7490
that the public office or the person responsible for the requested 7491
public record cannot reasonably identify what public records are 7492
being requested, the public office or the person responsible for 7493
the requested public record may deny the request but shall provide 7494
the requester with an opportunity to revise the request by 7495
informing the requester of the manner in which records are 7496
maintained by the public office and accessed in the ordinary 7497
course of the public office's or person's duties. 7498

(3) If a request is ultimately denied, in part or in whole, 7499
the public office or the person responsible for the requested 7500

public record shall provide the requester with an explanation, 7501
including legal authority, setting forth why the request was 7502
denied. If the initial request was provided in writing, the 7503
explanation also shall be provided to the requester in writing. 7504
The explanation shall not preclude the public office or the person 7505
responsible for the requested public record from relying upon 7506
additional reasons or legal authority in defending an action 7507
commenced under division (C) of this section. 7508

(4) Unless specifically required or authorized by state or 7509
federal law or in accordance with division (B) of this section, no 7510
public office or person responsible for public records may limit 7511
or condition the availability of public records by requiring 7512
disclosure of the requester's identity or the intended use of the 7513
requested public record. Any requirement that the requester 7514
disclose the requestor's identity or the intended use of the 7515
requested public record constitutes a denial of the request. 7516

(5) A public office or person responsible for public records 7517
may ask a requester to make the request in writing, may ask for 7518
the requester's identity, and may inquire about the intended use 7519
of the information requested, but may do so only after disclosing 7520
to the requester that a written request is not mandatory and that 7521
the requester may decline to reveal the requester's identity or 7522
the intended use and when a written request or disclosure of the 7523
identity or intended use would benefit the requester by enhancing 7524
the ability of the public office or person responsible for public 7525
records to identify, locate, or deliver the public records sought 7526
by the requester. 7527

(6) If any person chooses to obtain a copy of a public record 7528
in accordance with division (B) of this section, the public office 7529
or person responsible for the public record may require that 7530
person to pay in advance the cost involved in providing the copy 7531
of the public record in accordance with the choice made by the 7532

person seeking the copy under this division. The public office or 7533
the person responsible for the public record shall permit that 7534
person to choose to have the public record duplicated upon paper, 7535
upon the same medium upon which the public office or person 7536
responsible for the public record keeps it, or upon any other 7537
medium upon which the public office or person responsible for the 7538
public record determines that it reasonably can be duplicated as 7539
an integral part of the normal operations of the public office or 7540
person responsible for the public record. When the person seeking 7541
the copy makes a choice under this division, the public office or 7542
person responsible for the public record shall provide a copy of 7543
it in accordance with the choice made by the person seeking the 7544
copy. Nothing in this section requires a public office or person 7545
responsible for the public record to allow the person seeking a 7546
copy of the public record to make the copies of the public record. 7547

(7) Upon a request made in accordance with division (B) of 7548
this section and subject to division (B)(6) of this section, a 7549
public office or person responsible for public records shall 7550
transmit a copy of a public record to any person by United States 7551
mail or by any other means of delivery or transmission within a 7552
reasonable period of time after receiving the request for the 7553
copy. The public office or person responsible for the public 7554
record may require the person making the request to pay in advance 7555
the cost of postage if the copy is transmitted by United States 7556
mail or the cost of delivery if the copy is transmitted other than 7557
by United States mail, and to pay in advance the costs incurred 7558
for other supplies used in the mailing, delivery, or transmission. 7559

Any public office may adopt a policy and procedures that it 7560
will follow in transmitting, within a reasonable period of time 7561
after receiving a request, copies of public records by United 7562
States mail or by any other means of delivery or transmission 7563
pursuant to this division. A public office that adopts a policy 7564

and procedures under this division shall comply with them in 7565
performing its duties under this division. 7566

In any policy and procedures adopted under this division, a 7567
public office may limit the number of records requested by a 7568
person that the office will transmit by United States mail to ten 7569
per month, unless the person certifies to the office in writing 7570
that the person does not intend to use or forward the requested 7571
records, or the information contained in them, for commercial 7572
purposes. For purposes of this division, "commercial" shall be 7573
narrowly construed and does not include reporting or gathering 7574
news, reporting or gathering information to assist citizen 7575
oversight or understanding of the operation or activities of 7576
government, or nonprofit educational research. 7577

(8) A public office or person responsible for public records 7578
is not required to permit a person who is incarcerated pursuant to 7579
a criminal conviction or a juvenile adjudication to inspect or to 7580
obtain a copy of any public record concerning a criminal 7581
investigation or prosecution or concerning what would be a 7582
criminal investigation or prosecution if the subject of the 7583
investigation or prosecution were an adult, unless the request to 7584
inspect or to obtain a copy of the record is for the purpose of 7585
acquiring information that is subject to release as a public 7586
record under this section and the judge who imposed the sentence 7587
or made the adjudication with respect to the person, or the 7588
judge's successor in office, finds that the information sought in 7589
the public record is necessary to support what appears to be a 7590
justiciable claim of the person. 7591

(9) Upon written request made and signed by a journalist on 7592
or after December 16, 1999, a public office, or person responsible 7593
for public records, having custody of the records of the agency 7594
employing a specified peace officer, parole officer, prosecuting 7595
attorney, assistant prosecuting attorney, correctional employee, 7596

youth services employee, firefighter, or EMT shall disclose to the 7597
journalist the address of the actual personal residence of the 7598
peace officer, parole officer, prosecuting attorney, assistant 7599
prosecuting attorney, correctional employee, youth services 7600
employee, firefighter, or EMT and, if the peace officer's, parole 7601
officer's, prosecuting attorney's, assistant prosecuting 7602
attorney's, correctional employee's, youth services employee's, 7603
firefighter's, or EMT's spouse, former spouse, or child is 7604
employed by a public office, the name and address of the employer 7605
of the peace officer's, parole officer's, prosecuting attorney's, 7606
assistant prosecuting attorney's, correctional employee's, youth 7607
services employee's, firefighter's, or EMT's spouse, former 7608
spouse, or child. The request shall include the journalist's name 7609
and title and the name and address of the journalist's employer 7610
and shall state that disclosure of the information sought would be 7611
in the public interest. 7612

As used in this division, "journalist" means a person engaged 7613
in, connected with, or employed by any news medium, including a 7614
newspaper, magazine, press association, news agency, or wire 7615
service, a radio or television station, or a similar medium, for 7616
the purpose of gathering, processing, transmitting, compiling, 7617
editing, or disseminating information for the general public. 7618

(C)(1) If a person allegedly is aggrieved by the failure of a 7619
public office or the person responsible for public records to 7620
promptly prepare a public record and to make it available to the 7621
person for inspection in accordance with division (B) of this 7622
section or by any other failure of a public office or the person 7623
responsible for public records to comply with an obligation in 7624
accordance with division (B) of this section, the person allegedly 7625
aggrieved may commence a mandamus action to obtain a judgment that 7626
orders the public office or the person responsible for the public 7627
record to comply with division (B) of this section, that awards 7628

court costs and reasonable attorney's fees to the person that 7629
instituted the mandamus action, and, if applicable, that includes 7630
an order fixing statutory damages under division (C)(1) of this 7631
section. The mandamus action may be commenced in the court of 7632
common pleas of the county in which division (B) of this section 7633
allegedly was not complied with, in the supreme court pursuant to 7634
its original jurisdiction under Section 2 of Article IV, Ohio 7635
Constitution, or in the court of appeals for the appellate 7636
district in which division (B) of this section allegedly was not 7637
complied with pursuant to its original jurisdiction under Section 7638
3 of Article IV, Ohio Constitution. 7639

If a requestor transmits a written request by hand delivery 7640
or certified mail to inspect or receive copies of any public 7641
record in a manner that fairly describes the public record or 7642
class of public records to the public office or person responsible 7643
for the requested public records, except as otherwise provided in 7644
this section, the requestor shall be entitled to recover the 7645
amount of statutory damages set forth in this division if a court 7646
determines that the public office or the person responsible for 7647
public records failed to comply with an obligation in accordance 7648
with division (B) of this section. 7649

The amount of statutory damages shall be fixed at one hundred 7650
dollars for each business day during which the public office or 7651
person responsible for the requested public records failed to 7652
comply with an obligation in accordance with division (B) of this 7653
section, beginning with the day on which the requester files a 7654
mandamus action to recover statutory damages, up to a maximum of 7655
one thousand dollars. The award of statutory damages shall not be 7656
construed as a penalty, but as compensation for injury arising 7657
from lost use of the requested information. The existence of this 7658
injury shall be conclusively presumed. The award of statutory 7659
damages shall be in addition to all other remedies authorized by 7660

this section. 7661

The court may reduce an award of statutory damages or not 7662
award statutory damages if the court determines both of the 7663
following: 7664

(a) That, based on the ordinary application of statutory law 7665
and case law as it existed at the time of the conduct or 7666
threatened conduct of the public office or person responsible for 7667
the requested public records that allegedly constitutes a failure 7668
to comply with an obligation in accordance with division (B) of 7669
this section and that was the basis of the mandamus action, a 7670
well-informed public office or person responsible for the 7671
requested public records reasonably would believe that the conduct 7672
or threatened conduct of the public office or person responsible 7673
for the requested public records did not constitute a failure to 7674
comply with an obligation in accordance with division (B) of this 7675
section; 7676

(b) That a well-informed public office or person responsible 7677
for the requested public records reasonably would believe that the 7678
conduct or threatened conduct of the public office or person 7679
responsible for the requested public records would serve the 7680
public policy that underlies the authority that is asserted as 7681
permitting that conduct or threatened conduct. 7682

(2)(a) If the court issues a writ of mandamus that orders the 7683
public office or the person responsible for the public record to 7684
comply with division (B) of this section and determines that the 7685
circumstances described in division (C)(1) of this section exist, 7686
the court shall determine and award to the relator all court 7687
costs. 7688

(b) If the court renders a judgment that orders the public 7689
office or the person responsible for the public record to comply 7690
with division (B) of this section, the court may award reasonable 7691

attorney's fees subject to reduction as described in division 7692
(C)(2)(c) of this section. The court shall award reasonable 7693
attorney's fees, subject to reduction as described in division 7694
(C)(2)(c) of this section when either of the following applies: 7695

(i) The public office or the person responsible for the 7696
public records failed to respond affirmatively or negatively to 7697
the public records request in accordance with the time allowed 7698
under division (B) of this section. 7699

(ii) The public office or the person responsible for the 7700
public records promised to permit the relator to inspect or 7701
receive copies of the public records requested within a specified 7702
period of time but failed to fulfill that promise within that 7703
specified period of time. 7704

(c) Court costs and reasonable attorney's fees awarded under 7705
this section shall be construed as remedial and not punitive. 7706
Reasonable attorney's fees shall include reasonable fees incurred 7707
to produce proof of the reasonableness and amount of the fees and 7708
to otherwise litigate entitlement to the fees. The court may 7709
reduce an award of attorney's fees to the relator or not award 7710
attorney's fees to the relator if the court determines both of the 7711
following: 7712

(i) That, based on the ordinary application of statutory law 7713
and case law as it existed at the time of the conduct or 7714
threatened conduct of the public office or person responsible for 7715
the requested public records that allegedly constitutes a failure 7716
to comply with an obligation in accordance with division (B) of 7717
this section and that was the basis of the mandamus action, a 7718
well-informed public office or person responsible for the 7719
requested public records reasonably would believe that the conduct 7720
or threatened conduct of the public office or person responsible 7721
for the requested public records did not constitute a failure to 7722
comply with an obligation in accordance with division (B) of this 7723

section; 7724

(ii) That a well-informed public office or person responsible 7725
for the requested public records reasonably would believe that the 7726
conduct or threatened conduct of the public office or person 7727
responsible for the requested public records as described in 7728
division (C)(2)(c)(i) of this section would serve the public 7729
policy that underlies the authority that is asserted as permitting 7730
that conduct or threatened conduct. 7731

(D) Chapter 1347. of the Revised Code does not limit the 7732
provisions of this section. 7733

(E)(1) To ensure that all employees of public offices are 7734
appropriately educated about a public office's obligations under 7735
division (B) of this section, all elected officials or their 7736
appropriate designees shall attend training approved by the 7737
attorney general as provided in section 109.43 of the Revised 7738
Code. In addition, all public offices shall adopt a public records 7739
policy in compliance with this section for responding to public 7740
records requests. In adopting a public records policy under this 7741
division, a public office may obtain guidance from the model 7742
public records policy developed and provided to the public office 7743
by the attorney general under section 109.43 of the Revised Code. 7744
Except as otherwise provided in this section, the policy may not 7745
limit the number of public records that the public office will 7746
make available to a single person, may not limit the number of 7747
public records that it will make available during a fixed period 7748
of time, and may not establish a fixed period of time before it 7749
will respond to a request for inspection or copying of public 7750
records, unless that period is less than eight hours. 7751

(2) The public office shall distribute the public records 7752
policy adopted by the public office under division (E)(1) of this 7753
section to the employee of the public office who is the records 7754
custodian or records manager or otherwise has custody of the 7755

records of that office. The public office shall require that 7756
employee to acknowledge receipt of the copy of the public records 7757
policy. The public office shall create a poster that describes its 7758
public records policy and shall post the poster in a conspicuous 7759
place in the public office and in all locations where the public 7760
office has branch offices. The public office may post its public 7761
records policy on the internet web site of the public office if 7762
the public office maintains an internet web site. A public office 7763
that has established a manual or handbook of its general policies 7764
and procedures for all employees of the public office shall 7765
include the public records policy of the public office in the 7766
manual or handbook. 7767

(F)(1) The bureau of motor vehicles may adopt rules pursuant 7768
to Chapter 119. of the Revised Code to reasonably limit the number 7769
of bulk commercial special extraction requests made by a person 7770
for the same records or for updated records during a calendar 7771
year. The rules may include provisions for charges to be made for 7772
bulk commercial special extraction requests for the actual cost of 7773
the bureau, plus special extraction costs, plus ten per cent. The 7774
bureau may charge for expenses for redacting information, the 7775
release of which is prohibited by law. 7776

(2) As used in division (F)(1) of this section: 7777

(a) "Actual cost" means the cost of depleted supplies, 7778
records storage media costs, actual mailing and alternative 7779
delivery costs, or other transmitting costs, and any direct 7780
equipment operating and maintenance costs, including actual costs 7781
paid to private contractors for copying services. 7782

(b) "Bulk commercial special extraction request" means a 7783
request for copies of a record for information in a format other 7784
than the format already available, or information that cannot be 7785
extracted without examination of all items in a records series, 7786
class of records, or data base by a person who intends to use or 7787

forward the copies for surveys, marketing, solicitation, or resale 7788
for commercial purposes. "Bulk commercial special extraction 7789
request" does not include a request by a person who gives 7790
assurance to the bureau that the person making the request does 7791
not intend to use or forward the requested copies for surveys, 7792
marketing, solicitation, or resale for commercial purposes. 7793

(c) "Commercial" means profit-seeking production, buying, or 7794
selling of any good, service, or other product. 7795

(d) "Special extraction costs" means the cost of the time 7796
spent by the lowest paid employee competent to perform the task, 7797
the actual amount paid to outside private contractors employed by 7798
the bureau, or the actual cost incurred to create computer 7799
programs to make the special extraction. "Special extraction 7800
costs" include any charges paid to a public agency for computer or 7801
records services. 7802

(3) For purposes of divisions (F)(1) and (2) of this section, 7803
"surveys, marketing, solicitation, or resale for commercial 7804
purposes" shall be narrowly construed and does not include 7805
reporting or gathering news, reporting or gathering information to 7806
assist citizen oversight or understanding of the operation or 7807
activities of government, or nonprofit educational research. 7808

Sec. 152.09. (A) As used in sections 152.06 and 152.09 to 7809
152.33 of the Revised Code: 7810

(1) "Obligations" means bonds, notes, or other evidences of 7811
obligation, including interest coupons pertaining thereto, issued 7812
pursuant to sections 152.09 to 152.33 of the Revised Code. 7813

(2) "State agencies" means the state of Ohio and branches, 7814
officers, boards, commissions, authorities, departments, 7815
divisions, courts, general assembly, or other units or agencies of 7816
the state. "State agency" also includes counties, municipal 7817

corporations, and governmental entities of this state that enter 7818
into leases with the Ohio building authority pursuant to section 7819
152.31 of the Revised Code or that are designated by law as state 7820
agencies for the purpose of performing a state function that is to 7821
be housed by a capital facility for which the Ohio building 7822
authority is authorized to issue revenue obligations pursuant to 7823
sections 152.09 to 152.33 of the Revised Code. 7824

(3) "Bond service charges" means principal, including 7825
mandatory sinking fund requirements for retirement of obligations, 7826
and interest, and redemption premium, if any, required to be paid 7827
by the Ohio building authority on obligations. 7828

(4) "Capital facilities" means buildings, structures, and 7829
other improvements, and equipment, real estate, and interests in 7830
real estate therefor, within the state, and any one, part of, or 7831
combination of the foregoing, for housing of branches and agencies 7832
of state government, including capital facilities for the purpose 7833
of housing personnel, equipment, or functions, or any combination 7834
thereof that the state agencies are responsible for housing, for 7835
which the Ohio building authority is authorized to issue 7836
obligations pursuant to Chapter 152. of the Revised Code, and 7837
includes storage and parking facilities related to such capital 7838
facilities. For purposes of sections 152.10 to 152.15 of the 7839
Revised Code, "capital facilities" includes community or technical 7840
college capital facilities. 7841

(5) "Cost of capital facilities" means the costs of 7842
assessing, planning, acquiring, constructing, reconstructing, 7843
rehabilitating, remodeling, renovating, enlarging, improving, 7844
altering, maintaining, equipping, furnishing, repairing, painting, 7845
decorating, managing, or operating capital facilities, and the 7846
financing thereof, including the cost of clearance and preparation 7847
of the site and of any land to be used in connection with capital 7848
facilities, the cost of participating in capital facilities 7849

pursuant to section 152.33 of the Revised Code, the cost of any 7850
indemnity and surety bonds and premiums on insurance, all related 7851
direct administrative expenses and allocable portions of direct 7852
costs of the authority and lessee state agencies, cost of 7853
engineering and architectural services, designs, plans, 7854
specifications, surveys, and estimates of cost, legal fees, fees 7855
and expenses of trustees, depositories, and paying agents for the 7856
obligations, cost of issuance of the obligations and financing 7857
charges and fees and expenses of financial advisers and 7858
consultants in connection therewith, interest on obligations from 7859
the date thereof to the time when interest is to be covered from 7860
sources other than proceeds of obligations, amounts that represent 7861
the portion of investment earnings to be rebated or to be paid to 7862
the federal government in order to maintain the exclusion from 7863
gross income for federal income tax purposes of interest on those 7864
obligations pursuant to section 148(f) of the Internal Revenue 7865
Code, amounts necessary to establish reserves as required by the 7866
resolutions or the obligations, trust agreements, or indentures, 7867
costs of audits, the reimbursement of all moneys advanced or 7868
applied by or borrowed from any governmental entity, whether to or 7869
by the authority or others, from whatever source provided, for the 7870
payment of any item or items of cost of the capital facilities, 7871
any share of the cost undertaken by the authority pursuant to 7872
arrangements made with governmental entities under division (J) of 7873
section 152.21 of the Revised Code, and all other expenses 7874
necessary or incident to assessing, planning, or determining the 7875
feasibility or practicability with respect to capital facilities, 7876
and such other expenses as may be necessary or incident to the 7877
assessment, planning, acquisition, construction, reconstruction, 7878
rehabilitation, remodeling, renovation, enlargement, improvement, 7879
alteration, maintenance, equipment, furnishing, repair, painting, 7880
decoration, management, or operation of capital facilities, the 7881
financing thereof and the placing of the same in use and 7882

operation, including any one, part of, or combination of such 7883
classes of costs and expenses. 7884

(6) "Governmental entity" means any state agency, municipal 7885
corporation, county, township, school district, and any other 7886
political subdivision or special district in this state 7887
established pursuant to law, and, except where otherwise 7888
indicated, also means the United States or any of the states or 7889
any department, division, or agency thereof, and any agency, 7890
commission, or authority established pursuant to an interstate 7891
compact or agreement. 7892

(7) "Governing body" means: 7893

(a) In the case of a county, the board of county 7894
commissioners or other legislative authority; in the case of a 7895
municipal corporation, the legislative authority; in the case of a 7896
township, the board of township trustees; in the case of a school 7897
district, the board of education; 7898

(b) In the case of any other governmental entity, the 7899
officer, board, commission, authority, or other body having the 7900
general management of the entity or having jurisdiction or 7901
authority in the particular circumstances. 7902

(8) "Available receipts" means fees, charges, revenues, 7903
grants, subsidies, income from the investment of moneys, proceeds 7904
from the sale of goods or services, and all other revenues or 7905
receipts received by or on behalf of any state agency for which 7906
capital facilities are financed with obligations issued under 7907
Chapter 152. of the Revised Code, any state agency participating 7908
in capital facilities pursuant to section 152.33 of the Revised 7909
Code, or any state agency by which the capital facilities are 7910
constructed or financed; revenues or receipts derived by the 7911
authority from the operation, leasing, or other disposition of 7912
capital facilities, and the proceeds of obligations issued under 7913

Chapter 152. of the Revised Code; and also any moneys appropriated 7914
by a governmental entity, gifts, grants, donations, and pledges, 7915
and receipts therefrom, available for the payment of bond service 7916
charges on such obligations. 7917

(9) "Available community or technical college receipts" means 7918
all money received by a community or technical college or 7919
community or technical college district, including income, 7920
revenues, and receipts from the operation, ownership, or control 7921
of facilities, grants, gifts, donations, and pledges and receipts 7922
there from, receipts from fees and charges, the allocated state 7923
share of instruction as defined in section 3333.90 of the Revised 7924
Code, and the proceeds of the sale of obligations, including 7925
proceeds of obligations issued to refund obligations previously 7926
issued, but excluding any special fee, and receipts there from, 7927
charged pursuant to division (D) of section 154.21 of the Revised 7928
Code. 7929

(10) "Community or technical college," "college," "community 7930
or technical college district," and "district" have the same 7931
meanings as in section 3333.90 of the Revised Code. 7932

(11) "Community or technical college capital facilities" 7933
means auxiliary facilities, education facilities, and housing and 7934
dining facilities, as those terms are defined in section 3345.12 7935
of the Revised Code, to the extent permitted to be financed by the 7936
issuance of obligations under division (A)(2) of section 3357.112 7937
of the Revised Code, that are authorized by sections 3354.121, 7938
3357.112, and 3358.10 of the Revised Code to be financed by 7939
obligations issued by a community or technical college district, 7940
and for which the Ohio building authority is authorized to issue 7941
obligations pursuant to Chapter 152. of the Revised Code, and 7942
includes any one, part of, or any combination of the foregoing, 7943
and further includes site improvements, utilities, machinery, 7944
furnishings, and any separate or connected buildings, structures, 7945

improvements, sites, open space and green space areas, utilities, 7946
or equipment to be used in, or in connection with the operation or 7947
maintenance of, or supplementing or otherwise related to the 7948
services or facilities to be provided by, such facilities. 7949

(12) "Cost of community or technical college capital 7950
facilities" means the costs of acquiring, constructing, 7951
reconstructing, rehabilitating, remodeling, renovating, enlarging, 7952
improving, equipping, or furnishing community or technical college 7953
capital facilities, and the financing thereof, including the cost 7954
of clearance and preparation of the site and of any land to be 7955
used in connection with community or technical college capital 7956
facilities, the cost of any indemnity and surety bonds and 7957
premiums on insurance, all related direct administrative expenses 7958
and allocable portions of direct costs of the authority, community 7959
or technical college or community or technical college district, 7960
cost of engineering, architectural services, design, plans, 7961
specifications and surveys, estimates of cost, legal fees, fees 7962
and expenses of trustees, depositories, bond registrars, and 7963
paying agents for the obligations, cost of issuance of the 7964
obligations and financing costs and fees and expenses of financial 7965
advisers and consultants in connection therewith, interest on the 7966
obligations from the date thereof to the time when interest is to 7967
be covered by available receipts or other sources other than 7968
proceeds of the obligations, amounts that represent the portion of 7969
investment earnings to be rebated or to be paid to the federal 7970
government in order to maintain the exclusion from gross income 7971
for federal income tax purposes of interest on those obligations 7972
pursuant to section 148(f) of the Internal Revenue Code, amounts 7973
necessary to establish reserves as required by the bond 7974
proceedings, costs of audits, the reimbursements of all moneys 7975
advanced or applied by or borrowed from the community or technical 7976
college, community or technical college district, or others, from 7977
whatever source provided, including any temporary advances from 7978

state appropriations, for the payment of any item or items of cost 7979
of community or technical college facilities, and all other 7980
expenses necessary or incident to planning or determining 7981
feasibility or practicability with respect to such facilities, and 7982
such other expenses as may be necessary or incident to the 7983
acquisition, construction, reconstruction, rehabilitation, 7984
remodeling, renovation, enlargement, improvement, equipment, and 7985
furnishing of community or technical college capital facilities, 7986
the financing thereof and the placing of them in use and 7987
operation, including any one, part of, or combination of such 7988
classes of costs and expenses. 7989

(B) Pursuant to the powers granted to the general assembly 7990
under Section 2i of Article VIII, Ohio Constitution, to authorize 7991
the issuance of revenue obligations and other obligations, the 7992
owners or holders of which are not given the right to have excises 7993
or taxes levied by the general assembly for the payment of 7994
principal thereof or interest thereon, the Ohio building authority 7995
may issue obligations, in accordance with Chapter 152. of the 7996
Revised Code, and shall cause the net proceeds thereof, after any 7997
deposits of accrued interest for the payment of bond service 7998
charges and after any deposit of all or such lesser portion as the 7999
authority may direct of the premium received upon the sale of 8000
those obligations for the payment of the bond service charges, to 8001
be applied to the costs of capital facilities designated by or 8002
pursuant to act of the general assembly for housing state agencies 8003
as authorized by Chapter 152. of the Revised Code. The authority 8004
shall provide by resolution for the issuance of such obligations. 8005
The bond service charges and all other payments required to be 8006
made by the trust agreement or indenture securing such obligations 8007
shall be payable solely from available receipts of the authority 8008
pledged thereto as provided in such resolution. The available 8009
receipts pledged and thereafter received by the authority are 8010
immediately subject to the lien of such pledge without any 8011

physical delivery thereof or further act, and the lien of any such 8012
pledge is valid and binding against all parties having claims of 8013
any kind against the authority, irrespective of whether those 8014
parties have notice thereof, and creates a perfected security 8015
interest for all purposes of Chapter 1309. of the Revised Code and 8016
a perfected lien for purposes of any real property interest, all 8017
without the necessity for separation or delivery of funds or for 8018
the filing or recording of the resolution, trust agreement, 8019
indenture, or other agreement by which such pledge is created or 8020
any certificate, statement, or other document with respect 8021
thereto; and the pledge of such available receipts is effective 8022
and the money therefrom and thereof may be applied to the purposes 8023
for which pledged. Every pledge, and every covenant and agreement 8024
made with respect to the pledge, made in the resolution may 8025
therein be extended to the benefit of the owners and holders of 8026
obligations authorized by Chapter 152. of the Revised Code, the 8027
net proceeds of which are to be applied to the costs of capital 8028
facilities, and to any trustee therefor, for the further securing 8029
of the payment of the bond service charges, and all or any rights 8030
under any agreement or lease made under this section may be 8031
assigned for such purpose. Obligations may be issued at one time 8032
or from time to time, and each issue shall be dated, shall mature 8033
at such time or times as determined by the authority not exceeding 8034
forty years from the date of issue, and may be redeemable before 8035
maturity at the option of the authority at such price or prices 8036
and under such terms and conditions as are fixed by the authority 8037
prior to the issuance of the obligations. The authority shall 8038
determine the form of the obligations, fix their denominations, 8039
establish their interest rate or rates, which may be a variable 8040
rate or rates, or the maximum interest rate, and establish within 8041
or without this state a place or places of payment of bond service 8042
charges. 8043

(C) The obligations shall be signed by the authority 8044

chairperson, vice-chairperson, and secretary-treasurer, and the 8045
authority seal shall be affixed. The signatures may be facsimile 8046
signatures and the seal affixed may be a facsimile seal, as 8047
provided by resolution of the authority. Any coupons attached may 8048
bear the facsimile signature of the chairperson. In case any 8049
officer who has signed any obligations, or caused the officer's 8050
facsimile signature to be affixed thereto, ceases to be such 8051
officer before such obligations have been delivered, such 8052
obligations may, nevertheless, be issued and delivered as though 8053
the person who had signed the obligations or caused the person's 8054
facsimile signature to be affixed thereto had not ceased to be 8055
such officer. 8056

Any obligations may be executed on behalf of the authority by 8057
an officer who, on the date of execution, is the proper officer 8058
although on the date of such obligations such person was not the 8059
proper officer. 8060

(D) All obligations issued by the authority shall have all 8061
the qualities and incidents of negotiable instruments and may be 8062
issued in coupon or in registered form, or both, as the authority 8063
determines. Provision may be made for the registration of any 8064
obligations with coupons attached thereto as to principal alone or 8065
as to both principal and interest, their exchange for obligations 8066
so registered, and for the conversion or reconversion into 8067
obligations with coupons attached thereto of any obligations 8068
registered as to both principal and interest, and for reasonable 8069
charges for such registration, exchange, conversion, and 8070
reconversion. The authority may sell its obligations in any manner 8071
and for such prices as it determines, except that the authority 8072
shall sell obligations sold at public or private sale in 8073
accordance with section 152.091 of the Revised Code. 8074

(E) The obligations of the authority, principal, interest, 8075
and any proceeds from their sale or transfer, are exempt from all 8076

taxation within this state. 8077

(F) The authority is authorized to issue revenue obligations 8078
and other obligations under Section 2i of Article VIII, Ohio 8079
Constitution, for the purpose of paying the cost of capital 8080
facilities for housing of branches and agencies of state 8081
government, including capital facilities for the purpose of 8082
housing personnel, equipment, or functions, or any combination 8083
thereof that the state agencies are responsible for housing, as 8084
are authorized by Chapter 152. of the Revised Code, and that are 8085
authorized by the general assembly by the appropriation of lease 8086
payments or other moneys for such capital facilities or by any 8087
other act of the general assembly, but not including the 8088
appropriation of moneys for feasibility studies for such capital 8089
facilities. This division does not authorize the authority to 8090
issue obligations pursuant to Section 2i of Article VIII, Ohio 8091
Constitution, to pay the cost of capital facilities for mental 8092
hygiene and retardation, parks and recreation, or state-supported 8093
or state-assisted institutions of higher education. 8094

(G) The authority is authorized to issue revenue obligations 8095
under Section 2i of Article VIII, Ohio Constitution, on behalf of 8096
a community or technical college district and shall cause the net 8097
proceeds thereof, after any deposits of accrued interest for the 8098
payment of bond service charges and after any deposit of all or 8099
such lesser portion as the authority may direct of the premium 8100
received upon the sale of those obligations for the payment of the 8101
bond service charges, to be applied to the cost of community or 8102
technical college capital facilities, provided that the issuance 8103
of such obligations is subject to the execution of a written 8104
agreement in accordance with division (C) of section 3333.90 of 8105
the Revised Code for the withholding and depositing of funds 8106
otherwise due the district, or the college it operates, in respect 8107
of its allocated state share of instruction. 8108

The authority shall provide by resolution for the issuance of 8109
such obligations. The bond service charges and all other payments 8110
required to be made by the trust agreement or indenture securing 8111
the obligations shall be payable solely from available community 8112
or technical college receipts pledged thereto as provided in the 8113
resolution. The available community or technical college receipts 8114
pledged and thereafter received by the authority are immediately 8115
subject to the lien of such pledge without any physical delivery 8116
thereof or further act, and the lien of any such pledge is valid 8117
and binding against all parties having claims of any kind against 8118
the authority, irrespective of whether those parties have notice 8119
thereof, and creates a perfected security interest for all 8120
purposes of Chapter 1309. of the Revised Code and a perfected lien 8121
for purposes of any real property interest, all without the 8122
necessity for separation or delivery of funds or for the filing or 8123
recording of the resolution, trust agreement, indenture, or other 8124
agreement by which such pledge is created or any certificate, 8125
statement, or other document with respect thereto; and the pledge 8126
of such available community or technical college receipts is 8127
effective and the money there from and thereof may be applied to 8128
the purposes for which pledged. Every pledge, and every covenant 8129
and agreement made with respect to the pledge, made in the 8130
resolution may therein be extended to the benefit of the owners 8131
and holders of obligations authorized by this division, and to any 8132
trustee therefor, for the further securing of the payment of the 8133
bond service charges, and all or any rights under any agreement or 8134
lease made under this section may be assigned for such purpose. 8135
Obligations may be issued at one time or from time to time, and 8136
each issue shall be dated, shall mature at such time or times as 8137
determined by the authority not exceeding forty years from the 8138
date of issue, and may be redeemable before maturity at the option 8139
of the authority at such price or prices and under such terms and 8140
conditions as are fixed by the authority prior to the issuance of 8141

the obligations. The authority shall determine the form of the 8142
obligations, fix their denominations, establish their interest 8143
rate or rates, which may be a variable rate or rates, or the 8144
maximum interest rate, and establish within or without this state 8145
a place or places of payment of bond service charges. 8146

Sec. 152.10. The resolution of the Ohio building authority 8147
authorizing the issuance of authority obligations may contain 8148
provisions which shall be part of the contract with the holders of 8149
the obligations as to: 8150

(A) Pledging all or such portion as it determines of the 8151
available receipts of the authority for the payment of bond 8152
service charges and all other payments required to be made by the 8153
trust agreement or indenture securing such obligations, or 8154
restricting the security for a particular issue of obligations to 8155
specific revenues or receipts of the authority; 8156

(B) The acquisition, construction, reconstruction, equipment, 8157
furnishing, improvement, operation, alteration, enlargement, 8158
maintenance, insurance, and repair of capital facilities and sites 8159
therefor, and the duties of the authority with reference thereto; 8160

(C) Other terms of the obligations; 8161

(D) Limitations on the purposes to which the proceeds of the 8162
obligations may be applied; 8163

(E) The rate of rentals or other charges for the use of 8164
capital facilities, the revenues from which are pledged to the 8165
obligations authorized by such resolution, including limitations 8166
upon the power of the authority to modify such rentals or other 8167
charges; 8168

(F) The use of and the expenditures of the revenues of the 8169
authority in such manner and to such extent as shall be 8170
determined, which may include provision for the payment of the 8171

expenses of the operation, maintenance, and repair of capital 8172
facilities, and the operation and administration of the authority 8173
so that such expenses shall be paid or provided as a charge prior 8174
to the payment of bond service charges and all other payments 8175
required to be made by the trust agreement or indenture securing 8176
such obligations; 8177

(G) Limitations on the issuance of additional obligations; 8178

(H) The terms of any trust agreement or indenture securing 8179
the obligations or under which the same may be issued; 8180

(I) Any other or additional agreements with the holders of 8181
the obligations, or the trustee therefor with respect to the 8182
operation of the authority and with respect to its property, 8183
funds, and revenues, and insurance thereof, and of the authority, 8184
its members, officers, and employees; 8185

(J) The deposit and application of funds and the safeguarding 8186
of funds on hand or on deposit without regard to Chapter 131. of 8187
the Revised Code, including any deposits of accrued interest for 8188
the payment of bond service charges and any deposits of premium 8189
for the payment of bond service charges or for the application to 8190
the payment of costs of capital facilities; 8191

(K) Municipal bond insurance, letters of credit, and other 8192
related agreements, the cost of which may be included in the costs 8193
of issuance of the obligations, and the pledge, holding, and 8194
disposition of the proceeds thereof; 8195

(L) A covenant that the state and any using state agency or 8196
any using community or technical college or community or technical 8197
college district shall, so long as such obligations are 8198
outstanding, cause to be charged and collected such revenues and 8199
receipts of, or from, any such using state agency or any such 8200
using community or technical college or community or technical 8201
college district constituting available receipts under the 8202

resolution sufficient in amount to provide for the payment of bond 8203
service charges on such obligations and for the establishment and 8204
maintenance of any reserves, as provided in the resolution for 8205
such obligations, which covenant shall be controlling 8206
notwithstanding any other provision of law pertaining to such 8207
revenues and receipts; provided that no covenant shall require the 8208
general assembly to appropriate money derived from the levying of 8209
excises or taxes for the payment of rent or bond service charges. 8210

Sec. 152.12. (A) As used in this section, "prior community or 8211
technical college obligations" means bonds or notes previously 8212
issued by a community or technical college district under section 8213
3354.121, 3357.112, or 3358.10 of the Revised Code to pay costs of 8214
community or technical college capital facilities. 8215

(B) The Ohio building authority may authorize and issue 8216
obligations for the refunding of prior obligations or prior 8217
community or technical college obligations for any of the 8218
following purposes: 8219

~~(A)~~(1) Refunding any obligations previously issued by the 8220
authority or any prior community or technical college obligations, 8221
when the revenues pledged for the payment of such obligations are 8222
insufficient to pay obligations or prior community or technical 8223
college obligations which have matured or are about to mature or 8224
to maintain reserve or other funds required by the resolution or 8225
trust agreement or indenture; 8226

~~(B)~~(2) Refunding any obligations previously issued by the 8227
authority or any prior community or technical college obligations 8228
as an incident to providing funds for reconstructing, equipping, 8229
furnishing, improving, extending, or enlarging any capital 8230
facilities of the authority or any community or technical college 8231
district or community or technical college; 8232

~~(C)~~(3) Refunding all of the outstanding obligations or prior 8233

community or technical college obligations of any issue, both 8234
matured and unmatured, when the revenues pledged for the payment 8235
of such obligations or prior community or technical college 8236
obligations are insufficient to pay obligations which have matured 8237
or are about to mature or to maintain reserve or other funds 8238
required by the resolution or trust agreement or indenture, if 8239
such outstanding obligations or prior community or technical 8240
college obligations can be retired by call or at maturity or with 8241
the consent of the holders, whether from the proceeds of the sale 8242
of the refunding obligations or by exchange for the refunding 8243
obligations, provided the principal amount of the refunding 8244
obligations shall not exceed in amount the aggregate of the par 8245
value of the obligations or prior community or technical college 8246
obligations to be retired, any redemption premium, past due and 8247
future interest to the date of maturity or call that cannot 8248
otherwise be paid, and funds to reconstruct, equip, furnish, 8249
improve, enlarge, or extend any capital facilities of the 8250
authority or any community or technical college district or 8251
community or technical college; 8252

~~(D)~~(4) Refunding any obligations previously issued by the 8253
authority or any prior community or technical college obligations 8254
when the refunding obligations will bear interest at a lower rate 8255
than the obligations or prior community or technical college 8256
obligations to be refunded, or when the interest cost of the 8257
refunding obligations computed to the absolute maturity will be 8258
less than the interest cost of the obligations or prior community 8259
or technical college obligations to be refunded; 8260

~~(E)~~(5) Refunding any obligations issued pursuant to section 8261
152.23 of the Revised Code. 8262

(C) Obligations issued pursuant to division ~~(A)~~(B)(1) of this 8263
section shall mature not later than twenty years after their 8264
issuance and obligations issued pursuant to division (B)(2), 8265

~~(C)(3), (D)(4), or (E)(5)~~ of this section shall mature not later than forty years after their issuance. Except as provided in this section, the terms of issuance and sale of obligations issued under this section shall be as provided in ~~Chapter 152. of the Revised Code~~ this chapter for any other obligations for the benefit of state agencies, community or technical colleges, or community or technical college districts, as the context requires. Obligations authorized under this section shall be deemed to be issued for those purposes for which such prior obligations or prior community or technical college obligations were issued, and may be issued in amounts sufficient for funding and retirement of prior obligations or prior community or technical college obligations, for establishment of reserves as required by the refunding obligations or the resolution authorizing such refunding obligations or the trust agreement or indenture securing the refunding obligations, and for payment of any fees and expenses incurred or to be incurred in connection with such issuance and such refunding.

Sec. 152.15. Obligations issued by the Ohio building authority do not, and they shall state that they do not, represent or constitute a debt of the state or any political subdivision, nor a pledge of the faith and credit of the state or any political subdivision. Pursuant to Section 2i of Article VIII, Ohio Constitution, such obligations shall not be deemed to be debts or bonded indebtedness of the state under other provisions of the Ohio Constitution.

The holders or owners of obligations issued by the authority shall have no right to have excises or taxes levied by the general assembly for the payment of the bond service charges thereon. The right of such holders and owners to payment of such bond service charges shall be limited to the available receipts or available community or technical college receipts pledged thereto in

accordance with ~~Chapter 152. of the Revised Code~~ this chapter, and 8298
each such obligation shall bear on its face a statement to that 8299
effect. Any available receipts or available community or technical 8300
college receipts may be so pledged only to obligations issued for 8301
capital facilities which are in whole or in part useful to, 8302
constructed by, or financed by the department, board, commission, 8303
authority, community or technical college, community or technical 8304
college district, or other agency or instrumentality that receives 8305
the available receipts or available community or technical college 8306
receipts so pledged. 8307

Sec. 152.33. (A) The Ohio building authority is authorized 8308
under Chapter 152. of the Revised Code to issue revenue 8309
obligations and other obligations to pay the cost of capital 8310
facilities described in ~~section~~ sections 111.26 and 307.021 of the 8311
Revised Code and the cost of capital facilities in which one or 8312
more state agencies are participating with the federal government, 8313
municipal corporations, counties, or other governmental entities 8314
or any one or more of them, and in which that portion of the 8315
facility allocated to the participating state agencies is to be 8316
used for the purpose stated in division (F) of section 152.09 of 8317
the Revised Code, when authorized by the general assembly in 8318
accordance with that division. Such participation may be by 8319
grants, loans, or contributions to other participating 8320
governmental entities for any of such capital facilities. Such 8321
obligations shall be deemed to be issued under sections 152.09 and 8322
152.23 of the Revised Code and shall conform to all requirements 8323
of sections 152.09 to 152.17 and 152.23 of the Revised Code. The 8324
right of holders and owners of obligations issued under this 8325
section to payment of bond service charges shall be limited to the 8326
revenues and receipts of the authority derived from rentals or 8327
other charges for use of the capital facilities constructed with 8328
the proceeds of the obligations to which such revenues and 8329

receipts are pledged, including revenues and receipts from or on behalf of any participating governmental entity. 8330
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(B) Any lease of space by a state agency in a capital facility described in division (A) of this section shall conform to the requirements of division (D) of section 152.24 of the Revised Code. 8332
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Sec. 173.08. (A) The resident services coordinator program is established in the department of aging to fund resident services coordinators. The coordinators shall provide information to low-income and special-needs tenants, including the elderly, who live in financially assisted rental housing complexes, and assist those tenants in identifying and obtaining community and program services and other benefits for which they are eligible. 8336
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(B) The resident services coordinator program fund is hereby created in the state treasury to support the resident services coordinator program established pursuant to this section. The fund consists of all moneys the department of development sets aside pursuant to division (A)~~(4)~~(3) of section 174.02 of the Revised Code and moneys the general assembly appropriates to the fund. 8343
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Sec. 173.28. (A)(1) As used in this division, "incident" means the occurrence of a violation with respect to a resident or recipient, as those terms are defined in section 173.14 of the Revised Code. A violation is a separate incident for each day it occurs and for each resident who is subject to it. 8349
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In lieu of the fine that may be imposed under division (A) of section 173.99 of the Revised Code, the director of aging may, under Chapter 119. of the Revised Code, fine a long-term care provider or other entity, or a person employed by a long-term care provider or other entity, for a violation of division (C) of section 173.24 of the Revised Code. The fine shall not exceed one 8354
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thousand dollars per incident. 8360

(2) In lieu of the fine that may be imposed under division 8361
(C) of section 173.99 of the Revised Code, the director may, under 8362
Chapter 119. of the Revised Code, fine a long-term care provider 8363
or other entity, or a person employed by a long-term care provider 8364
or other entity, for violating division (E) of section 173.19 of 8365
the Revised Code by denying a representative of the office of the 8366
state long-term care ombudsperson program the access required by 8367
that division. The fine shall not exceed five hundred dollars for 8368
each day the violation continued. 8369

(B) On request of the director, the attorney general shall 8370
bring and prosecute to judgment a civil action to collect any fine 8371
imposed under division (A)(1) or (2) of this section that remains 8372
unpaid thirty days after the violator's final appeal is exhausted. 8373

(C) All fines collected under this section shall be deposited 8374
into the state treasury to the credit of the state long-term care 8375
ombudsperson program fund created under section 173.26 of the 8376
Revised Code. 8377

Sec. 173.35. (A) As used in this section, "PASSPORT 8378
administrative agency" means an entity under contract with the 8379
department of aging to provide administrative services regarding 8380
the PASSPORT program created under section 173.40 of the Revised 8381
Code. 8382

(B) The department of aging shall administer the residential 8383
state supplement program under which the state supplements the 8384
supplemental security income payments received by aged, blind, or 8385
disabled adults under Title XVI of the "Social Security Act," 49 8386
Stat. 620 (1935), 42 U.S.C.A., as amended. Residential state 8387
supplement payments shall be used for the provision of 8388
accommodations, supervision, and personal care services to 8389
supplemental security income recipients who the department 8390

determines are at risk of needing institutional care. 8391

(C) For an individual to be eligible for residential state 8392
supplement payments, all of the following must be the case: 8393

(1) Except as provided by division (G) of this section, the 8394
individual must reside in one of the following: 8395

(a) An adult foster home certified under section 173.36 of 8396
the Revised Code; 8397

(b) A home or facility, other than a nursing home or nursing 8398
home unit of a home for the aging, licensed by the department of 8399
health under Chapter 3721. or 3722. of the Revised Code and 8400
certified in accordance with standards established by the director 8401
of aging under division (D)(2) of this section; 8402

~~(c) A community alternative home licensed under section 8403
3724.03 of the Revised Code and certified in accordance with 8404
standards established by the director of aging under division 8405
(D)(2) of this section; 8406~~

~~(d)~~ A residential facility as defined in division 8407
(A)(1)(d)(ii) of section 5119.22 of the Revised Code licensed by 8408
the department of mental health and certified in accordance with 8409
standards established by the director of aging under division 8410
(D)(2) of this section; 8411

~~(e)~~(d) An apartment or room used to provide community mental 8412
health housing services certified by the department of mental 8413
health under section 5119.611 of the Revised Code and approved by 8414
a board of alcohol, drug addiction, and mental health services 8415
under division (A)(14) of section 340.03 of the Revised Code and 8416
certified in accordance with standards established by the director 8417
of aging under division (D)(2) of this section. 8418

(2) Effective July 1, 2000, a PASSPORT administrative agency 8419
must have determined that the environment in which the individual 8420

will be living while receiving the payments is appropriate for the 8421
individual's needs. If the individual is eligible for supplemental 8422
security income payments or social security disability insurance 8423
benefits because of a mental disability, the PASSPORT 8424
administrative agency shall refer the individual to a community 8425
mental health agency for the community mental health agency to 8426
issue in accordance with section 340.091 of the Revised Code a 8427
recommendation on whether the PASSPORT administrative agency 8428
should determine that the environment in which the individual will 8429
be living while receiving the payments is appropriate for the 8430
individual's needs. Division (C)(2) of this section does not apply 8431
to an individual receiving residential state supplement payments 8432
on June 30, 2000, until the individual's first eligibility 8433
redetermination after that date. 8434

(3) The individual satisfies all eligibility requirements 8435
established by rules adopted under division (D) of this section. 8436

(D)(1) The directors of aging and job and family services 8437
shall adopt rules in accordance with section 111.15 of the Revised 8438
Code as necessary to implement the residential state supplement 8439
program. 8440

To the extent permitted by Title XVI of the "Social Security 8441
Act," and any other provision of federal law, the director of job 8442
and family services shall adopt rules establishing standards for 8443
adjusting the eligibility requirements concerning the level of 8444
impairment a person must have so that the amount appropriated for 8445
the program by the general assembly is adequate for the number of 8446
eligible individuals. The rules shall not limit the eligibility of 8447
disabled persons solely on a basis classifying disabilities as 8448
physical or mental. The director of job and family services also 8449
shall adopt rules that establish eligibility standards for aged, 8450
blind, or disabled individuals who reside in one of the homes or 8451
facilities specified in division (C)(1) of this section but who, 8452

because of their income, do not receive supplemental security 8453
income payments. The rules may provide that these individuals may 8454
include individuals who receive other types of benefits, 8455
including, social security disability insurance benefits provided 8456
under Title II of the "Social Security Act," 49 Stat. 620 (1935), 8457
42 U.S.C.A. 401, as amended. Notwithstanding division (B) of this 8458
section, such payments may be made if funds are available for 8459
them. 8460

The director of aging shall adopt rules establishing the 8461
method to be used to determine the amount an eligible individual 8462
will receive under the program. The amount the general assembly 8463
appropriates for the program shall be a factor included in the 8464
method that department establishes. 8465

(2) The director of aging shall adopt rules in accordance 8466
with Chapter 119. of the Revised Code establishing standards for 8467
certification of living facilities described in division (C)(1) of 8468
this section. 8469

The directors of aging and mental health shall enter into an 8470
agreement to certify facilities that apply for certification and 8471
meet the standards established by the director of aging under this 8472
division. 8473

(E) The county department of job and family services of the 8474
county in which an applicant for the residential state supplement 8475
program resides shall determine whether the applicant meets income 8476
and resource requirements for the program. 8477

(F) The department of aging shall maintain a waiting list of 8478
any individuals eligible for payments under this section but not 8479
receiving them because moneys appropriated to the department for 8480
the purposes of this section are insufficient to make payments to 8481
all eligible individuals. An individual may apply to be placed on 8482
the waiting list even though the individual does not reside in one 8483

of the homes or facilities specified in division (C)(1) of this 8484
section at the time of application. The director of aging, by 8485
rules adopted in accordance with Chapter 119. of the Revised Code, 8486
shall specify procedures and requirements for placing an 8487
individual on the waiting list and priorities for the order in 8488
which individuals placed on the waiting list are to begin to 8489
receive residential state supplement payments. The rules 8490
specifying priorities may give priority to individuals placed on 8491
the waiting list on or after July 1, 2006, who receive 8492
supplemental security income benefits under Title XVI of the 8493
"Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C. 1381, as 8494
amended. The rules shall not affect the place on the waiting list 8495
of any person who was on the list on July 1, 2006. The rules 8496
specifying priorities may also set additional priorities based on 8497
living arrangement, such as whether an individual resides in a 8498
facility listed in division (C)(1) of this section or has been 8499
admitted to a nursing facility. 8500

(G) An individual in a licensed or certified living 8501
arrangement receiving state supplementation on November 15, 1990, 8502
under former section 5101.531 of the Revised Code shall not become 8503
ineligible for payments under this section solely by reason of the 8504
individual's living arrangement as long as the individual remains 8505
in the living arrangement in which the individual resided on 8506
November 15, 1990. 8507

(H) The department of aging shall notify each person denied 8508
approval for payments under this section of the person's right to 8509
a hearing. On request, the hearing shall be provided by the 8510
department of job and family services in accordance with section 8511
5101.35 of the Revised Code. 8512

Sec. 173.392. (A) The department of aging may pay a person or 8513
government entity for providing community-based long-term care 8514

services under a program the department administers, even though 8515
the person or government entity is not certified under section 8516
173.391 of the Revised Code, if all of the following are the case: 8517

(1) The person or government entity has a contract with the 8518
department of aging or the department's designee to provide the 8519
services in accordance with the contract or has received a grant 8520
from the department or its designee to provide the services in 8521
accordance with a grant agreement; 8522

(2) The contract or grant agreement includes detailed 8523
conditions of participation for providers of services under a 8524
program the department administers and service standards that the 8525
person or government entity is required to satisfy; 8526

(3) The person or government entity complies with the 8527
contract or grant agreement; 8528

(4) The contract or grant is not for medicaid-funded 8529
services, other than services provided under the PACE program 8530
administered by the department of aging under section 173.50 of 8531
the Revised Code. 8532

(B) The director of aging shall adopt rules in accordance 8533
with Chapter 119. of the Revised Code governing both of the 8534
following: 8535

(1) Contracts and grant agreements between the department of 8536
aging or its designee and persons and government entities 8537
regarding community-based long-term care services provided under a 8538
program the department administers; 8539

(2) The department's payment for community-based long-term 8540
care services ~~provided under such a contract~~ this section. 8541

Sec. 173.42. (A) As used in this section: 8542

(1) "Area agency on aging" means a public or private 8543

nonprofit entity designated under section 173.011 of the Revised Code to administer programs on behalf of the department of aging.

(2) "Long-term care consultation" or "consultation" means the ~~process used to provide services under~~ consultation service made available by the department of aging or a program administrator through the long-term care consultation program established pursuant to this section, ~~including, but not limited to, such services as the provision of information about long term care options and costs, the assessment of an individual's functional capabilities, and the conduct of all or part of the reviews, assessments, and determinations specified in sections 5111.202, 5111.204, 5119.061, and 5123.021 of the Revised Code and the rules adopted under those sections.~~

(3) "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code.

(4) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(5) "Program administrator" means an area agency on aging or other entity under contract with the department of aging to administer the long-term care consultation program in a geographic region specified in the contract.

(6) "Representative" means a person acting on behalf of an individual seeking a long-term care consultation, applying for admission to a nursing facility, or residing in a nursing facility. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of the individual.

(B) The department of aging shall develop a long-term care consultation program whereby individuals or their representatives are provided with long-term care consultations and receive through these professional consultations information about options

available to meet long-term care needs and information about 8575
factors to consider in making long-term care decisions. The 8576
long-term care consultations provided under the program may be 8577
provided at any appropriate time, as permitted or required under 8578
this section and the rules adopted under it, including either 8579
prior to or after the individual who is the subject of a 8580
consultation has been admitted to a nursing facility. 8581

(C)(1) The long-term care consultation program shall be 8582
administered by the department of aging, except that the 8583
department may ~~enter into a contract with an area agency on aging~~ 8584
~~or other entity selected by the department under which the program~~ 8585
~~for a particular area is administered by the area agency on aging~~ 8586
~~or other entity pursuant to the contract~~ have the program 8587
administered on a regional basis by one or more program 8588
administrators. 8589

(2) The department and each program administrator shall 8590
administer the program in such a manner that all of the following 8591
are included: 8592

(a) Coordination and collaboration with respect to all 8593
available funding sources for long-term care services; 8594

(b) Assessments of individuals regarding their long-term care 8595
service needs; 8596

(c) Assessments of individuals regarding their on-going 8597
eligibility for long-term care services; 8598

(d) Procedures for assisting individuals in obtaining access 8599
to, and coordination of, health and supportive services; 8600

(e) Procedures for monitoring the provision of health and 8601
long-term care services and supports, including the quality and 8602
cultural competence of the services and supports; 8603

(f) Priorities for using available resources efficiently and 8604

effectively. 8605

(D) The long-term care consultations provided for purposes of 8606
the program shall be provided by individuals certified by the 8607
department under section 173.43 of the Revised Code. 8608

(E) The information provided through a long-term care 8609
consultation shall be appropriate to the individual's needs and 8610
situation and shall address all of the following: 8611

(1) The availability of any long-term care options open to 8612
the individual; 8613

(2) Sources and methods of both public and private payment 8614
for long-term care services; 8615

(3) Factors to consider when choosing among the available 8616
programs, services, and benefits; 8617

(4) Opportunities and methods for maximizing independence and 8618
self-reliance, including support services provided by the 8619
individual's family, friends, and community. 8620

(F) An individual's long-term care consultation may include 8621
an assessment of the individual's functional capabilities. The 8622
consultation may incorporate portions of the determinations 8623
required under sections 5111.202, 5119.061, and 5123.021 of the 8624
Revised Code and may be provided concurrently with the assessment 8625
required under section 5111.204 of the Revised Code. 8626

(G)~~(1)~~ Unless an exemption specified in division (I) of this 8627
section is applicable, each ~~individual in~~ of the following 8628
~~categories~~ shall be provided with a long-term care consultation: 8629

~~(a) Individuals~~ (1) An individual who ~~apply~~ applies or 8630
~~indicate~~ indicates an intention to apply for admission to a 8631
nursing facility, regardless of the source of payment to be used 8632
for ~~their~~ the individual's care in a nursing facility; 8633

~~(b) Nursing~~ (2) A nursing facility ~~residents who apply or~~ 8634

~~indicate an intention to apply for medicaid resident, regardless
of the source of payment being used for the resident's care in the
facility;~~ 8635
8636
8637

~~(c) Nursing facility residents who are likely to spend down
their resources within six months after admission to a nursing
facility to a level at which they are financially eligible for
medicaid;~~ 8638
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8641

~~(d) Individuals (3) An individual who request requests a
long-term care consultation;~~ 8642
8643

~~(4) An individual identified by the department or a program
administrator as being likely to benefit from a long-term care
consultation.~~ 8644
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~~(2) In addition to the individuals included in the categories
specified in division (G)(1) of this section, long term care
consultations may be provided to nursing facility residents who
have not applied and have not indicated an intention to apply for
medicaid. The purpose of the consultations provided to these
individuals shall be to determine continued need for nursing
facility services, to provide information on alternative services,
and to make referrals to alternative services.~~ 8647
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~~(H)(1) When Except as provided in division (H)(2) or (3) of
this section, a long-term care consultation is required to be
provided pursuant to division (G)(1) of this section, the
consultation shall be provided as follows or pursuant to division
(H)(2) or (3) of this section:~~ 8655
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~~(a) If the individual for whom the consultation is being
provided has applied for medicaid and the consultation is being
provided concurrently with the assessment required under section
5111.204 of the Revised Code, the consultation shall be completed
in accordance with the applicable time frames specified in that
section for providing a level of care determination based on the~~ 8660
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assessment. 8666

(b) In all other cases, the consultation shall be provided 8667
not later than five calendar days after the department or ~~the~~ 8668
program administrator ~~under contract with the department~~ receives 8669
notice of the reason for which the consultation is required to be 8670
provided pursuant to division (G)~~(1)~~ of this section. 8671

(2) An individual or the individual's representative may 8672
request that a long-term care consultation be provided on a date 8673
that is later than the date required under division (H)(1)(a) or 8674
(b) of this section. 8675

(3) If a long-term care consultation cannot be completed 8676
within the number of days required by division (H)(1) or (2) of 8677
this section, the department or ~~the~~ program administrator ~~under~~ 8678
~~contract with the department~~ may do any of the following: 8679

(a) Exempt the individual from the consultation pursuant to 8680
rules that may be adopted under division ~~(L)~~(K) of this section; 8681

(b) In the case of an applicant for admission to a nursing 8682
facility, provide the consultation after the individual is 8683
admitted to the nursing facility; 8684

(c) In the case of a resident of a nursing facility, provide 8685
the consultation as soon as practicable. 8686

(I) An individual is not required to be provided a long-term 8687
care consultation under this section if any of the following 8688
apply: 8689

(1) The department or program administrator has attempted to 8690
provide the consultation, but the individual or the individual's 8691
representative chooses to forego participation in the consultation 8692
pursuant to criteria specified in rules adopted under division (L) 8693
of this section refuses to cooperate; 8694

(2) The individual is to receive care in a nursing facility 8695

under a contract for continuing care as defined in section 173.13 8696
of the Revised Code; 8697

(3) The individual has a contractual right to admission to a 8698
nursing facility operated as part of a system of continuing care 8699
in conjunction with one or more facilities that provide a less 8700
intensive level of services, including a residential care facility 8701
licensed under Chapter 3721. of the Revised Code, an adult care 8702
facility licensed under Chapter 3722. of the Revised Code, or an 8703
independent living arrangement; 8704

(4) The individual is to receive continual care in a home for 8705
the aged exempt from taxation under section 5701.13 of the Revised 8706
Code; 8707

(5) The individual is seeking admission to a facility that is 8708
not a nursing facility with a provider agreement under section 8709
5111.22 of the Revised Code; 8710

~~(6) The individual is to be transferred from another nursing 8711
facility;~~ 8712

~~(7) The individual is to be readmitted to a nursing facility 8713
following a period of hospitalization;~~ 8714

~~(8)~~ The individual is exempted from the long-term care 8715
consultation requirement by the department or the program 8716
administrator pursuant to rules that may be adopted under division 8717
(L) of this section. 8718

~~(J) At the conclusion of an individual's long term care 8719
consultation, the department or the program administrator under 8720
contract with the department shall provide the individual or 8721
individual's representative with a written summary of options and 8722
resources available to meet the individual's needs. Even though 8723
the summary may specify that a source of long term care other than 8724
care in a nursing facility is appropriate and available, the 8725
individual is not required to seek an alternative source of 8726~~

~~long term care and may be admitted to or continue to reside in a~~ 8727
~~nursing facility.~~ 8728

~~(K)~~ No nursing facility for which an operator has a provider 8729
agreement under section 5111.22 of the Revised Code shall admit or 8730
retain any individual as a resident, unless the nursing facility 8731
has received evidence that a long-term care consultation has been 8732
completed for the individual or division (I) of this section is 8733
applicable to the individual. 8734

~~(L)~~(K) The director of aging may adopt any rules the director 8735
considers necessary for the implementation and administration of 8736
this section. The rules shall be adopted in accordance with 8737
Chapter 119. of the Revised Code and may specify any or all of the 8738
following: 8739

(1) Procedures for providing long-term care consultations 8740
pursuant to this section; 8741

(2) Information to be provided through long-term care 8742
consultations regarding long-term care services that are 8743
available; 8744

(3) ~~Criteria under which an individual or the individual's~~ 8745
~~representative may choose to forego participation in and~~ 8746
~~procedures to be used to identify and recommend appropriate~~ 8747
~~service options for an individual receiving a long-term care~~ 8748
consultation; 8749

(4) Criteria for exempting individuals from the long-term 8750
care consultation requirement; 8751

(5) Circumstances under which it may be appropriate to 8752
provide an individual's long-term care consultation after the 8753
individual's admission to a nursing facility rather than before 8754
admission; 8755

(6) Criteria for identifying nursing facility residents who 8756

would benefit from the provision of a long-term care consultation; 8757
8758

(7) A description of the types of information from a nursing 8759
facility that is needed under the long-term care consultation 8760
program to assist a resident with relocation from the facility; 8761

(8) Standards to prevent conflicts of interest relative to 8762
the referrals made by a person who performs a long-term care 8763
consultation, including standards that prohibit the person from 8764
being employed by a provider of long-term care services; 8765

(9) Procedures for providing notice and an opportunity for a 8766
hearing under division (M) of this section. 8767

(L) To assist the department and each program administrator 8768
with identifying individuals who are likely to benefit from a 8769
long-term care consultation, the department and program 8770
administrator may ask to be given access to nursing facility 8771
resident assessment data collected through the use of the resident 8772
assessment instrument specified in rules adopted under section 8773
5111.02 of the Revised Code for purposes of the medicaid program. 8774
Except when prohibited by state or federal law, the department of 8775
health, department of job and family services, or nursing facility 8776
holding the data shall grant access to the data on receipt of the 8777
request from the department of aging or program administrator. 8778

(M)(1) The director of aging, after providing notice and an 8779
opportunity for a hearing, may fine a nursing facility an amount 8780
determined by rules the director shall adopt in accordance with 8781
Chapter 119. of the Revised Code ~~if~~ for any of the following 8782
reasons: 8783

(a) The nursing facility admits or retains an individual, 8784
without evidence that a long-term care consultation has been 8785
provided, as required by this section; 8786

(b) The nursing facility denies a person attempting to 8787

provide a long-term care consultation access to the facility or a resident of the facility; 8788
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(c) The nursing facility denies the department of aging or program administrator access to the facility or a resident of the facility, as the department or administrator considers necessary to administer the program. 8790
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(2) In accordance with section 5111.62 of the Revised Code, all fines collected under this division (M)(1) of this section shall be deposited into the state treasury to the credit of the residents protection fund. 8794
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Sec. 173.50. (A) Pursuant to a contract entered into with the department of job and family services as an interagency agreement under section 5111.91 of the Revised Code, the department of aging shall carry out the day-to-day administration of the component of the medicaid program established under Chapter 5111. of the Revised Code known as the program of all-inclusive care for the elderly or PACE. The department of aging shall carry out its PACE administrative duties in accordance with the provisions of the interagency agreement and all applicable federal laws, including the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396u-4, as amended. 8798
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(B) The department of aging may adopt rules in accordance with Chapter 119. of the Revised Code regarding the PACE program, including rules establishing priorities for enrolling in the program pursuant to section 173.501 of the Revised Code. The department's rules are subject to both of the following: 8809
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(1) The rules shall be authorized by rules adopted by the department of job and family services. 8814
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(2) The rules shall address only those issues that are not addressed in rules adopted by the department of job and family 8816
8817

services for the PACE program. 8818

Sec. 173.501. (A) As used in this section: 8819

"Nursing facility" has the same meaning as in section 5111.20 8820
of the Revised Code. 8821

"PACE provider" has the same meaning as in 42 U.S.C. 8822
1396u-4(a)(3). 8823

(B) Each month, the department of aging shall determine 8824
whether individuals who are on a waiting list for the PACE program 8825
have been admitted to a nursing facility. If the department 8826
determines that such an individual has been admitted to a nursing 8827
facility, the department shall notify the PACE provider serving 8828
the area in which the individual resides about the determination. 8829
The PACE provider shall determine whether the PACE program is 8830
appropriate for the individual and whether the individual would 8831
rather participate in the PACE program than continue residing in 8832
the nursing facility. If the PACE provider determines that the 8833
PACE program is appropriate for the individual and the individual 8834
would rather participate in the PACE program than continue 8835
residing in the nursing facility, the PACE provider shall so 8836
notify the department of aging. On receipt of the notice from the 8837
PACE provider, the department of aging shall approve the 8838
individual's enrollment in the PACE program in accordance with 8839
priorities established in rules adopted under section 173.50 of 8840
the Revised Code. Each quarter, the department of aging shall 8841
certify to the director of budget and management the estimated 8842
increase in costs of the PACE program resulting from enrollment of 8843
individuals in the PACE program pursuant to this section. 8844

(C) Not later than the last day of each calendar year, the 8845
director of aging shall submit to the general assembly a report 8846
regarding the number of individuals enrolled in the PACE program 8847
pursuant to this section and the costs incurred and savings 8848

achieved as a result of the enrollments. 8849

Sec. 173.99. (A) A long-term care provider, person employed 8850
by a long-term care provider, other entity, or employee of such 8851
other entity that violates division (C) of section 173.24 of the 8852
Revised Code is subject to a fine not to exceed one thousand 8853
dollars for each violation. 8854

(B) Whoever violates division (C) of section 173.23 of the 8855
Revised Code is guilty of registering a false complaint, a 8856
misdemeanor of the first degree. 8857

(C) A long-term care provider, other entity, or person 8858
employed by a long-term care provider or other entity that 8859
violates division (E) of section 173.19 of the Revised Code by 8860
denying a representative of the office of the state long-term care 8861
ombudsperson program the access required by that division is 8862
subject to a fine not to exceed five hundred dollars for each 8863
violation. 8864

(D) Whoever violates division (C) of section 173.44 of the 8865
Revised Code is subject to a fine of one hundred dollars. 8866

~~(E) Whoever violates division (B) of section 173.90 of the 8867
Revised Code is guilty of a misdemeanor of the first degree. 8868~~

Sec. 174.02. (A) The low- and moderate-income housing trust 8869
fund is hereby created in the state treasury. The fund consists of 8870
all appropriations made to the fund, housing trust fund fees 8871
collected by county recorders pursuant to section 317.36 of the 8872
Revised Code and deposited into the fund pursuant to section 8873
319.63 of the Revised Code, and all grants, gifts, loan 8874
repayments, and contributions of money made from any source to the 8875
department of development for deposit in the fund. All investment 8876
earnings of the fund shall be credited to the fund. The director 8877
of development shall allocate a portion of the money in the fund 8878

to an account of the Ohio housing finance agency. The department 8879
shall administer the fund. The agency shall use money allocated to 8880
it for implementing and administering its programs and duties 8881
under sections 174.03 and 174.05 of the Revised Code, and the 8882
department shall use the remaining money in the fund for 8883
implementing and administering its programs and duties under 8884
sections 174.03 to 174.06 of the Revised Code. Use of all money 8885
drawn from the fund is subject to the following restrictions: 8886

~~(1) Not more than six per cent of any current year 8887
appropriation authority for the fund shall be used for the 8888
transitional and permanent housing program to make grants to 8889
municipal corporations, counties, townships, and nonprofit 8890
organizations for the acquisition, rehabilitation, renovation, 8891
construction, conversion, operation, and cost of supportive 8892
services for new and existing transitional and permanent housing 8893
for homeless persons. 8894~~

~~(2)(a) Not more than five per cent of the current year 8895
appropriation authority for the fund shall be allocated between 8896
grants to community development corporations for the community 8897
development corporation grant program and grants and loans to the 8898
Ohio community development finance fund, a private nonprofit 8899
corporation. 8900~~

(b) In any year in which the amount in the fund exceeds one 8901
hundred thousand dollars and at least that much is allocated for 8902
the uses described in this section, not less than one hundred 8903
thousand dollars shall be used to provide training, technical 8904
assistance, and capacity building assistance to nonprofit 8905
development organizations. 8906

~~(3)(2) Not more than ~~seven~~ ten per cent of any current year 8907
appropriation authority for the fund shall be used for the 8908
emergency shelter housing grants program to make grants to 8909
private, nonprofit organizations and municipal corporations, 8910~~

counties, and townships for emergency shelter housing for the 8911
homeless and emergency shelter facilities serving unaccompanied 8912
youth seventeen years of age and younger. The grants shall be 8913
distributed pursuant to rules the director adopts and qualify as 8914
matching funds for funds obtained pursuant to the McKinney Act, 8915
101 Stat. 85 (1987), 42 U.S.C.A. 11371 to 11378. 8916

~~(4)~~(3) In any fiscal year in which the amount in the fund 8917
exceeds the amount awarded pursuant to division (A)~~(2)~~(1)(b) of 8918
this section by at least two hundred fifty thousand dollars, at 8919
least two hundred fifty thousand dollars from the fund shall be 8920
provided to the department of aging for the resident services 8921
coordinator program as established in section 173.08 of the 8922
Revised Code. 8923

~~(5)~~(4) Of all current year appropriation authority for the 8924
fund, not more than five per cent shall be used for 8925
administration. 8926

~~(6)~~(5) Not less than forty-five per cent of the funds awarded 8927
during any one fiscal year shall be for grants and loans to 8928
nonprofit organizations under section 174.03 of the Revised Code. 8929

~~(7)~~(6) Not less than fifty per cent of the funds awarded 8930
during any one fiscal year, excluding the amounts awarded pursuant 8931
to divisions (A)(1) ~~and (2)~~ and ~~(3)~~ of this section, shall be 8932
for grants and loans for activities that provide housing and 8933
housing assistance to families and individuals in rural areas and 8934
small cities that are not eligible to participate as a 8935
participating jurisdiction under the "HOME Investment Partnerships 8936
Act," 104 Stat. 4094 (1990), 42 U.S.C. 12701 note, 12721. 8937

~~(8) No money in the fund shall be used to pay for any legal 8938
services other than the usual and customary legal services 8939
associated with the acquisition of housing.~~ 8940

~~(9)~~(7) Money in the fund may be used as matching money for 8941

federal funds received by the state, counties, municipal 8942
corporations, and townships for the activities listed in section 8943
174.03 of the Revised Code. 8944

(B) If, after the second quarter of any year, it appears to 8945
the director that the full amount of the money in the fund 8946
designated in that year for activities that provide housing and 8947
housing assistance to families and individuals in rural areas and 8948
small cities under division (A) of this section will not be used 8949
for that purpose, the director may reallocate all or a portion of 8950
that amount for other housing activities. In determining whether 8951
or how to reallocate money under this division, the director may 8952
consult with and shall receive advice from the housing trust fund 8953
advisory committee. 8954

Sec. 174.03. (A) The department of development and the Ohio 8955
housing finance agency shall each develop programs under which, in 8956
accordance with rules adopted under this section, they may make 8957
grants, loans, loan guarantees, and loan subsidies to counties, 8958
municipal corporations, townships, local housing authorities, and 8959
nonprofit organizations and may make loans, loan guarantees, and 8960
loan subsidies to private developers and private lenders to assist 8961
in activities that provide housing and housing assistance for 8962
specifically targeted low- and moderate-income families and 8963
individuals. There is no minimum housing project size for awards 8964
under this division for any project that is developed for a 8965
special needs population and that is supported by a social service 8966
agency where the housing project is located. Activities for which 8967
grants, loans, loan guarantees, and loan subsidies may be made 8968
under this section include all of the following: 8969

(1) Acquiring, financing, constructing, leasing, 8970
rehabilitating, remodeling, improving, and equipping publicly or 8971
privately owned housing; 8972

(2) Providing supportive services related to housing and the 8973
homeless, including housing counseling. Not more than twenty per 8974
cent of the current year appropriation authority for the low- and 8975
moderate-income housing trust fund that remains after the award of 8976
funds made pursuant to divisions (A)(1), and (A)(2), ~~and (A)(3)~~ of 8977
section 174.02 of the Revised Code, shall be awarded in any fiscal 8978
year for supportive services. 8979

(3) Providing rental assistance payments or other project 8980
operating subsidies that lower tenant rents. 8981

~~(B) Activities listed under division (A) of this section may 8982
include emergency shelter care programs for unaccompanied youth 8983
seventeen years of age and younger. 8984~~

~~(C)~~ Grants, loans, loan guarantees, and loan subsidies may be 8985
made to counties, municipal corporations, townships, and nonprofit 8986
organizations for the additional purposes of providing technical 8987
assistance, design and finance services and consultation, and 8988
payment of pre-development and administrative costs related to any 8989
of the activities listed above. 8990

~~(D)~~(C) In developing programs under this section, the 8991
department and the agency shall invite, accept, and consider 8992
public comment, and recommendations from the housing trust fund 8993
advisory committee created under section 174.06 of the Revised 8994
Code, on how the programs should be designed to most effectively 8995
benefit low- and moderate-income families and individuals. The 8996
programs developed under this section shall respond collectively 8997
to housing and housing assistance needs of low- and 8998
moderate-income families and individuals statewide. 8999

~~(E)~~(D) The department and the agency, in accordance with 9000
Chapter 119. of the Revised Code, shall each adopt rules to 9001
administer programs developed under this section. The rules shall 9002
prescribe procedures and forms that counties, municipal 9003

corporations, townships, local housing authorities, and nonprofit 9004
organizations shall use in applying for grants, loans, loan 9005
guarantees, and loan subsidies and that private developers and 9006
private lenders shall use in applying for loans, loan guarantees, 9007
and loan subsidies; eligibility criteria for the receipt of funds; 9008
procedures for reviewing and granting or denying applications; 9009
procedures for paying out funds; conditions on the use of funds; 9010
procedures for monitoring the use of funds; and procedures under 9011
which a recipient shall be required to repay funds that are 9012
improperly used. The rules shall do both of the following: 9013

(1) Require each recipient of a grant or loan made from the 9014
low- and moderate-income housing trust fund for activities that 9015
provide, or assist in providing, a rental housing project, to 9016
reasonably ensure that the rental housing project will remain 9017
affordable to those families and individuals targeted for the 9018
rental housing project for the useful life of the rental housing 9019
project or for thirty years, whichever is longer; 9020

(2) Require each recipient of a grant or loan made from the 9021
low- and moderate-income housing trust fund for activities that 9022
provide, or assist in providing, a housing project to prepare and 9023
implement a plan to reasonably assist any families and individuals 9024
displaced by the housing project in obtaining decent affordable 9025
housing. 9026

~~(F)~~(E) In prescribing eligibility criteria and conditions for 9027
the use of funds, neither the department nor the agency is limited 9028
to the criteria and conditions specified in this section and each 9029
may prescribe additional eligibility criteria and conditions that 9030
relate to the purposes for which grants, loans, loan guarantees, 9031
and loan subsidies may be made. However, the department and agency 9032
are limited by the following specifically targeted low- and 9033
moderate-income guidelines: 9034

(1) Not less than seventy-five per cent of the money granted 9035

and loaned under this section in any fiscal year shall be for 9036
activities that provide affordable housing and housing assistance 9037
to families and individuals whose incomes are equal to or less 9038
than fifty per cent of the median income for the county in which 9039
they live, as determined by the department under section 174.04 of 9040
the Revised Code. 9041

(2) Any money granted and loaned under this section in any 9042
fiscal year that is not granted or loaned pursuant to division 9043
(F)(1) of this section shall be for activities that provide 9044
affordable housing and housing assistance to families and 9045
individuals whose incomes are equal to or less than eighty per 9046
cent of the median income for the county in which they live, as 9047
determined by the department under section 174.04 of the Revised 9048
Code. 9049

~~(G)~~(F) In making grants, loans, loan guarantees, and loan 9050
subsidies under this section, the department and the agency shall 9051
give preference to viable projects and activities that benefit 9052
those families and individuals whose incomes are equal to or less 9053
than thirty-five per cent of the median income for the county in 9054
which they live, as determined by the department under section 9055
174.04 of the Revised Code. 9056

~~(H)~~(G) The department and the agency shall monitor the 9057
programs developed under this section to ensure that money granted 9058
and loaned under this section is not used in a manner that 9059
violates division (H) of section 4112.02 of the Revised Code or 9060
discriminates against families with children. 9061

Sec. 174.06. (A) There is hereby created the housing trust 9062
fund advisory committee. The committee consists of fourteen 9063
members the governor appoints as follows to represent 9064
organizations committed to housing and housing assistance for low- 9065
and moderate-income persons: 9066

(1) One member to represent lenders.	9067
(2) One member to represent for-profit builders and developers.	9068 9069
(3) One member to represent the families and individuals included in the income groups targeted for housing and housing assistance under divisions <u>(E) and</u> (F) and (G) of section 174.03 of the Revised Code.	9070 9071 9072 9073
(4) One member to represent religious, civic, or social service organizations.	9074 9075
(5) One member to represent counties.	9076
(6) One member to represent municipal corporations.	9077
(7) One member to represent townships.	9078
(8) One member to represent local housing authorities.	9079
(9) One member to represent fair housing organizations.	9080
(10) Three members to represent nonprofit organizations.	9081
(11) One member to represent real estate brokers licensed under Chapter 4735. of the Revised Code.	9082 9083
(12) One member to represent the for-profit rental housing industry.	9084 9085
(B)(1) Terms of office are for four years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the manner prescribed for the original appointment. A member appointed to fill a vacancy occurring prior to the expiration of a term shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration of a term until a successor takes office or until a period of sixty days has elapsed, whichever	9086 9087 9088 9089 9090 9091 9092 9093 9094 9095

occurs first. 9096

(2) The governor may remove a member for misfeasance, 9097
malfeasance, or willful neglect of duty. 9098

(C)(1) The committee shall select a chairperson from among 9099
its members. The committee shall meet at least once each calendar 9100
year and upon the call of the chair. Members of the committee 9101
serve without compensation, but shall be reimbursed for reasonable 9102
and necessary expenses incurred in the discharge of duties. 9103

(2) The department of development shall provide the committee 9104
with a meeting place, supplies, and staff assistance as the 9105
committee requests. 9106

(D) The committee shall assist the department and the Ohio 9107
housing finance agency in defining housing needs and priorities, 9108
recommend to the department and agency at least annually how the 9109
programs developed under section 174.02 of the Revised Code should 9110
be designed to most effectively benefit low- and moderate-income 9111
persons, consider an allocation of funds for projects of fifteen 9112
units or less, and advise the director of development on whether 9113
and how to reallocate money in the low- and moderate-income 9114
housing trust fund under division (B) of section 174.02 of the 9115
Revised Code. 9116

Sec. 176.05. (A)(1) Notwithstanding any provision of law to 9117
the contrary, the rate of wages payable for the various 9118
occupations covered by sections 4115.03 to 4115.16 of the Revised 9119
Code to persons employed on a project who are not any of the 9120
following shall be determined according to this section: 9121

(a) Qualified volunteers; 9122

(b) Persons required to participate in a work activity, 9123
developmental activity, or alternative work activity under 9124
sections 5107.40 to 5107.69 of the Revised Code except those 9125

engaged in paid employment or subsidized employment pursuant to 9126
the activity; 9127

(c) ~~Food-stamp~~ Supplemental nutrition assistance program 9128
benefit recipients required to participate in employment and 9129
training activities established by rules adopted under section 9130
5101.54 of the Revised Code. 9131

An association representing the general contractors or 9132
subcontractors that engage in the business of residential 9133
construction in a certain locality shall negotiate with the 9134
applicable building and construction trades council in that 9135
locality an agreement or understanding that sets forth the 9136
residential prevailing rate of wages, payable on projects in that 9137
locality, for each of the occupations employed on those projects. 9138

(2) Notwithstanding any residential prevailing rate of wages 9139
established prior to July 1, 1995, if, by October 1, 1995, the 9140
parties are unable to agree under division (A)(1) of this section 9141
as to the rate of wages payable for each occupation covered by 9142
sections 4115.03 to 4115.16 of the Revised Code, the director of 9143
commerce shall establish the rate of wages payable for each 9144
occupation. 9145

(3) The residential prevailing rate of wages established 9146
under division (A)(1) or (2) of this section shall not be equal to 9147
or greater than the prevailing rate of wages determined by the 9148
director pursuant to sections 4115.03 to 4115.16 of the Revised 9149
Code for any of the occupations covered by those sections. 9150

(B) Except for the prevailing rate of wages determined by the 9151
director pursuant to sections 4115.03 to 4115.16 of the Revised 9152
Code, those sections and section 4115.99 of the Revised Code apply 9153
to projects. 9154

(C) The residential prevailing rate of wages established 9155
under division (A) of this section is not payable to any 9156

individual or member of that individual's family who provides 9157
labor in exchange for acquisition of the property for 9158
homeownership or who provides labor in place of or as a supplement 9159
to any rental payments for the property. 9160

(D) For the purposes of this section: 9161

(1) "Project" means any construction, rehabilitation, 9162
remodeling, or improvement of residential housing, whether on a 9163
single or multiple site for which a person, as defined in section 9164
1.59 of the Revised Code, or municipal corporation, county, or 9165
township receives financing, that is financed in whole or in part 9166
from state moneys or pursuant to this chapter, section 133.51 or 9167
307.698 of the Revised Code, or Chapter 174. or 175. of the 9168
Revised Code, except for any of the following: 9169

(a) The single-family mortgage revenue bonds homeownership 9170
program under Chapter 175. of the Revised Code, including 9171
owner-occupied dwellings of one to four units; 9172

(b) Projects consisting of fewer than six units developed by 9173
any entity that is not a nonprofit organization exempt from 9174
federal income tax under section 501(c)(3) of the Internal Revenue 9175
Code; 9176

(c) Projects of fewer than twenty-five units developed by any 9177
nonprofit organization that is exempt from federal income tax 9178
under section 501(c)(3) of the Internal Revenue Code; 9179

(d) Programs undertaken by any municipal corporation, county, 9180
or township, including lease-purchase programs, using mortgage 9181
revenue bond financing; 9182

(e) Any individual project, that is sponsored or developed by 9183
a nonprofit organization that is exempt from federal income tax 9184
under section 501(c)(3) of the Internal Revenue Code, for which 9185
the federal government or any of its agencies furnishes by loan, 9186
grant, low-income housing tax credit, or insurance more than 9187

twelve per cent of the costs of the project. For purposes of 9188
division (D)(2)(e) of this section, the value of the low-income 9189
housing tax credits shall be calculated as the proceeds from the 9190
sale of the tax credits, less the costs of the sale. 9191

As used in division (D)(1)(e) of this section, "sponsored" 9192
means that a general partner of a limited partnership owning the 9193
project or a managing member of a limited liability company owning 9194
the project is either a nonprofit organization that is exempt from 9195
federal income tax under section 501(c)(3) of the Internal Revenue 9196
Code or a person, as defined in section 1.59 of the Revised Code, 9197
or a limited liability company in which such a nonprofit 9198
organization maintains controlling interest. For purposes of this 9199
division, a general partner of a limited partnership that is a 9200
nonprofit organization described under this division is not 9201
required to be the sole general partner in the limited 9202
partnership, and a managing member of a limited liability company 9203
that is a nonprofit organization described under this division is 9204
not required to be the sole managing member in the limited 9205
liability company. 9206

Nothing in division (D)(1)(e) of this section shall be 9207
construed as permitting unrelated projects to be combined for the 9208
sole purpose of determining the total percentage of project costs 9209
furnished by the federal government or any of its agencies. 9210

(2) A "project" is a "public improvement" and the state or a 9211
political subdivision that undertakes or participates in the 9212
financing of a project is a "public authority," as both of the 9213
last two terms are defined in section 4115.03 of the Revised Code. 9214

(3) "Qualified volunteers" are volunteers who are working 9215
without compensation for a nonprofit organization that is exempt 9216
from federal income tax under section 501(c)(3) of the Internal 9217
Revenue Code, and that is providing housing or housing assistance 9218
only to families and individuals in a county whose incomes are not 9219

greater than one hundred forty per cent of the median income of 9220
that county as determined under section 174.04 of the Revised 9221
Code. 9222

Sec. 307.626. (A) By the first day of April of each year, the 9223
person convening the child fatality review board shall prepare and 9224
submit to the Ohio department of health a report that ~~includes all~~ 9225
~~of~~ summarizes the following information with respect to ~~each~~ the 9226
child ~~death~~ deaths that ~~was~~ were reviewed by the review board in 9227
the previous calendar year: 9228

- (1) The cause of death; 9229
- (2) Factors contributing to death; 9230
- (3) Age; 9231
- (4) Sex; 9232
- (5) Race; 9233
- (6) The geographic location of death; 9234
- (7) The year of death. 9235

The report shall specify the number of child deaths that ~~have~~ 9236
~~not been reviewed since the effective date of this section~~ were 9237
not reviewed during the previous calendar year. 9238

The report may include recommendations for actions that might 9239
prevent other deaths, as well as any other information the review 9240
board determines should be included. 9241

(B) Reports prepared under division (A) of this section shall 9242
be considered public records under section 149.43 of the Revised 9243
Code. 9244

(C) The child fatality review board shall submit individual 9245
data with respect to each child death review into the Ohio 9246
department of health child death review database or the national 9247
child death review database. The individual data shall include the 9248

information specified in division (A) of this section and any 9249
other information the board considers relevant to the review. 9250
Individual data related to a child death review that is contained 9251
in the Ohio department of health child death review database is 9252
not a public record under section 149.43 of the Revised Code. 9253

Sec. 307.629. (A) Except as provided in sections 5153.171 to 9254
5153.173 of the Revised Code, any information, document, or report 9255
presented to a child fatality review board, all statements made by 9256
review board members during meetings of the review board, ~~and~~ all 9257
work products of the review board, and child fatality review data 9258
submitted by the child fatality review board to the department of 9259
health or a national child death review database, other than the 9260
report prepared pursuant to division (A) of section 307.626 of the 9261
Revised Code, are confidential and shall be used by the review 9262
board ~~and~~, its members, and the department of health only in the 9263
exercise of the proper functions of the review board and the 9264
department. 9265

(B) No person shall permit or encourage the unauthorized 9266
dissemination of the confidential information described in 9267
division (A) of this section. 9268

(C) Whoever violates division (B) of this section is guilty 9269
of a misdemeanor of the second degree. 9270

Sec. 319.301. (A) This section does not apply to any of the 9271
following: 9272

(1) Taxes levied at whatever rate is required to produce a 9273
specified amount of tax money, including a tax levied under 9274
section 5705.199 or 5705.211 of the Revised Code, or an amount to 9275
pay debt charges; 9276

(2) Taxes levied within the one per cent limitation imposed 9277
by Section 2 of Article XII, Ohio Constitution; 9278

(3) Taxes provided for by the charter of a municipal corporation.	9279 9280
(B) As used in this section:	9281
(1) "Real property" includes real property owned by a railroad.	9282 9283
(2) "Carryover property" means all real property on the current year's tax list except:	9284 9285
(a) Land and improvements that were not taxed by the district in both the preceding year and the current year;	9286 9287
(b) Land and improvements that were not in the same class in both the preceding year and the current year.	9288 9289
(3) "Effective tax rate" means with respect to each class of property:	9290 9291
(a) The sum of the total taxes that would have been charged and payable for current expenses against real property in that class if each of the district's taxes were reduced for the current year under division (D)(1) of this section without regard to the application of division (E)(3) of this section divided by	9292 9293 9294 9295 9296
(b) The taxable value of all real property in that class.	9297
(4) "Taxes charged and payable" means the taxes charged and payable prior to any reduction required by section 319.302 of the Revised Code.	9298 9299 9300
(C) The tax commissioner shall make the determinations required by this section each year, without regard to whether a taxing district has territory in a county to which section 5715.24 of the Revised Code applies for that year. Separate determinations shall be made for each of the two classes established pursuant to section 5713.041 of the Revised Code.	9301 9302 9303 9304 9305 9306
(D) With respect to each tax authorized to be levied by each taxing district, the tax commissioner, annually, shall do both of	9307 9308

the following: 9309

(1) Determine by what percentage, if any, the sums levied by 9310
such tax against the carryover property in each class would have 9311
to be reduced for the tax to levy the same number of dollars 9312
against such property in that class in the current year as were 9313
charged against such property by such tax in the preceding year 9314
subsequent to the reduction made under this section but before the 9315
reduction made under section 319.302 of the Revised Code. In the 9316
case of a tax levied for the first time that is not a renewal of 9317
an existing tax, the commissioner shall determine by what 9318
percentage the sums that would otherwise be levied by such tax 9319
against carryover property in each class would have to be reduced 9320
to equal the amount that would have been levied if the full rate 9321
thereof had been imposed against the total taxable value of such 9322
property in the preceding tax year. A tax or portion of a tax that 9323
is designated a replacement levy under section 5705.192 of the 9324
Revised Code is not a renewal of an existing tax for purposes of 9325
this division. 9326

(2) Certify each percentage determined in division (D)(1) of 9327
this section, as adjusted under division (E) of this section, and 9328
the class of property to which that percentage applies to the 9329
auditor of each county in which the district has territory. The 9330
auditor, after complying with section 319.30 of the Revised Code, 9331
shall reduce the sum to be levied by such tax against each parcel 9332
of real property in the district by the percentage so certified 9333
for its class. Certification shall be made by the first day of 9334
September except in the case of a tax levied for the first time, 9335
in which case certification shall be made within fifteen days of 9336
the date the county auditor submits the information necessary to 9337
make the required determination. 9338

(E)(1) As used in division (E)(2) of this section, "pre-1982 9339
joint vocational taxes" means, with respect to a class of 9340

property, the difference between the following amounts: 9341

(a) The taxes charged and payable in tax year 1981 against 9342
the property in that class for the current expenses of the joint 9343
vocational school district of which the school district is a part 9344
after making all reductions under this section; 9345

(b) The following percentage of the taxable value of all real 9346
property in that class: 9347

(i) In 1987, five one-hundredths of one per cent; 9348

(ii) In 1988, one-tenth of one per cent; 9349

(iii) In 1989, fifteen one-hundredths of one per cent; 9350

(iv) In 1990 and each subsequent year, two-tenths of one per 9351
cent. 9352

If the amount in division (E)(1)(b) of this section exceeds 9353
the amount in division (E)(1)(a) of this section, the pre-1982 9354
joint vocational taxes shall be zero. 9355

As used in divisions (E)(2) and (3) of this section, "taxes 9356
charged and payable" has the same meaning as in division (B)(4) of 9357
this section and excludes any tax charged and payable in 1985 or 9358
thereafter under sections 5705.194 to 5705.197 or section 5705.199 9359
or 5705.213 of the Revised Code. 9360

(2) If in the case of a school district other than a joint 9361
vocational or cooperative education school district any percentage 9362
required to be used in division (D)(2) of this section for either 9363
class of property could cause the total taxes charged and payable 9364
for current expenses to be less than two per cent of the taxable 9365
value of all real property in that class that is subject to 9366
taxation by the district, the commissioner shall determine what 9367
percentages would cause the district's total taxes charged and 9368
payable for current expenses against that class, after all 9369
reductions that would otherwise be made under this section, to 9370

equal, when combined with the pre-1982 joint vocational taxes 9371
against that class, the lesser of the following: 9372

(a) The sum of the rates at which those taxes are authorized 9373
to be levied; 9374

(b) Two per cent of the taxable value of the property in that 9375
class. The auditor shall use such percentages in making the 9376
reduction required by this section for that class. 9377

(3)(a) If in the case of a joint vocational school district 9378
any percentage required to be used in division (D)(2) of this 9379
section for either class of property could cause the total taxes 9380
charged and payable for current expenses for that class to be less 9381
than the designated amount, the commissioner shall determine what 9382
percentages would cause the district's total taxes charged and 9383
payable for current expenses for that class, after all reductions 9384
that would otherwise be made under this section, to equal the 9385
designated amount. The auditor shall use such percentages in 9386
making the reductions required by this section for that class. 9387

(b) As used in division (E)(3)(a) of this section, the 9388
designated amount shall equal the taxable value of all real 9389
property in the class that is subject to taxation by the district 9390
times the lesser of the following: 9391

(i) Two-tenths of one per cent; 9392

(ii) The district's effective rate plus the following 9393
percentage for the year indicated: 9394

WHEN COMPUTING THE	ADD THE FOLLOWING	
TAXES CHARGED FOR	PERCENTAGE:	
1987	0.025%	9397
1988	0.05%	9398
1989	0.075%	9399
1990	0.1%	9400
1991	0.125%	9401

1992	0.15%	9402
1993	0.175%	9403
1994 and thereafter	0.2%	9404

(F) No reduction shall be made under this section in the rate at which any tax is levied. 9405
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(G) The commissioner may order a county auditor to furnish any information the commissioner needs to make the determinations required under division (D) or (E) of this section, and the auditor shall supply the information in the form and by the date specified in the order. If the auditor fails to comply with an order issued under this division, except for good cause as determined by the commissioner, the commissioner shall withhold from such county or taxing district therein fifty per cent of state revenues to local governments pursuant to section 5747.50 of the Revised Code or shall direct the department of education to withhold therefrom fifty per cent of state revenues to school districts pursuant to ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code. The commissioner shall withhold the distribution of such revenues until the county auditor has complied with this division, and the department shall withhold the distribution of such revenues until the commissioner has notified the department that the county auditor has complied with this division. 9407
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(H) If the commissioner is unable to certify a tax reduction factor for either class of property in a taxing district located in more than one county by the last day of November because information required under division (G) of this section is unavailable, the commissioner may compute and certify an estimated tax reduction factor for that district for that class. The estimated factor shall be based upon an estimate of the unavailable information. Upon receipt of the actual information for a taxing district that received an estimated tax reduction factor, the commissioner shall compute the actual tax reduction 9424
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factor and use that factor to compute the taxes that should have 9434
been charged and payable against each parcel of property for the 9435
year for which the estimated reduction factor was used. The amount 9436
by which the estimated factor resulted in an overpayment or 9437
underpayment in taxes on any parcel shall be added to or 9438
subtracted from the amount due on that parcel in the ensuing tax 9439
year. 9440

A percentage or a tax reduction factor determined or computed 9441
by the commissioner under this section shall be used solely for 9442
the purpose of reducing the sums to be levied by the tax to which 9443
it applies for the year for which it was determined or computed. 9444
It shall not be used in making any tax computations for any 9445
ensuing tax year. 9446

(I) In making the determinations under division (D)(1) of 9447
this section, the tax commissioner shall take account of changes 9448
in the taxable value of carryover property resulting from 9449
complaints filed under section 5715.19 of the Revised Code for 9450
determinations made for the tax year in which such changes are 9451
reported to the commissioner. Such changes shall be reported to 9452
the commissioner on the first abstract of real property filed with 9453
the commissioner under section 5715.23 of the Revised Code 9454
following the date on which the complaint is finally determined by 9455
the board of revision or by a court or other authority with 9456
jurisdiction on appeal. The tax commissioner shall account for 9457
such changes in making the determinations only for the tax year in 9458
which the change in valuation is reported. Such a valuation change 9459
shall not be used to recompute the percentages determined under 9460
division (D)(1) of this section for any prior tax year. 9461

Sec. 319.302. (A)(1) Real property that is not intended 9462
primarily for use in a business activity shall qualify for a 9463
partial exemption from real property taxation. For purposes of 9464

this partial exemption, "business activity" includes all uses of 9465
real property, except farming; leasing property for farming; 9466
occupying or holding property improved with single-family, 9467
two-family, or three-family dwellings; leasing property improved 9468
with single-family, two-family, or three-family dwellings; or 9469
holding vacant land that the county auditor determines will be 9470
used for farming or to develop single-family, two-family, or 9471
three-family dwellings. For purposes of this partial exemption, 9472
"farming" does not include land used for the commercial production 9473
of timber that is receiving the tax benefit under section 5713.23 9474
or 5713.31 of the Revised Code and all improvements connected with 9475
such commercial production of timber. 9476

(2) Each year, the county auditor shall review each parcel of 9477
real property to determine whether it qualifies for the partial 9478
exemption provided for by this section as of the first day of 9479
January of the current tax year. 9480

(B) After complying with section 319.301 of the Revised Code, 9481
the county auditor shall reduce the remaining sums to be levied 9482
against each parcel of real property that is listed on the general 9483
tax list and duplicate of real and public utility property for the 9484
current tax year and that qualifies for partial exemption under 9485
division (A) of this section, and against each manufactured and 9486
mobile home that is taxed pursuant to division (D)(2) of section 9487
4503.06 of the Revised Code and that is on the manufactured home 9488
tax list for the current tax year, by ten per cent, to provide a 9489
partial exemption for that parcel or home. Except as otherwise 9490
provided in sections 323.152, 323.158, 505.06, and 715.263 of the 9491
Revised Code, the amount of the taxes remaining after any such 9492
reduction shall be the real and public utility property taxes 9493
charged and payable on each parcel of real property, including 9494
property that does not qualify for partial exemption under 9495
division (A) of this section, and the manufactured home tax 9496

charged and payable on each manufactured or mobile home, and shall 9497
be the amounts certified to the county treasurer for collection. 9498
Upon receipt of the real and public utility property tax 9499
duplicate, the treasurer shall certify to the tax commissioner the 9500
total amount by which the real property taxes were reduced under 9501
this section, as shown on the duplicate. Such reduction shall not 9502
directly or indirectly affect the determination of the principal 9503
amount of notes that may be issued in anticipation of any tax 9504
levies or the amount of bonds or notes for any planned 9505
improvements. If after application of sections 5705.31 and 5705.32 9506
of the Revised Code and other applicable provisions of law, 9507
including divisions (F) and (I) of section 321.24 of the Revised 9508
Code, there would be insufficient funds for payment of debt 9509
charges on bonds or notes payable from taxes reduced by this 9510
section, the reduction of taxes provided for in this section shall 9511
be adjusted to the extent necessary to provide funds from such 9512
taxes. 9513

(C) The tax commissioner may adopt rules governing the 9514
administration of the partial exemption provided for by this 9515
section. 9516

(D) The determination of whether property qualifies for 9517
partial exemption under division (A) of this section is solely for 9518
the purpose of allowing the partial exemption under division (B) 9519
of this section. 9520

Sec. 319.54. (A) On all moneys collected by the county 9521
treasurer on any tax duplicate of the county, other than estate 9522
tax duplicates, and on all moneys received as advance payments of 9523
personal property and classified property taxes, the county 9524
auditor, on settlement with the treasurer and tax commissioner, on 9525
or before the date prescribed by law for such settlement or any 9526
lawful extension of such date, shall be allowed as compensation 9527

for the county auditor's services the following percentages: 9528

(1) On the first one hundred thousand dollars, two and 9529
one-half per cent; 9530

(2) On the next two million dollars, eight thousand three 9531
hundred eighteen ten-thousandths of one per cent; 9532

(3) On the next two million dollars, six thousand six hundred 9533
fifty-five ten-thousandths of one per cent; 9534

(4) On all further sums, one thousand six hundred sixty-three 9535
ten-thousandths of one per cent. 9536

If any settlement is not made on or before the date 9537
prescribed by law for such settlement or any lawful extension of 9538
such date, the aggregate compensation allowed to the auditor shall 9539
be reduced one per cent for each day such settlement is delayed 9540
after the prescribed date. No penalty shall apply if the auditor 9541
and treasurer grant all requests for advances up to ninety per 9542
cent of the settlement pursuant to section 321.34 of the Revised 9543
Code. The compensation allowed in accordance with this section on 9544
settlements made before the dates prescribed by law, or the 9545
reduced compensation allowed in accordance with this section on 9546
settlements made after the date prescribed by law or any lawful 9547
extension of such date, shall be apportioned ratably by the 9548
auditor and deducted from the shares or portions of the revenue 9549
payable to the state as well as to the county, townships, 9550
municipal corporations, and school districts. 9551

(B) For the purpose of reimbursing county auditors for the 9552
expenses associated with the increased number of applications for 9553
reductions in real property taxes under sections 323.152 and 9554
4503.065 of the Revised Code that ~~results~~ result from the 9555
amendment of those sections by Am. Sub. H.B. 119 of the 127th 9556
general assembly, ~~on the first day of August of each year~~ there 9557
shall be paid from the state's general revenue fund to the county 9558

treasury, to the credit of the real estate assessment fund created 9559
by section 325.31 of the Revised Code, an amount equal to one per 9560
cent of the total annual amount of property tax relief 9561
reimbursement paid to that county under sections 323.156 and 9562
4503.068 of the Revised Code for the preceding tax year. Payments 9563
made under this division shall be made at the same times and in 9564
the same manner as payments made under section 323.156 of the 9565
Revised Code. 9566

(C) From all moneys collected by the county treasurer on any 9567
tax duplicate of the county, other than estate tax duplicates, and 9568
on all moneys received as advance payments of personal property 9569
and classified property taxes, there shall be paid into the county 9570
treasury to the credit of the real estate assessment fund created 9571
by section 325.31 of the Revised Code, an amount to be determined 9572
by the county auditor, which shall not exceed the percentages 9573
prescribed in divisions (C)(1) and (2) of this section. 9574

(1) For payments made after June 30, 2007, and before 2011, 9575
the following percentages: 9576

(a) On the first five hundred thousand dollars, four per 9577
cent; 9578

(b) On the next five million dollars, two per cent; 9579

(c) On the next five million dollars, one per cent; 9580

(d) On all further sums not exceeding one hundred fifty 9581
million dollars, three-quarters of one per cent; 9582

(e) On amounts exceeding one hundred fifty million dollars, 9583
five hundred eighty-five thousandths of one per cent. 9584

(2) For payments made in or after 2011, the following 9585
percentages: 9586

(a) On the first five hundred thousand dollars, four per 9587
cent; 9588

(b) On the next ten million dollars, two per cent; 9589

(c) On amounts exceeding ten million five hundred thousand 9590
dollars, three-fourths of one per cent. 9591

Such compensation shall be apportioned ratably by the auditor 9592
and deducted from the shares or portions of the revenue payable to 9593
the state as well as to the county, townships, municipal 9594
corporations, and school districts. 9595

(D) Each county auditor shall receive four per cent of the 9596
amount of tax collected and paid into the county treasury, on 9597
property omitted and placed by the county auditor on the tax 9598
duplicate. 9599

(E) On all estate tax moneys collected by the county 9600
treasurer, the county auditor, on settlement semiannually with the 9601
tax commissioner, shall be allowed, as compensation for the 9602
auditor's services under Chapter 5731. of the Revised Code, the 9603
following percentages: 9604

(1) Four per cent on the first one hundred thousand dollars; 9605

(2) One-half of one per cent on all additional sums. 9606

Such percentages shall be computed upon the amount collected 9607
and reported at each semiannual settlement, and shall be for the 9608
use of the general fund of the county. 9609

(F) On all cigarette license moneys collected by the county 9610
treasurer, the county auditor, on settlement semiannually with the 9611
treasurer, shall be allowed as compensation for the auditor's 9612
services in the issuing of such licenses one-half of one per cent 9613
of such moneys, to be apportioned ratably and deducted from the 9614
shares of the revenue payable to the county and subdivisions, for 9615
the use of the general fund of the county. 9616

(G) The county auditor shall charge and receive fees as 9617
follows: 9618

(1) For deeds of land sold for taxes to be paid by the purchaser, five dollars;

(2) For the transfer or entry of land, lot, or part of lot, or the transfer or entry on or after January 1, 2000, of a used manufactured home or mobile home as defined in section 5739.0210 of the Revised Code, fifty cents for each transfer or entry, to be paid by the person requiring it;

(3) For receiving statements of value and administering section 319.202 of the Revised Code, one dollar, or ten cents for each one hundred dollars or fraction of one hundred dollars, whichever is greater, of the value of the real property transferred or, for sales occurring on or after January 1, 2000, the value of the used manufactured home or used mobile home, as defined in section 5739.0210 of the Revised Code, transferred, except no fee shall be charged when the transfer is made:

(a) To or from the United States, this state, or any instrumentality, agency, or political subdivision of the United States or this state;

(b) Solely in order to provide or release security for a debt or obligation;

(c) To confirm or correct a deed previously executed and recorded or when a current owner on the general tax list of real and public utility property and the general duplicate of real and public utility property is a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT and is changing the current owner name listed on the general tax list of real and public utility property and the general duplicate of real and public utility property to the initials of the current owner as prescribed in division (B)(1) of section 319.28 of the Revised Code;

- (d) To evidence a gift, in trust or otherwise and whether 9650
revocable or irrevocable, between husband and wife, or parent and 9651
child or the spouse of either; 9652
- (e) On sale for delinquent taxes or assessments; 9653
- (f) Pursuant to court order, to the extent that such transfer 9654
is not the result of a sale effected or completed pursuant to such 9655
order; 9656
- (g) Pursuant to a reorganization of corporations or 9657
unincorporated associations or pursuant to the dissolution of a 9658
corporation, to the extent that the corporation conveys the 9659
property to a stockholder as a distribution in kind of the 9660
corporation's assets in exchange for the stockholder's shares in 9661
the dissolved corporation; 9662
- (h) By a subsidiary corporation to its parent corporation for 9663
no consideration, nominal consideration, or in sole consideration 9664
of the cancellation or surrender of the subsidiary's stock; 9665
- (i) By lease, whether or not it extends to mineral or mineral 9666
rights, unless the lease is for a term of years renewable forever; 9667
- (j) When the value of the real property or the manufactured 9668
or mobile home or the value of the interest that is conveyed does 9669
not exceed one hundred dollars; 9670
- (k) Of an occupied residential property, including a 9671
manufactured or mobile home, being transferred to the builder of a 9672
new residence or to the dealer of a new manufactured or mobile 9673
home when the former residence is traded as part of the 9674
consideration for the new residence or new manufactured or mobile 9675
home; 9676
- (l) To a grantee other than a dealer in real property or in 9677
manufactured or mobile homes, solely for the purpose of, and as a 9678
step in, the prompt sale of the real property or manufactured or 9679

mobile home to others; 9680

(m) To or from a person when no money or other valuable and 9681
tangible consideration readily convertible into money is paid or 9682
to be paid for the real estate or manufactured or mobile home and 9683
the transaction is not a gift; 9684

(n) Pursuant to division (B) of section 317.22 of the Revised 9685
Code, or section 2113.61 of the Revised Code, between spouses or 9686
to a surviving spouse pursuant to section 5302.17 of the Revised 9687
Code as it existed prior to April 4, 1985, between persons 9688
pursuant to section 5302.17 or 5302.18 of the Revised Code on or 9689
after April 4, 1985, to a person who is a surviving, survivorship 9690
tenant pursuant to section 5302.17 of the Revised Code on or after 9691
April 4, 1985, or pursuant to section 5309.45 of the Revised Code; 9692

(o) To a trustee acting on behalf of minor children of the 9693
deceased; 9694

(p) Of an easement or right-of-way when the value of the 9695
interest conveyed does not exceed one thousand dollars; 9696

(q) Of property sold to a surviving spouse pursuant to 9697
section 2106.16 of the Revised Code; 9698

(r) To or from an organization exempt from federal income 9699
taxation under section 501(c)(3) of the "Internal Revenue Code of 9700
1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, provided such 9701
transfer is without consideration and is in furtherance of the 9702
charitable or public purposes of such organization; 9703

(s) Among the heirs at law or devisees, including a surviving 9704
spouse, of a common decedent, when no consideration in money is 9705
paid or to be paid for the real property or manufactured or mobile 9706
home; 9707

(t) To a trustee of a trust, when the grantor of the trust 9708
has reserved an unlimited power to revoke the trust; 9709

(u) To the grantor of a trust by a trustee of the trust, when 9710
the transfer is made to the grantor pursuant to the exercise of 9711
the grantor's power to revoke the trust or to withdraw trust 9712
assets; 9713

(v) To the beneficiaries of a trust if the fee was paid on 9714
the transfer from the grantor of the trust to the trustee or if 9715
the transfer is made pursuant to trust provisions which became 9716
irrevocable at the death of the grantor; 9717

(w) To a corporation for incorporation into a sports facility 9718
constructed pursuant to section 307.696 of the Revised Code; 9719

(x) Between persons pursuant to section 5302.18 of the 9720
Revised Code; 9721

(y) From a county land reutilization corporation organized 9722
under Chapter 1724. of the Revised Code to a third party. 9723

The auditor shall compute and collect the fee. The auditor 9724
shall maintain a numbered receipt system, as prescribed by the tax 9725
commissioner, and use such receipt system to provide a receipt to 9726
each person paying a fee. The auditor shall deposit the receipts 9727
of the fees on conveyances in the county treasury daily to the 9728
credit of the general fund of the county, except that fees charged 9729
and received under division (G)(3) of this section for a transfer 9730
of real property to a county land reutilization corporation shall 9731
be credited to the county land reutilization corporation fund 9732
established under section 321.263 of the Revised Code. 9733

9734

The real property transfer fee provided for in division 9735
(G)(3) of this section shall be applicable to any conveyance of 9736
real property presented to the auditor on or after January 1, 9737
1968, regardless of its time of execution or delivery. 9738

The transfer fee for a used manufactured home or used mobile 9739
home shall be computed by and paid to the county auditor of the 9740

county in which the home is located immediately prior to the 9741
transfer. 9742

Sec. 321.24. (A) On or before the fifteenth day of February, 9743
in each year, the county treasurer shall settle with the county 9744
auditor for all taxes and assessments that the treasurer has 9745
collected on the general duplicate of real and public utility 9746
property at the time of making the settlement. 9747

(B) On or before the thirtieth day of June, in each year, the 9748
treasurer shall settle with the auditor for all advance payments 9749
of general personal and classified property taxes that the 9750
treasurer has received at the time of making the settlement. 9751

(C) On or before the tenth day of August, in each year, the 9752
treasurer shall settle with the auditor for all taxes and 9753
assessments that the treasurer has collected on the general 9754
duplicates of real and public utility property at the time of 9755
making such settlement, not included in the preceding February 9756
settlement. 9757

(D) On or before the thirty-first day of October, in each 9758
year, the treasurer shall settle with the auditor for all taxes 9759
that the treasurer has collected on the general personal and 9760
classified property duplicates, and for all advance payments of 9761
general personal and classified property taxes, not included in 9762
the preceding June settlement, that the treasurer has received at 9763
the time of making such settlement. 9764

(E) In the event the time for the payment of taxes is 9765
extended, pursuant to section 323.17 of the Revised Code, the date 9766
on or before which settlement for the taxes so extended must be 9767
made, as herein prescribed, shall be deemed to be extended for a 9768
like period of time. At each such settlement, the auditor shall 9769
allow to the treasurer, on the moneys received or collected and 9770
accounted for by the treasurer, the treasurer's fees, at the rate 9771

or percentage allowed by law, at a full settlement of the 9772
treasurer. 9773

(F) Within thirty days after the day of each settlement of 9774
taxes required under divisions (A) and (C) of this section, the 9775
treasurer shall certify to the tax commissioner any adjustments 9776
that have been made to the amount certified previously pursuant to 9777
section 319.302 of the Revised Code and that the settlement has 9778
been completed. Upon receipt of such certification, the 9779
commissioner shall provide for payment to the county treasurer 9780
from the general revenue fund of an amount equal to one-half of 9781
the amount certified by the treasurer in the preceding tax year 9782
under section 319.302 of the Revised Code, less one-half of the 9783
amount computed for all taxing districts in that county for the 9784
current fiscal year under section 5703.80 of the Revised Code for 9785
crediting to the property tax administration fund. Such payment 9786
shall be credited upon receipt to the county's undivided income 9787
tax fund, and the county auditor shall transfer to the county 9788
general fund from the amount thereof the total amount of all fees 9789
and charges which the auditor and treasurer would have been 9790
authorized to receive had such section not been in effect and that 9791
amount had been levied and collected as taxes. The county auditor 9792
shall distribute the amount remaining among the various taxing 9793
districts in the county as if it had been levied, collected, and 9794
settled as real property taxes. The amount distributed to each 9795
taxing district shall be reduced by the total of the amounts 9796
computed for the district under section 5703.80 of the Revised 9797
Code, but the reduction shall not exceed the amount that otherwise 9798
would be distributed to the taxing district under this division. 9799
The tax commissioner shall make available to taxing districts such 9800
information as is sufficient for a taxing district to be able to 9801
determine the amount of the reduction in its distribution under 9802
this section. 9803

(G)(1) Within thirty days after the day of the settlement 9804
required in division (D) of this section, the county treasurer 9805
shall notify the tax commissioner that the settlement has been 9806
completed. Upon receipt of that notification, the commissioner 9807
shall provide for payment to the county treasurer from the general 9808
revenue fund of an amount equal to the amount certified under 9809
former section 319.311 of the Revised Code and paid in the state's 9810
fiscal year 2003 multiplied by the percentage specified in 9811
division (G)(2) of this section. The payment shall be credited 9812
upon receipt to the county's undivided income tax fund, and the 9813
county auditor shall distribute the amount thereof among the 9814
various taxing districts of the county as if it had been levied, 9815
collected, and settled as personal property taxes. The amount 9816
received by a taxing district under this division shall be 9817
apportioned among its funds in the same proportion as the current 9818
year's personal property taxes are apportioned. 9819

(2) Payments required under division (G)(1) of this section 9820
shall be made at the following percentages of the amount certified 9821
under former section 319.311 of the Revised Code and paid under 9822
division (G)(1) of this section in the state's fiscal year 2003: 9823

(a) In fiscal year 2004, ninety per cent; 9824

(b) In fiscal year 2005, eighty per cent; 9825

(c) In fiscal year 2006, sixty-four per cent; 9826

(d) In fiscal year 2007, forty per cent; 9827

(e) In fiscal year 2008, thirty-two per cent; 9828

(f) In fiscal year 2009, sixteen per cent. 9829

After fiscal year 2009, no payments shall be made under 9830
division (G)(1) of this section. 9831

(H)(1) On or before the fifteenth day of April each year, the 9832
county treasurer shall settle with the county auditor for all 9833

manufactured home taxes that the county treasurer has collected on 9834
the manufactured home tax duplicate at the time of making the 9835
settlement. 9836

(2) On or before the fifteenth day of September each year, 9837
the county treasurer shall settle with the county auditor for all 9838
remaining manufactured home taxes that the county treasurer has 9839
collected on the manufactured home tax duplicate at the time of 9840
making the settlement. 9841

(3) If the time for payment of such taxes is extended under 9842
section 4503.06 of the Revised Code, the time for making the 9843
settlement as prescribed by divisions (H)(1) and (2) of this 9844
section is extended for a like period of time. 9845

~~(I) Within thirty days after the day of each settlement of 9846
taxes required under division (H) of this section On or before the 9847
second Monday in September of each year, the county treasurer 9848
shall certify to the tax commissioner ~~any adjustments that have~~ 9849
~~been made to the amount certified previously~~ the total amount by 9850
which the manufactured home taxes levied in that year were reduced 9851
pursuant to section 319.302 of the Revised Code ~~and that the~~ 9852
~~settlement has been completed. Upon.~~ Within ninety days after the 9853
receipt of such certification, the commissioner shall provide for 9854
payment to the county treasurer from the general revenue fund of 9855
an amount equal to ~~one half of~~ the amount certified by the 9856
treasurer ~~in the current tax year under section 319.302 of the~~ 9857
~~Revised Code~~. Such payment shall be credited upon receipt to the 9858
county's undivided income tax fund, and the county auditor shall 9859
transfer to the county general fund from the amount thereof the 9860
total amount of all fees and charges that the auditor and 9861
treasurer would have been authorized to receive had such section 9862
not been in effect and that amount had been levied and collected 9863
as manufactured home taxes. The county auditor shall distribute 9864
the amount remaining among the various taxing districts in the 9865~~

county as if it had been levied, collected, and settled as 9866
manufactured home taxes. 9867

Sec. 323.156. (A) Within thirty days after a settlement of 9868
taxes under divisions (A)~~7~~ and (C)~~7~~, ~~and (H)~~ of section 321.24 of 9869
the Revised Code, the county treasurer shall certify to the tax 9870
commissioner one-half of the total amount of taxes on real 9871
property that were reduced pursuant to section 323.152 of the 9872
Revised Code for the preceding tax year, ~~and one half of the total~~ 9873
~~amount of taxes on manufactured and mobile homes that were reduced~~ 9874
~~pursuant to division (B) of section 323.152 of the Revised Code~~ 9875
~~for the current tax year.~~ The commissioner, within thirty days of 9876
the receipt of such certifications, shall provide for payment to 9877
the county treasurer, from the general revenue fund, of the amount 9878
certified, which shall be credited upon receipt to the county's 9879
undivided income tax fund, and an amount equal to two per cent of 9880
the amount by which taxes were reduced, which shall be credited 9881
upon receipt to the county general fund as a payment, in addition 9882
to the fees and charges authorized by sections 319.54 and 321.26 9883
of the Revised Code, to the county auditor and treasurer for the 9884
costs of administering the exemption provided under sections 9885
323.151 to 323.159 of the Revised Code. 9886

(B) On or before the second Monday in September of each year, 9887
the county treasurer shall certify to the tax commissioner the 9888
total amount by which the manufactured home taxes levied in that 9889
year were reduced pursuant to division (B) of section 323.152 of 9890
the Revised Code, as evidenced by the certificates of reduction 9891
and the tax duplicate certified to the county treasurer by the 9892
county auditor. The commissioner, within ninety days after the 9893
receipt of such certifications, shall provide for payment to the 9894
county treasurer, from the general revenue fund, of the amount 9895
certified, which shall be credited upon receipt to the county's 9896
undivided income tax fund, and an amount equal to two per cent of 9897

the amount by which taxes were reduced, which shall be credited 9898
upon receipt to the county general fund as a payment, in addition 9899
to the fees and charges authorized by sections 319.54 and 321.26 9900
of the Revised Code, to the county auditor and treasurer for the 9901
costs of administering the exemption provided under sections 9902
323.151 to 323.159 of the Revised Code. 9903

(C) Immediately upon receipt of funds into the county 9904
undivided income tax fund under this section, the auditor shall 9905
distribute the full amount thereof among the taxing districts in 9906
the county as though the total had been paid as taxes by each 9907
person for whom taxes were reduced under sections 323.151 to 9908
323.159 of the Revised Code. 9909

Sec. 329.042. The Each county department of job and family 9910
services shall certify eligible public assistance and nonpublic 9911
assistance households ~~eligible under the "Food Stamp Act of 1964,"~~ 9912
~~78 Stat. 703, 7 U.S.C.A. 2011, as amended, and for the~~ 9913
supplemental nutrition assistance program in accordance with 9914
~~federal and state regulations adopted pursuant to such act, law~~ 9915
to enable low-income households to participate in the ~~food stamp~~ 9916
supplemental nutrition assistance program and thereby to purchase 9917
foods having a greater monetary value than is possible under 9918
public assistance standard allowances or other low-income budgets. 9919

~~The~~ Each county department of job and family services shall 9920
administer the distribution of ~~food stamp~~ supplemental nutrition 9921
assistance program benefits under the supervision of the 9922
department of job and family services. The benefits shall be 9923
distributed by a method approved by the department of job and 9924
family services in accordance with the ~~"Food Stamp and Nutrition~~ 9925
~~Act of 1964," 78 Stat. 703, 2008 (7 U.S.C.A. 2011, as amended, et~~ 9926
seq.) and regulations issued thereunder. 9927

~~The document referred to as the "authorization to participate~~ 9928

~~card," which shows the face value of the benefits an eligible 9929
household is entitled to receive on presentment of the document, 9930
shall be issued, immediately upon certification, to a household 9931
determined under division (C) of section 5101.54 of the Revised 9932
Code to be in immediate need of food assistance by being 9933
personally handed by a member of the staff of the county 9934
department of job and family services to the member of the 9935
household in whose name application was made for participation in 9936
the program or the authorized representative of such member of the 9937
household. 9938~~

Sec. 329.06. (A) Except as provided in division (C) of this 9939
section and section 6301.08 of the Revised Code, the board of 9940
county commissioners shall establish a county family services 9941
planning committee. The board shall appoint a member to represent 9942
the county department of job and family services; an employee in 9943
the classified civil service of the county department of job and 9944
family services, if there are any such employees; and a member to 9945
represent the public. The board shall appoint other individuals to 9946
the committee in such a manner that the committee's membership is 9947
broadly representative of the groups of individuals and the public 9948
and private entities that have an interest in the family services 9949
provided in the county. The board shall make appointments in a 9950
manner that reflects the ethnic and racial composition of the 9951
county. The following groups and entities may be represented on 9952
the committee: 9953

- (1) Consumers of family services; 9954
- (2) The public children services agency; 9955
- (3) The child support enforcement agency; 9956
- (4) The county family and children first council; 9957
- (5) Public and private colleges and universities; 9958

(6) Public entities that provide family services, including 9959
boards of health, boards of education, the county board of mental 9960
retardation and developmental disabilities, and the board of 9961
alcohol, drug addiction, and mental health services that serves 9962
the county; 9963

(7) Private nonprofit and for-profit entities that provide 9964
family services in the county or that advocate for consumers of 9965
family services in the county, including entities that provide 9966
services to or advocate for victims of domestic violence; 9967

(8) Labor organizations; 9968

(9) Any other group or entity that has an interest in the 9969
family services provided in the county, including groups or 9970
entities that represent any of the county's business, urban, and 9971
rural sectors. 9972

(B) The county family services planning committee shall do 9973
all of the following: 9974

(1) Serve as an advisory body to the board of county 9975
commissioners with regard to the family services provided in the 9976
county, including assistance under Chapters 5107. and 5108. of the 9977
Revised Code, publicly funded child care under Chapter 5104. of 9978
the Revised Code, and social services provided under section 9979
5101.46 of the Revised Code; 9980

(2) At least once a year, review and analyze the county 9981
department of job and family services' implementation of the 9982
programs established under Chapters 5107. and 5108. of the Revised 9983
Code. In its review, the committee shall use information available 9984
to it to examine all of the following: 9985

(a) Return of assistance groups to participation in either 9986
program after ceasing to participate; 9987

(b) Teen pregnancy rates among the programs' participants; 9988

(c) The other types of assistance the programs' participants receive, including ~~medical assistance~~ medicaid under Chapter 5111. of the Revised Code, publicly funded child care under Chapter 5104. of the Revised Code, ~~food stamp~~ supplemental nutrition assistance program benefits under section 5101.54 of the Revised Code, and energy assistance under Chapter 5117. of the Revised Code; 9989
9990
9991
9992
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9995

(d) Other issues the committee considers appropriate. 9996

The committee shall make recommendations to the board of county commissioners and county department of job and family services regarding the committee's findings. 9997
9998
9999

(3) Conduct public hearings on proposed county profiles for the provision of social services under section 5101.46 of the Revised Code; 10000
10001
10002

(4) At the request of the board, make recommendations and provide assistance regarding the family services provided in the county; 10003
10004
10005

(5) At any other time the committee considers appropriate, consult with the board and make recommendations regarding the family services provided in the county. The committee's recommendations may address the following: 10006
10007
10008
10009

(a) Implementation and administration of family service programs; 10010
10011

(b) Use of federal, state, and local funds available for family service programs; 10012
10013

(c) Establishment of goals to be achieved by family service programs; 10014
10015

(d) Evaluation of the outcomes of family service programs; 10016

(e) Any other matter the board considers relevant to the provision of family services. 10017
10018

(C) If there is a committee in existence in a county on 10019
October 1, 1997, that the board of county commissioners determines 10020
is capable of fulfilling the responsibilities of a county family 10021
services planning committee, the board may designate the committee 10022
as the county's family services planning committee and the 10023
committee shall serve in that capacity. 10024

Sec. 340.033. (A) The board of alcohol, drug addiction, and 10025
mental health services shall serve as the planning agency for 10026
alcohol and drug addiction services for the county or counties in 10027
its service district. In accordance with procedures and guidelines 10028
established by the department of alcohol and drug addiction 10029
services, the board shall do all of the following: 10030

(1) Assess alcohol and drug addiction service needs and 10031
evaluate the need for alcohol and drug addiction programs; 10032

(2) According to the needs determined under division (A)(1) 10033
of this section, set priorities and develop plans for the 10034
operation of alcohol and drug addiction programs in cooperation 10035
with other local and regional planning and funding bodies and with 10036
relevant ethnic organizations; 10037

(3) Submit the plan for alcohol and drug addiction services 10038
required by section 3793.05 of the Revised Code to the department 10039
and implement the plan as approved by the department; 10040

(4) Provide to the department information to be included in 10041
the information system or systems established by the department 10042
under section 3793.04 of the Revised Code; 10043

(5) Enter into contracts with alcohol and drug addiction 10044
programs for the provision of alcohol and drug addiction services; 10045

(6) Review and evaluate alcohol and drug addiction programs 10046
in the district, and conduct program audits; 10047

(7) Prepare and submit to the department an annual report of 10048

the alcohol and drug addiction programs in the district; 10049

(8) Receive, compile, and transmit to the department 10050
applications for funding; 10051

(9) Promote, arrange, and implement working agreements with 10052
public and private social agencies and with judicial agencies; 10053

(10) Investigate, or request another agency to investigate, 10054
any complaint alleging abuse or neglect of any person receiving 10055
services from an alcohol or drug addiction program; 10056

(11) Establish a mechanism for the involvement of persons 10057
receiving services in, and obtaining their advice on, matters 10058
pertaining to alcohol or drug addiction services; 10059

(12) Recruit and promote local financial support, from 10060
private and public sources, for alcohol and drug addiction 10061
programs; 10062

(13) Approve fee schedules and related charges, adopt a unit 10063
cost schedule, or adopt other methods of payment for services 10064
provided by programs under contract pursuant to division (A)(5) of 10065
this section, in accordance with guidelines established by the 10066
department under section 3793.04 of the Revised Code. 10067

(B) In accordance with rules adopted by the auditor of state 10068
pursuant to section 117.20 of the Revised Code, at least annually 10069
the board shall audit all alcohol and drug addiction programs 10070
provided under contract with the board. The board may contract 10071
with private auditors for the performance of these audits. A copy 10072
of the fiscal audit report shall be provided to the director of 10073
alcohol and drug addiction services, the auditor of state, and the 10074
county auditor of each county in the board's district. 10075

(C) In contracting with a program under division (A)(5) of 10076
this section, a board shall consider the cost effectiveness of 10077
services provided by the program and the program's quality and 10078

continuity of care. The board may review cost elements, including 10079
salary costs, of the services provided by the program. 10080

A utilization review process shall be established as part of 10081
the contract for services. The board may establish this process in 10082
any way that it considers to be the most effective and efficient 10083
in meeting local needs. 10084

(D) If either the board or a program with which it contracts 10085
pursuant to division (A)(5) of this section proposes not to renew 10086
the contract or proposes substantial changes in contract terms on 10087
renewal of the contract, it shall give the other party to the 10088
contract written notice at least one hundred twenty days before 10089
the expiration date of the contract. During the first sixty days 10090
of this period, both parties shall attempt to resolve any dispute 10091
through good faith collaboration and negotiation in order that 10092
services to persons in need will be continued. If the dispute is 10093
not resolved during this time, either party may notify the 10094
department of alcohol and drug addiction services. The department 10095
may require both parties to submit the dispute to a mutually 10096
agreed upon third party with the cost to be shared by the board 10097
and the program. At least twenty days before the expiration of the 10098
contract, unless the board and the program agree to an extension, 10099
the third party shall issue to the board, program, and department, 10100
its recommendations for resolution of the dispute. 10101

The department shall adopt rules pursuant to Chapter 119. of 10102
the Revised Code establishing procedures for this dispute 10103
resolution process. 10104

(E) Section 307.86 of the Revised Code does not apply to 10105
contracts entered into pursuant to division (A)(5) of this 10106
section. 10107

(F)(1) With the prior approval of the department, a board of 10108
alcohol, drug addiction, and mental health services may operate an 10109

alcohol or drug addiction program as follows if there is no 10110
qualified program that is immediately available, willing to 10111
provide services, and able to obtain certification under Chapter 10112
3793. of the Revised Code: 10113

(a) In an emergency situation, any board may operate a 10114
program in order to provide essential services for the duration of 10115
the emergency; 10116

(b) In a service district with a population of at least one 10117
hundred thousand but less than five hundred thousand, a board may 10118
operate a program for no longer than one year; 10119

(c) In a service district with a population of less than one 10120
hundred thousand, a board may operate a program for no longer than 10121
one year, except that such a board may operate a program for 10122
longer than one year with the prior approval of the department and 10123
the prior approval of the board of county commissioners, or of a 10124
majority of the boards of county commissioners if the district is 10125
a joint-county district. 10126

(2) The department shall not give a board its approval to 10127
operate a program under division (F)(1)(c) of this section unless 10128
it determines that the board's program will provide greater 10129
administrative efficiency and more or better services than would 10130
be available if the board contracted with a program for provision 10131
of the services. 10132

(3) The department shall not give a board its approval to 10133
operate a program previously operated by a public or private 10134
entity unless the board has established to the department's 10135
satisfaction that the entity cannot effectively operate the 10136
program, or that the entity has requested the board to take over 10137
operation of the program. 10138

(4) The department shall review and evaluate the operation of 10139
each program operated by a board under this division. 10140

(5) Nothing in this division authorizes a board to administer 10141
or direct the daily operation of any program other than a program 10142
operated by the board under this division, but a program may 10143
contract with a board to receive administrative services or staff 10144
direction from the board under the direction of the governing body 10145
of the program. 10146

(G) If an investigation conducted pursuant to division 10147
(A)(10) of this section substantiates a charge of abuse or 10148
neglect, the board shall take whatever action it determines is 10149
necessary to correct the situation, including notification of the 10150
appropriate authorities. On request, the board shall provide 10151
information about such investigations to the department. 10152

(H) When the board sets priorities and develops plans for the 10153
operation of alcohol and drug addiction programs under division 10154
(A)(2) of this section, the board shall consult with the county 10155
commissioners of the counties in the board's service district 10156
regarding the services described in section 340.15 of the Revised 10157
Code and shall give a priority to those services, except that 10158
those services shall not have priority over services provided to 10159
pregnant women under programs developed in relation to the mandate 10160
established in section 3793.15 of the Revised Code. The plans 10161
shall identify funds the board and public children services 10162
agencies in the board's service district have available to fund 10163
jointly the services described in section 340.15 of the Revised 10164
Code. 10165

Sec. 718.04. (A) No municipal corporation other than the ~~city~~ 10166
municipal corporation of residence shall levy a tax on the income 10167
of any member or employee of the Ohio general assembly including 10168
the lieutenant governor which income is received as a result of 10169
services rendered as such member or employee and is paid from 10170
appropriated funds of this state. 10171

(B) No municipal corporation other than the municipal corporation of residence and the city of Columbus shall levy a tax on the income of the chief justice or a justice of the supreme court received as a result of services rendered as the chief justice or justice. No municipal corporation other than the municipal corporation of residence shall levy a tax on the income of a judge sitting by assignment of the chief justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge.

Sec. 901.041. There is hereby created in the state treasury the sustainable agriculture program fund. The fund shall consist of money credited to it, including, without limitation, federal money. The director of agriculture shall use money in the fund to support programs and activities that advance sustainable agriculture, including administrative costs incurred by the department of agriculture in administering the programs and activities.

Sec. 901.20. (A) The director of agriculture may do either or both of the following:

(1) Reserve exhibition space for exhibitors to exhibit their goods in trade shows held in this country or in any other country. The director may charge and collect fees from any exhibitor who uses space reserved by the director under division (A)(1) of this section.

(2) Conduct or cause to be conducted seminars or other educational programs for the benefit of farmers and other producers in this state who are interested in exporting their goods overseas. The director may charge and collect fees from any person who attends a seminar or other educational program

conducted under division (A)(2) of this section. 10202

(B) There is hereby created in the state treasury the Ohio 10203
proud, international, and domestic market development fund. Fees 10204
collected under division (A) of this section shall be deposited 10205
into the fund. The fund shall be used solely to carry out the 10206
purposes of that division. 10207

Sec. 901.43. (A) The director of agriculture may authorize 10208
any department of agriculture laboratory to perform a laboratory 10209
service for any person, organization, political subdivision, state 10210
agency, federal agency, or other entity, whether public or 10211
private. The director shall adopt and enforce rules to provide for 10212
the rendering of a laboratory service. 10213

(B) The director may charge a reasonable fee for the 10214
performance of a laboratory service, except when the service is 10215
performed on an official sample taken by the director acting 10216
pursuant to Title IX, Chapter 3715., or Chapter 3717. of the 10217
Revised Code; by a board of health acting as the licensor of 10218
retail food establishments or food service operations under 10219
Chapter 3717. of the Revised Code; or by the director of health 10220
acting as the licensor of food service operations under Chapter 10221
3717. of the Revised Code. The director of agriculture shall adopt 10222
rules specifying what constitutes an official sample. 10223

The director shall publish a list of laboratory services 10224
offered, together with the fee for each service. 10225

(C) The director may enter into a contract with any person, 10226
organization, political subdivision, state agency, federal agency, 10227
or other entity for the provision of a laboratory service. 10228

(D)(1) The director may adopt rules establishing standards 10229
for accreditation of laboratories and laboratory services and in 10230
doing so may adopt by reference existing or recognized standards 10231

or practices. 10232

(2) The director may inspect and accredit laboratories and 10233
laboratory services, and may charge a reasonable fee for the 10234
inspections and accreditation. 10235

(E)(1) There is hereby created in the state treasury the 10236
animal ~~health~~ and ~~food-safety~~ consumer analytical laboratory fund. 10237
Moneys from the following sources shall be deposited into the 10238
state treasury to the credit of the fund: all moneys collected by 10239
the director under this section that are from fees generated by a 10240
laboratory service performed by the department and related to the 10241
diseases of animals, all moneys so collected that are from fees 10242
generated for the inspection and accreditation of laboratories and 10243
laboratory services related to the diseases of animals, all moneys 10244
collected by the director under this section that are from fees 10245
generated by a laboratory service performed by the consumer 10246
analytical laboratory, ~~and~~ all moneys so collected that are from 10247
fees generated for the inspection and accreditation of 10248
laboratories and laboratory services not related to weights and 10249
measures, and all moneys collected under Chapters 942., 943., and 10250
953. of the Revised Code. The director may use the moneys held in 10251
the fund to pay the expenses necessary to operate the animal 10252
industry laboratory and the consumer analytical laboratory, 10253
including the purchase of supplies and equipment. 10254

(2) All moneys collected by the director under this section 10255
that are from fees generated by a laboratory service performed by 10256
the weights and measures laboratory, and all moneys so collected 10257
that are from fees generated for the inspection and accreditation 10258
of laboratories and laboratory services related to weights and 10259
measures, shall be deposited in the state treasury to the credit 10260
of the weights and measures laboratory fund, which is hereby 10261
created in the state treasury. The moneys held in the fund may be 10262
used to pay the expenses necessary to operate the division of 10263

weights and measures, including the purchase of supplies and 10264
equipment. 10265

Sec. 901.91. The director of agriculture may assess the 10266
operating funds of the department of agriculture to pay a share of 10267
the department's central support and administrative costs. The 10268
assessments shall be based on a plan that the director develops 10269
and submits to the director of budget and management not later 10270
than the fifteenth day of July of the fiscal year in which the 10271
assessments are to be made. If the director of budget and 10272
management approves the plan, assessments shall be paid from the 10273
funds designated in the plan and credited by means of intrastate 10274
transfer voucher to the department of agriculture central support 10275
indirect costs fund, which is hereby created in the state 10276
treasury. The fund shall be administered by the director of 10277
agriculture and used to pay central support and administrative 10278
costs of the department of agriculture. 10279

Sec. 905.32. (A) No person shall manufacture or distribute in 10280
this state any type of fertilizer until a license to manufacture 10281
or distribute has been obtained by the manufacturer or distributor 10282
from the department of agriculture upon payment of a five dollar 10283
fee: 10284

(1) For each fixed (permanent) location at which fertilizer 10285
is manufactured in this state; 10286

(2) For each mobile unit used to manufacture fertilizer in 10287
this state; 10288

(3) For each location out of the state from which fertilizer 10289
is distributed in this state to nonlicensees. 10290

All licenses shall be valid for one year beginning on the 10291
first day of December of a calendar year through the thirtieth day 10292
of November of the following calendar year. A renewal application 10293

for a license shall be submitted no later than the thirtieth day 10294
of November each year. A person who submits a renewal application 10295
for a license after the thirtieth day of November shall include 10296
with the application a late filing fee of ten dollars. 10297

(B) An application for license shall include: 10298

(1) The name and address of the licensee; 10299

(2) The name and address of each bulk distribution point in 10300
the state, not licensed for fertilizer manufacture and 10301
distribution. 10302

The name and address shown on the license shall be shown on 10303
all labels, pertinent invoices, and bulk storage for fertilizers 10304
distributed by the licensee in this state. 10305

(C) The licensee shall inform the director of agriculture in 10306
writing of additional distribution points established during the 10307
period of the license. 10308

(D) All money collected under this section shall be credited 10309
to the pesticide, fertilizer, and lime program fund created in 10310
section 921.22 of the Revised Code. 10311

Sec. 905.33. (A) Except as provided in division (C) of this 10312
section, no person shall distribute in this state a specialty 10313
fertilizer until it is registered by the manufacturer or 10314
distributor with the department of agriculture. An application, in 10315
duplicate, for each brand and product name of each grade of 10316
specialty fertilizer shall be made on a form furnished by the 10317
director of agriculture and shall be accompanied with a fee of 10318
fifty dollars for each brand and product name of each grade. 10319
Labels for each brand and product name of each grade shall 10320
accompany the application. Upon the approval of an application by 10321
the director, a copy of the registration shall be furnished the 10322
applicant. All registrations shall be valid for one year beginning 10323

on the first day of December of a calendar year through the 10324
thirtieth day of November of the following calendar year. 10325

(B) An application for registration shall include the 10326
following: 10327

(1) Name and address of the manufacturer or distributor; 10328

(2) The brand and product name; 10329

(3) The grade; 10330

(4) The guaranteed analysis; 10331

(5) The package sizes for persons that package fertilizers 10332
only in containers of ten pounds or less. 10333

(C)(1) No person who engages in the business of applying 10334
custom mixed fertilizer to lawns, golf courses, recreation areas, 10335
or other real property that is not used for agricultural 10336
production shall be required to register the custom mixed 10337
fertilizer as a specialty fertilizer in accordance with division 10338
(A) of this section if the fertilizer ingredients of the custom 10339
mixed fertilizer are registered as specialty fertilizers and the 10340
inspection fee described in division (A) of section 905.36 of the 10341
Revised Code is paid. 10342

(2) No person who engages in the business of blending custom 10343
mixed fertilizer for use on lawns, golf courses, recreation areas, 10344
or other real property that is not used for agricultural 10345
production shall be required to register the custom mixed 10346
fertilizer as a specialty fertilizer in accordance with division 10347
(A) of this section if the facility holds a nonagricultural 10348
production custom mixed fertilizer blender license issued under 10349
section 905.331 of the Revised Code. 10350

(D) A person who engages in the business of applying or 10351
blending custom mixed fertilizer as described in division (C) of 10352
this section shall maintain an original or a copy of an invoice or 10353

document of sale for all fertilizer the person applies or 10354
distributes for one year following the date of the application or 10355
distribution, and, upon the director's request, shall furnish the 10356
director with the invoice or document of sale for the director's 10357
review. 10358

(E) All money collected under this section shall be credited 10359
to the pesticide, fertilizer, and lime program fund created in 10360
section 921.22 of the Revised Code. 10361

Sec. 905.331. No person who engages in the business of 10362
blending a custom mixed fertilizer for use on lawns, golf courses, 10363
recreation areas, or other real property that is not used for 10364
agricultural production shall fail to register a specialty 10365
fertilizer in accordance with division (A) of section 905.33 of 10366
the Revised Code unless the person has obtained an annual 10367
nonagricultural production custom mixed fertilizer blender license 10368
from the director of agriculture. 10369

A license issued under this section shall be valid from the 10370
first day of December of a calendar year through the thirtieth day 10371
of November of the following calendar year. A renewal application 10372
for a nonagricultural production custom mixed fertilizer blender 10373
license shall be submitted to the director no later than the 10374
thirtieth day of November each year and shall include the name and 10375
address of the applicant and of the premises where the blending 10376
occurs and a one-hundred-dollar fee. A person who submits a 10377
renewal application for a license after the thirtieth day of 10378
November shall include with the application a late filing fee of 10379
ten dollars. All nonagricultural production custom mixed 10380
fertilizer blender licenses expire on the thirtieth day of 10381
November each year. 10382

A person holding a nonagricultural production custom mixed 10383
fertilizer blender license shall pay the inspection fees described 10384

in division (A) of section 905.36 of the Revised Code for each 10385
product being blended. 10386

All money collected under this section shall be credited to 10387
the pesticide, fertilizer, and lime program fund created in 10388
section 921.22 of the Revised Code. 10389

Sec. 905.36. (A) A licensee or registrant, except registrants 10390
who package specialty fertilizers only in containers of ten pounds 10391
or less, shall pay the director of agriculture for all fertilizers 10392
distributed in this state an inspection fee at the rate of 10393
twenty-five cents per ton or twenty-eight cents per metric ton. 10394
Licensees and registrants shall specify on an invoice whether the 10395
per ton inspection fee has been paid or whether payment of the fee 10396
is the responsibility of the purchaser of the fertilizer. The 10397
payment of this inspection fee by a licensee or registrant shall 10398
exempt all other persons from the payment of this fee. 10399

(B) Every licensee or registrant shall file with the director 10400
an annual tonnage report that includes the number of net tons or 10401
metric tons of fertilizer distributed to nonlicensees or 10402
nonregistrants in this state by grade; packaged; bulk, dry or 10403
liquid. The report shall be filed on or before the thirtieth day 10404
of November of each calendar year and shall include data from the 10405
period beginning on the first day of November of the year 10406
preceding the year in which the report is due through the 10407
thirty-first day of October of the year in which the report is 10408
due. The licensee or registrant, except registrants who package 10409
specialty fertilizers only in containers of ten pounds or less, 10410
shall include with this statement the inspection fee at the rate 10411
stated in division (A) of this section. For a tonnage report that 10412
is not filed or payment of inspection fees that is not made on or 10413
before the thirtieth day of November of the applicable calendar 10414
year, a penalty of fifty dollars or ten per cent of the amount 10415

due, whichever is greater, shall be assessed against the licensee 10416
or registrant. The amount of fees due, plus penalty, shall 10417
constitute a debt and become the basis of a judgment against the 10418
licensee or registrant. For tonnage reports found to be incorrect, 10419
a penalty of fifteen per cent of the amount due shall be assessed 10420
against the licensee or registrant and shall constitute a debt and 10421
become the basis of a judgment against the licensee or registrant. 10422

10423

(C) No information furnished under this section shall be 10424
disclosed by any employee of the department of agriculture in such 10425
a way as to divulge the operation of any person required to make 10426
such a report. The filing by a licensee or registrant of a sales 10427
volume tonnage statement required by division (B) of this section 10428
thereby grants permission to the director to verify the same with 10429
the records of the licensee or registrant. 10430

(D) All money collected under this section shall be credited 10431
to the pesticide, fertilizer, and lime program fund created in 10432
section 921.22 of the Revised Code. 10433

Sec. 905.50. If the director of agriculture has taken an 10434
official sample of a fertilizer or mixed fertilizer and determined 10435
that it constitutes mislabeled fertilizer pursuant to rules 10436
adopted under section 905.40 of the Revised Code, the person who 10437
labeled the fertilizer or mixed fertilizer shall pay a penalty to 10438
the consumer of the mislabeled fertilizer or, if the consumer 10439
cannot be determined with reasonable diligence or is not 10440
available, to the director ~~for deposit into~~ to be credited to the 10441
~~commercial feed~~ pesticide, fertilizer, ~~seed~~, and lime ~~inspection 10442~~
~~and laboratory~~ program fund created under section ~~905.38~~ 921.22 of 10443
the Revised Code. The amount of the penalty shall be calculated in 10444
accordance with either division (A) or (B) of this section, 10445
whichever method of calculation yields the largest amount. 10446

(A)(1) A penalty required to be paid under this section may be calculated as follows:

(a) Five dollars for each percentage point of total nitrogen or phosphorus in the fertilizer that is below the percentage of nitrogen or phosphorus guaranteed on the label, multiplied by the number of tons of mislabeled fertilizer that have been sold to the consumer;

(b) Three dollars for each percentage point of potash in the fertilizer that is below the percentage of potash guaranteed on the label, multiplied by the number of tons of mislabeled fertilizer that have been sold to the consumer.

(2) In the case of a fertilizer that contains a quantity of nitrogen, phosphorus, or potash that is more than five percentage points below the percentages guaranteed on the label, the penalties calculated under division (A)(1) of this section shall be tripled.

(3) No penalty calculated under division (A) of this section shall be less than twenty-five dollars.

(B) A penalty required to be paid under this section may be calculated by multiplying the market value of one unit of the mislabeled fertilizer by the number of units of the mislabeled fertilizer that have been sold to the consumer.

(C) Upon making a determination under this section that a person has mislabeled fertilizer or mixed fertilizer, the director shall determine the parties to whom the penalty imposed by this section is required to be paid and, in accordance with division (A) or (B) of this section, as applicable, shall calculate the amount of the penalty required to be paid to each such party. After completing those determinations and calculations, the director shall issue to the person who allegedly mislabeled the fertilizer or mixed fertilizer a notice of violation. The notice

shall be accompanied by an order requiring, and specifying the 10478
manner of, payment of the penalty imposed by this section to the 10479
parties in the amounts set forth in the determinations and 10480
calculations required by this division. The order shall be issued 10481
in accordance with Chapter 119. of the Revised Code. 10482

No person shall violate a term or condition of an order 10483
issued under this division. 10484

Sec. 905.51. As used in sections 905.51 to ~~905.66~~ 905.65 of 10485
the Revised Code: 10486

(A) "Liming material" means all materials, the calcium and 10487
magnesium content of which is used to neutralize soil acidity, and 10488
includes the oxide, hydrate, carbonate, and silicate forms, as 10489
defined by rule, or combinations of those forms. "Liming material" 10490
includes materials such as the following: 10491

(1) Limestone; 10492

(2) Hydrated lime; 10493

(3) Burnt lime; 10494

(4) Industrial by-product; 10495

(5) Marl and shell. 10496

(B) "Bulk" means in a nonpackaged form. 10497

(C) "Label" means any written or printed matter on the 10498
package, or tag attached thereto. 10499

(D) "Manufacture" means to process, crush, grind, pelletize, 10500
or blend. 10501

(E) "Person" means any partnership, association, firm, or 10502
corporation, company, society, individual or combination of 10503
individuals, institution, park, or public agency administered by 10504
the state or any subdivision of the state. 10505

(F) "Product name" means a coined or specific designation applied to an individual liming material.	10506 10507
(G) "Sale" means an exchange or offer to exchange ownership, or a transfer or offer to transfer custody.	10508 10509
(H) "Ton" means a net weight of two thousand pounds.	10510
(I) "Metric ton" means a measure of weight equal to one thousand kilograms.	10511 10512
(J) "Pelletized lime" means a finely ground limestone product or manufactured material that is held together in a granulated form by a water soluble binding agent and that is capable of neutralizing soil acidity.	10513 10514 10515 10516
(K) "Water treatment lime sludge" means lime sludge generated during the process of treating water supplies having levels of heavy metals at or below the levels permitted in standards adopted by the director of environmental protection governing the land application of lime sludge so generated.	10517 10518 10519 10520 10521
(L) "Distribute" means to offer for sale, sell, barter, or otherwise supply liming material in this state.	10522 10523
(M) "Official sample" means any sample of liming material taken and designated as "official" by the director of agriculture or the director's designee.	10524 10525 10526
(N) "Effective neutralizing power" means the neutralizing value of liming material based on the total neutralizing power and fineness that is expressed as a dry weight percentage.	10527 10528 10529
(O) "Fineness index" means the percentage by weight of a liming material that will pass designated sieves, calculated to account for particle size distribution by adding the amounts arrived at under divisions (O)(1), (2), and (3) of this section as follows:	10530 10531 10532 10533 10534
(1) Two-tenths multiplied by the percentage of material	10535

passing a number eight United States standard sieve minus the 10536
percentage of material passing a number twenty United States 10537
standard sieve. 10538

(2) Six-tenths multiplied by the percentage of material 10539
passing a number twenty United States standard sieve minus the 10540
percentage of material passing a number sixty United States 10541
standard sieve. 10542

(3) One multiplied by the percentage of material passing a 10543
number sixty United States standard sieve. 10544

Sec. 905.52. (A) Except as provided in section 905.53 of the 10545
Revised Code, no person shall manufacture, sell, or distribute in 10546
this state liming material without a license to do so issued by 10547
the department of agriculture. 10548

(B) Each such license expires on the thirty-first day of 10549
December of each year and shall be renewed according to the 10550
standard renewal procedure of sections 4745.01 to 4745.03 of the 10551
Revised Code. 10552

(C) Each application for issuance or renewal of such a 10553
license shall: 10554

(1) Include the name and address of the applicant and the 10555
name and address of each bulk distribution point from which the 10556
applicant's liming material will be distributed in this state; 10557

(2) Be accompanied by a license fee of fifty dollars: 10558

(a) For each location at which liming material is 10559
manufactured in this state; 10560

(b) For each location out of the state from which liming 10561
material is distributed or sold in this state to nonlicensees. 10562

(3) Be accompanied by a label for each product name and 10563
grade. 10564

(D) The name and address of the applicant shown on the 10565
application shall be shown on all labels, pertinent invoices, and 10566
bulk storage for liming material distributed or sold by the 10567
licensee in this state. 10568

(E) The licensee shall inform the department in writing of 10569
additional distribution points established during the period of 10570
the license. 10571

(F) All money collected under this section shall be credited 10572
to the pesticide, fertilizer, and lime program fund created in 10573
section 921.22 of the Revised Code. 10574

Sec. 905.56. (A) Each licensee shall file with the department 10575
of agriculture an annual tonnage report that includes the number 10576
of net tons of liming material sold or distributed to a 10577
non-licensee in this state, by county, by oxide and hydrate forms, 10578
and by grade as defined in section 905.54 of the Revised Code, 10579
within forty days after the thirty-first day of December of each 10580
calendar year. The inspection fee at the rate stated in division 10581
(B) of this section shall accompany this report. 10582

(B) Each licensee who sells or distributes more than 10583
twenty-five hundred tons of agricultural liming material in this 10584
state shall pay to the department an inspection fee. The 10585
inspection fee is one fourth of one cent for each ton in excess of 10586
twenty-five hundred tons, as reported in the tonnage report 10587
required by division (A) of this section. The maximum inspection 10588
fee is three hundred dollars. 10589

(C) If a tonnage report is not filed, or if the inspection 10590
fee is not paid within ten days after the due date, a penalty of 10591
ten per cent of the amount due, with a minimum penalty of ten 10592
dollars, shall be assessed against the licensee. The amount of fee 10593
due, plus penalty, shall constitute a debt and shall become the 10594
basis of a judgment against the licensee. Such remedy is in 10595

addition to the remedy provided in section 905.62 of the Revised Code. 10596
10597

(D) The director of agriculture may inspect the inventories, 10598
books, and records of any licensee in order to verify a tonnage 10599
report. If the director finds that a tonnage report is erroneous, 10600
the director may adjust the inspection fee, may assess any balance 10601
due against the licensee, and may impose a penalty not to exceed 10602
ten per cent of the balance due, or may refund any overpayment. 10603

(E) All money collected under this section shall be credited 10604
to the pesticide, fertilizer, and lime program fund created in 10605
section 921.22 of the Revised Code. 10606

Sec. 907.13. No person shall label agricultural, vegetable, 10607
or flower seed that is intended for sale in this state unless the 10608
person holds a valid seed labeler permit that has been issued by 10609
the director of agriculture in accordance with this section. 10610

A person who wishes to obtain a seed labeler permit shall 10611
file an application with the director on a form that the director 10612
provides and shall submit a permit fee in the amount of ten 10613
dollars. Such a person who labels seed under more than one name or 10614
at more than one address shall obtain a separate seed labeler 10615
permit and pay a separate permit fee for each name and address. 10616

The applicant shall include the applicant's full name and 10617
address on the application together with any additional 10618
information that the director requires by rules adopted under 10619
section 907.10 of the Revised Code. If the applicant's address is 10620
not within this state or it does not represent a location in this 10621
state where the director can collect samples of the applicant's 10622
seed for analysis, then the applicant shall include on the 10623
application an address within this state where samples of the 10624
applicant's seed may be collected for those purposes or shall 10625
agree to provide the director or the director's authorized 10626

representative with seeds for sampling upon request. 10627

Upon receipt of a complete application accompanied by the 10628
ten-dollar permit fee, the director shall issue a seed labeler's 10629
permit to the applicant. All seed labeler permits that are issued 10630
under this section shall expire on the thirty-first day of 10631
December of each year regardless of the date on which a permit was 10632
issued during that year. 10633

Each person who obtains a seed labeler permit shall label the 10634
seed that the person intends for sale in this state in accordance 10635
with the requirements established in sections 907.01 to 907.17 of 10636
the Revised Code. Each person who holds a valid seed labeler 10637
permit shall keep the permit posted in a conspicuous place in the 10638
principal seed room from which the person sells seed and shall 10639
comply with the reporting and fee requirements that are 10640
established in section 907.14 of the Revised Code. 10641

All money collected under this section shall be credited to 10642
the commercial feed and seed fund created in section 923.46 of the 10643
Revised Code. 10644

Sec. 907.14. (A) A person who holds a valid seed labeler 10645
permit issued under section 907.13 of the Revised Code shall 10646
report to the director of agriculture concerning the amount of 10647
seed that the person sells in this state. The report shall be made 10648
semiannually on a form that the director prescribes and provides. 10649
One semiannual report shall be filed with the director prior to 10650
the first day of February of each year with respect to all sales 10651
that the person made during the period from the first day of July 10652
to the thirty-first day of December of the preceding year. The 10653
second semiannual report shall be filed prior to the first day of 10654
August of each year with respect to all sales that the person made 10655
during the period from the first day of January to the thirtieth 10656
day of June of that year. 10657

(B) A person who holds a valid seed labeler permit shall 10658
include with each semiannual report a seed fee based on the amount 10659
of the seed that the person sold during that reporting period as 10660
follows: 10661

(1) For soybeans and small grains, including barley, oats, 10662
rye, wheat, triticale, and spelt, four cents per one hundred 10663
pounds; 10664

(2) For corn and grain sorghum, five cents per one hundred 10665
pounds; 10666

(3)(a) For any of the following seed sold at wholesale or 10667
retail or on consignment or commission, two per cent of the 10668
wholesale value of the containers of seed or, if the seed is not 10669
sold wholesale, two per cent of the retail value of the containers 10670
of seed: 10671

(i) Vegetable and flower seed sold in containers, other than 10672
hermetically sealed containers, of eight ounces or less; 10673

(ii) Flower seed sold in hermetically sealed containers that 10674
contain fewer than three hundred seeds; 10675

(iii) Vegetable seed sold in hermetically sealed containers 10676
that contain fewer than one thousand seeds. 10677

(b) The fees established pursuant to divisions (B)(3)(a)(ii) 10678
and (iii) of this section apply to both of the following: 10679

(i) Seed sold in hermetically sealed containers that contain 10680
the amount of seeds specified in division (B)(3)(a)(ii) or (iii) 10681
of this section, as applicable; 10682

(ii) Seed sold in hermetically sealed containers that do not 10683
clearly state the number of seeds that they contain. 10684

(c) Except as otherwise provided in division (B)(3)(b)(ii) of 10685
this section, if the weight of seed in a container, or the 10686
quantity of seed in a container, exceeds the applicable weight or 10687

quantity specified in division (B)(3)(a)(i), (ii), or (iii) of 10688
this section, the fee established in division (B)(4) of this 10689
section applies. 10690

(4) For alfalfa, clover, grass, native grass, mixtures 10691
containing any of these, and all agricultural, vegetable, and 10692
flower seeds not specified in divisions (B)(1) to (3) of this 10693
section, ten cents per one hundred pounds. 10694

If the total amount of the seed fee that is due is less than 10695
five dollars, the person shall pay the minimum seed fee, which is 10696
five dollars. 10697

(C) For each failure to report in full the amount of seed 10698
sold or to submit the required seed fees in full by the due date, 10699
a person who holds a valid seed labeler permit shall pay a penalty 10700
of ten per cent of the amount due or fifty dollars, whichever is 10701
greater. Failure to pay either the fee or the penalty within 10702
thirty days after the due date is cause for suspension or 10703
revocation by the director of the seed labeler permit or refusal, 10704
without a hearing, to issue a subsequent seed labeler permit for 10705
which the person applies. 10706

(D) This section does not apply to governmental entities that 10707
donate seed for conservation purposes. 10708

(E) All money collected under this section shall be credited 10709
to the commercial feed and seed fund created in section 923.46 of 10710
the Revised Code. 10711

Sec. 907.30. (A) No person shall apply legume inoculants to 10712
seed for sale in ~~Ohio~~, this state for others or to a customer's 10713
order unless ~~he shall have~~ the person has obtained from the 10714
director of agriculture a legume inoculator's license for each 10715
such place of business where seed is inoculated. Application for 10716
such a license shall be made on a form obtainable from the 10717

director and shall be accompanied by a fee of five dollars. ~~Said~~ 10718
The application shall include the name of the brand, or brands of 10719
legume inoculant to be used together with the name of the 10720
manufacturer, and the name of the process or technique used to 10721
apply the inoculant to the seed. All such licenses shall expire 10722
each year on the thirty-first day of January and shall be renewed 10723
according to the standard renewal procedure of sections 4745.01 to 10724
4745.03, ~~inclusive,~~ of the Revised Code. 10725

(B) The legume inoculator shall keep for a period of eighteen 10726
months, ~~records which~~ that shall include complete data concerning 10727
the source and lot number of the inoculant material used, the rate 10728
and date of application, and the lot identity by owner and lot 10729
number, if any, of the seed to which the material was applied. 10730

(C) All money collected under this section shall be credited 10731
to the commercial feed and seed fund created in section 923.46 of 10732
the Revised Code. 10733

Sec. 907.31. Any person who submits an application for the 10734
registration of a brand of legume inoculant shall pay annually, 10735
prior to the first day of January, a registration and inspection 10736
fee in the amount of fifty dollars per brand. 10737

The registration shall be renewed according to the standard 10738
renewal procedure established in Chapter 4745. of the Revised 10739
Code. 10740

All money collected under this section shall be credited to 10741
the commercial feed and seed fund created in section 923.46 of the 10742
Revised Code. 10743

Sec. 918.08. (A) Except as provided in division (F) of this 10744
section, no person shall operate an establishment without first 10745
licensing the establishment with the department of agriculture. 10746
The owner of an establishment desiring a license with the 10747

department may make application therefor on forms provided by the 10748
department. If after inspection the director of agriculture finds 10749
that an establishment is in compliance with this chapter and rules 10750
adopted under it, the director shall notify the owner of the 10751
establishment and, upon receipt of the required license fee, the 10752
establishment shall be permitted to operate. However, if after 10753
inspection the director finds that an establishment is not in 10754
compliance with this chapter and rules adopted under it, the 10755
director shall deny the license application. The applicant may 10756
appeal the denial of the license application in accordance with 10757
Chapter 119. of the Revised Code. The license shall expire 10758
annually on the thirty-first day of March and, if the director 10759
finds that the establishment is in compliance with this chapter 10760
and rules adopted under it, shall be renewed according to the 10761
standard renewal procedure of sections 4745.01 to 4745.03 of the 10762
Revised Code. 10763

(B) The annual license fee for each establishment, or a 10764
renewal thereof, is ~~fifty~~ one hundred dollars. All fees collected 10765
under this section shall be deposited into the poultry and meat 10766
products fund created in section 918.15 of the Revised Code. 10767

(C) If after inspection the director determines that an 10768
establishment licensed under division (A) of this section is 10769
operating in violation of this chapter or the rules adopted 10770
thereunder, the director shall notify the licensee in writing of 10771
the violation and give the licensee ten days from the date of 10772
notice to cease or correct the conditions causing the violation. 10773
If the conditions causing the violation continue after the 10774
expiration of the ten-day period, the director may do either of 10775
the following: 10776

(1) Impose progressive enforcement actions as provided in 10777
division (D)(1) of this section in the same manner as inspectors; 10778

(2) Suspend or revoke the establishment's license in 10779
accordance with Chapter 119. of the Revised Code. 10780

(D)(1) If an inspector determines that an establishment 10781
licensed under division (A) of this section is operating in 10782
violation of sections 918.01 to 918.12 of the Revised Code and 10783
rules adopted under those sections, the inspector may notify the 10784
licensee in writing of the violation. The inspector immediately 10785
may impose progressive enforcement actions, including withholding 10786
the mark of inspection, suspension of inspection, suspension of 10787
inspection held in abeyance, and withdrawal of inspection. The 10788
progressive enforcement actions may be taken prior to affording 10789
the licensee an opportunity for a hearing. As authorized in 10790
division (C) of section 119.06 of the Revised Code, a decision to 10791
impose a progressive enforcement action is immediately appealable 10792
to a higher authority within the department who is classified by 10793
the director as a district supervisor and who is designated by the 10794
director to hear the appeal. If the district supervisor affirms 10795
the enforcement action of the inspector, the licensee may appeal 10796
the enforcement action in accordance with Chapter 119. of the 10797
Revised Code. 10798

(2) As used in division (D)(1) of this section, "suspension 10799
of inspection held in abeyance" means a period of time during 10800
which a suspension of inspection is lifted because an 10801
establishment has presented the director with a corrective action 10802
plan that, if implemented properly, would bring the establishment 10803
into compliance with this chapter and rules adopted under it. 10804

(E) If in the opinion of the director the establishment is 10805
being operated under such insanitary conditions as to be a hazard 10806
to public health, or if the director determines that an 10807
establishment is not in compliance with its hazard analysis 10808
critical control point plan as required by rules, the director may 10809
condemn or retain the product on hand and immediately withdraw 10810

inspection from the establishment until the insanitary conditions 10811
are corrected or until the establishment is in compliance with its 10812
hazard analysis critical control point plan, as applicable. The 10813
director may take those actions prior to an adjudication hearing 10814
as required under section 119.06 of the Revised Code. The director 10815
subsequently shall afford a hearing upon the request of the owner 10816
or operator of the establishment. 10817

(F) Any person operating an establishment as defined in 10818
section 918.01 of the Revised Code who also operates on the same 10819
premises an establishment as defined in section 918.21 of the 10820
Revised Code shall apply either for licensure under section 918.08 10821
of the Revised Code or for licensure under section 918.28 of the 10822
Revised Code, but not for both, as the director shall determine. 10823

(G) If the director determines that the owner or operator of 10824
or any person employed by an establishment licensed under division 10825
(A) of this section forcibly assaulted, resisted, opposed, 10826
impeded, intimidated, or interfered with any person while that 10827
person was engaged in, or because of the person's performance of, 10828
official duties under sections 918.01 to 918.12 of the Revised 10829
Code or the rules adopted under those sections, the director 10830
immediately may withdraw inspection from the establishment prior 10831
to an adjudication hearing as required under section 119.06 of the 10832
Revised Code. 10833

(H) In addition to any remedies provided by law and 10834
irrespective of whether or not there exists an adequate remedy at 10835
law, the director may apply to the court of common pleas of the 10836
county in which a violation of sections 918.01 to 918.12 of the 10837
Revised Code or rules adopted under those sections occurs for a 10838
temporary or permanent injunction or other appropriate relief 10839
concerning the violation. 10840

Sec. 918.28. (A) Except as provided in division (F) of 10841

section 918.08 of the Revised Code, application for a license to 10842
operate an establishment shall be made to the director of 10843
agriculture on forms provided by the department of agriculture. 10844
The director shall inspect the establishment and if, upon 10845
inspection, the establishment is found to be in compliance with 10846
this chapter and rules adopted under it, the director shall so 10847
notify the owner of the establishment and, upon receipt of the 10848
annual license fee of ~~fifty~~ one hundred dollars, shall issue the 10849
owner a license. However, if after inspection the director finds 10850
that an establishment is not in compliance with this chapter and 10851
rules adopted under it, the director shall deny the license 10852
application. The applicant may appeal the denial of the license 10853
application in accordance with Chapter 119. of the Revised Code. 10854
The license shall expire on the thirty-first day of March of each 10855
year and, if the director finds that the establishment is in 10856
compliance with this chapter and rules adopted under it, shall be 10857
renewed according to the standard renewal procedures of sections 10858
4745.01 to 4745.03 of the Revised Code. 10859

(B) If after inspection the director determines that an 10860
establishment licensed under this section is operating in 10861
violation of this chapter or a rule or order adopted or issued 10862
under authority thereof, the director shall notify the licensee in 10863
writing of the violation, giving the licensee ten days from the 10864
date of the notice to correct the conditions causing the 10865
violation. If the conditions are not corrected within the ten-day 10866
period, the director may do either of the following: 10867

(1) Impose progressive enforcement actions as provided in 10868
division (C)(1) of this section in the same manner as inspectors; 10869

(2) Suspend or revoke the license in accordance with Chapter 10870
119. of the Revised Code. 10871

(C)(1) If an inspector determines that an establishment 10872

licensed under division (A) of this section is operating in 10873
violation of sections 918.21 to 918.31 of the Revised Code and 10874
rules adopted under those sections, the inspector may notify the 10875
licensee in writing of the violation. The inspector immediately 10876
may impose progressive enforcement actions, including withholding 10877
the mark of inspection, suspension of inspection, suspension of 10878
inspection held in abeyance, and withdrawal of inspection. The 10879
progressive enforcement actions may be taken prior to affording 10880
the licensee an opportunity for a hearing. As authorized in 10881
division (C) of section 119.06 of the Revised Code, a decision to 10882
impose a progressive enforcement action is immediately appealable 10883
to a higher authority within the department who is classified by 10884
the director as a district supervisor and who is designated by the 10885
director to hear the appeal. If the district supervisor affirms 10886
the enforcement action of the inspector, the licensee may appeal 10887
the enforcement action in accordance with Chapter 119. of the 10888
Revised Code. 10889

(2) As used in division (C)(1) of this section, "suspension 10890
of inspection held in abeyance" means a period of time during 10891
which a suspension of inspection is lifted because an 10892
establishment has presented the director with a corrective action 10893
plan that, if implemented properly, would bring the establishment 10894
into compliance with this chapter and rules adopted under it. 10895

(D) If in the opinion of the director the establishment is 10896
being operated under such insanitary conditions as to be a hazard 10897
to public health, or if the director determines that an 10898
establishment is not in compliance with its hazard analysis 10899
critical control point plan as required by rules, the director may 10900
condemn or retain the product on hand and immediately withdraw 10901
inspection from the establishment until such time as the 10902
insanitary conditions are corrected or until the establishment is 10903
in compliance with its hazard analysis critical control point 10904

plan, as applicable. 10905

(E) If the director determines that the owner or operator of 10906
or any person employed by an establishment licensed under division 10907
(A) of this section forcibly assaulted, resisted, opposed, 10908
impeded, intimidated, or interfered with any person while that 10909
person was engaged in, or because of the person's performance of, 10910
official duties under sections 918.21 to 918.31 of the Revised 10911
Code or the rules adopted under those sections, the director 10912
immediately may withdraw inspection from the establishment prior 10913
to an adjudication hearing as required under section 119.06 of the 10914
Revised Code. 10915

(F) In addition to any remedies provided by law and 10916
irrespective of whether or not there exists an adequate remedy at 10917
law, the director may apply to the court of common pleas of the 10918
county in which a violation of sections 918.21 to 918.31 of the 10919
Revised Code or rules adopted under those sections occurs for a 10920
temporary or permanent injunction or other appropriate relief 10921
concerning the violation. 10922

Sec. 921.02. (A) No person shall distribute a pesticide 10923
within this state unless the pesticide is registered with the 10924
director of agriculture under this chapter. Registrations shall be 10925
issued for a period of time established by rule and shall be 10926
renewed in accordance with deadlines established by rule. 10927
Registration is not required if a pesticide is shipped from one 10928
plant or warehouse to another plant or warehouse operated by the 10929
same person and used solely at that plant or warehouse as a 10930
constituent part to make a pesticide that is registered under this 10931
chapter, or if the pesticide is distributed under the provisions 10932
of an experimental use permit issued under section 921.03 of the 10933
Revised Code or an experimental use permit issued by the United 10934
States environmental protection agency. 10935

(B) The applicant for registration of a pesticide shall file a statement with the director on a form provided by the director, which shall include all of the following:

(1) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's name;

(2) The brand and product name of the pesticide;

(3) Any necessary information required for completion of the department of agriculture's application for registration, including the agency registration number;

(4) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions for use and the use classification as provided for in the federal act.

(C) The director, when the director considers it necessary in the administration of this chapter, may require the submission of the complete formula of any pesticide including the active and inert ingredients.

(D) The director may require a full description of the tests made and the results thereof upon which the claims are based for any pesticide. The director shall not consider any data submitted in support of an application, without permission of the applicant, in support of any other application for registration unless the other applicant first has offered to pay reasonable compensation for producing the test data to be relied upon and the data are not protected from disclosure by section 921.04 of the Revised Code. In the case of a renewal of registration, a statement shall be required only with respect to information that is different from that furnished when the pesticide was registered or last registered.

(E) The director may require any other information to be

submitted with an application. 10967

Any applicant may designate any portion of the required 10968
registration information as a trade secret or confidential 10969
business information. Upon receipt of any required registration 10970
information designated as a trade secret or confidential business 10971
information, the director shall consider the designated 10972
information as confidential and shall not reveal or cause to be 10973
revealed any such designated information without the consent of 10974
the applicants, except to persons directly involved in the 10975
registration process described in this section or as required by 10976
law. 10977

(F) Beginning January 1, 2007, each applicant shall pay a 10978
registration and inspection fee of one hundred fifty dollars for 10979
each product name and brand registered for the company whose name 10980
appears on the label. If an applicant files for a renewal of 10981
registration after the deadline established by rule, the applicant 10982
shall pay a penalty fee of seventy-five dollars for each product 10983
name and brand registered for the applicant. The penalty fee shall 10984
be added to the original fee and paid before the renewal 10985
registration is issued. In addition to any other remedy available 10986
under this chapter, if a pesticide that is not registered pursuant 10987
to this section is distributed within this state, the person 10988
required to register the pesticide shall do so and shall pay a 10989
penalty fee of seventy-five dollars for each product name and 10990
brand registered for the applicant. The penalty fee shall be added 10991
to the original fee of one hundred fifty dollars and paid before 10992
the registration is issued. 10993

(G) Provided that the state is authorized by the 10994
administrator of the United States environmental protection agency 10995
to register pesticides to meet special local needs, the director 10996
shall require the information set forth under divisions (B), (C), 10997
(D), and (E) of this section and shall register any such pesticide 10998

after determining that all of the following conditions are met: 10999

(1) Its composition is such as to warrant the proposed claims 11000
for it. 11001

(2) Its labeling and other material required to be submitted 11002
comply with the requirements of the federal act and of this 11003
chapter, and rules adopted thereunder. 11004

(3) It will perform its intended function without 11005
unreasonable adverse effects on the environment. 11006

(4) When used in accordance with widespread and commonly 11007
recognized practice, it will not generally cause unreasonable 11008
adverse effects on the environment. 11009

(5) The classification for general or restricted use is in 11010
conformity with the federal act. 11011

The director shall not make any lack of essentiality a 11012
criterion for denying the registration of any pesticide. When two 11013
pesticides meet the requirements of division (G) of this section, 11014
the director shall not register one in preference to the other. 11015

(H)(1) The director may refuse to register a pesticide if the 11016
application for registration fails to comply with this section. 11017

(2) The director may suspend or revoke a pesticide 11018
registration after a hearing in accordance with Chapter 119. of 11019
the Revised Code for a pesticide that fails to meet the claims 11020
made for it on its label. 11021

(3) The director may immediately suspend a pesticide 11022
registration, prior to a hearing, when the director believes that 11023
the pesticide poses an immediate hazard to human or animal health 11024
or a hazard to the environment. Not later than fifteen days after 11025
suspending the registration, the director shall determine whether 11026
the pesticide poses such a hazard. If the director determines that 11027
no hazard exists, the director shall lift the suspension of the 11028

registration. If the director determines that a hazard exists, the 11029
director shall revoke the registration in accordance with Chapter 11030
119. of the Revised Code. 11031

(I) All money collected under this section shall be credited 11032
to the pesticide, fertilizer, and lime program fund created in 11033
section 921.22 of the Revised Code. 11034

Sec. 921.06. (A)(1) No individual shall do any of the 11035
following without having a commercial applicator license issued by 11036
the director of agriculture: 11037

(a) Apply pesticides for a pesticide business without direct 11038
supervision; 11039

(b) Apply pesticides as part of the individual's duties while 11040
acting as an employee of the United States government, a state, 11041
county, township, or municipal corporation, or a park district, 11042
port authority, or sanitary district created under Chapter 1545., 11043
4582., or 6115. of the Revised Code, respectively; 11044

(c) Apply restricted use pesticides. Division (A)(1)(c) of 11045
this section does not apply to a private applicator or an 11046
immediate family member or a subordinate employee of a private 11047
applicator who is acting under the direct supervision of that 11048
private applicator. 11049

(d) If the individual is the owner of a business other than a 11050
pesticide business or an employee of such an owner, apply 11051
pesticides at any of the following publicly accessible sites that 11052
are located on the property: 11053

(i) Food service operations that are licensed under Chapter 11054
3717. of the Revised Code; 11055

(ii) Retail food establishments that are licensed under 11056
Chapter 3717. of the Revised Code; 11057

(iii) Golf courses; 11058

(iv) Rental properties of more than four apartment units at one location;	11059 11060
(v) Hospitals or medical facilities as defined in section 3701.01 of the Revised Code;	11061 11062
(vi) Child day-care centers or school child day-care centers as defined in section 5104.01 of the Revised Code;	11063 11064
(vii) Facilities owned or operated by a school district established under Chapter 3311. of the Revised Code, including an education service center, a community school established under Chapter 3314. of the Revised Code, or a chartered or nonchartered nonpublic school that meets minimum standards established by the state board of education;	11065 11066 11067 11068 11069 11070
(viii) Colleges as defined in section 3365.01 of the Revised Code;	11071 11072
(ix) Food processing establishments as defined in section 3715.021 of the Revised Code;	11073 11074
(x) Any other site designated by rule.	11075
(e) Conduct authorized diagnostic inspections.	11076
(2) Divisions (A)(1)(a) to (d) of this section do not apply to an individual who is acting as a trained serviceperson under the direct supervision of a commercial applicator.	11077 11078 11079
(3) Licenses shall be issued for a period of time established by rule and shall be renewed in accordance with deadlines established by rule. The fee for each such license shall be established by rule. If a license is not issued or renewed, the application fee shall be retained by the state as payment for the reasonable expense of processing the application. The director shall by rule classify by pesticide-use category licenses to be issued under this section. A single license may include more than one pesticide-use category. No individual shall be required to pay	11080 11081 11082 11083 11084 11085 11086 11087 11088

an additional license fee if the individual is licensed for more than one category.

The fee for each license or renewal does not apply to an applicant who is an employee of the department of agriculture whose job duties require licensure as a commercial applicator as a condition of employment.

(B) Application for a commercial applicator license shall be made on a form prescribed by the director. Each application for a license shall state the pesticide-use category or categories of license for which the applicant is applying and other information that the director determines essential to the administration of this chapter.

(C) If the director finds that the applicant is competent to apply pesticides and conduct diagnostic inspections and that the applicant has passed both the general examination and each applicable pesticide-use category examination as required under division (A) of section 921.12 of the Revised Code, the director shall issue a commercial applicator license limited to the pesticide-use category or categories for which the applicant is found to be competent. If the director rejects an application, the director may explain why the application was rejected, describe the additional requirements necessary for the applicant to obtain a license, and return the application. The applicant may resubmit the application without payment of any additional fee.

(D)(1) A person who is a commercial applicator shall be deemed to hold a private applicator's license for purposes of applying pesticides on agricultural commodities that are produced by the commercial applicator.

(2) A commercial applicator shall apply pesticides only in the pesticide-use category or categories in which the applicator is licensed under this chapter.

(E) All money collected under this section shall be credited 11120
to the pesticide, fertilizer, and lime program fund created in 11121
section 921.22 of the Revised Code. 11122

Sec. 921.09. (A)(1) No person shall own or operate a 11123
pesticide business without obtaining a license from the director 11124
of agriculture. Licenses shall be issued for a period of time 11125
established by rule and shall be renewed in accordance with 11126
deadlines established by rule. 11127

(2) A person applying for a pesticide business license shall 11128
register each location that is owned by the person and used for 11129
the purpose of engaging in the pesticide business. 11130

(B) Any person who owns or operates a pesticide business 11131
outside of this state, but engages in the business of applying 11132
pesticides to properties of another for hire in this state, shall 11133
obtain a license for the person's principal out-of-state location 11134
from the director. In addition, the person shall register each 11135
location that is owned by the person in this state and used for 11136
the purpose of engaging in the pesticide business. 11137

(C)(1) The person applying for a pesticide business license 11138
shall file a statement with the director, on a form provided by 11139
the director, that shall include all of the following: 11140

(a) The address of the principal place of business of the 11141
pesticide business; 11142

(b) The address of each location that the person intends to 11143
register under division (A)(2) or (B) of this section; 11144

(c) Any other information that the director determines 11145
necessary and that the director requires by rule. 11146

(2) Each applicant shall pay a license fee established by 11147
rule for the pesticide business plus an additional fee established 11148
by rule for each pesticide business registered location specified 11149

in the application. The license may be renewed upon payment of a 11150
renewal fee established by rule plus an additional fee established 11151
by rule for each pesticide business registered location. A copy of 11152
the license shall be maintained and conspicuously displayed at 11153
each such location. 11154

(3) The issuance of a pesticide business license constitutes 11155
registration of any pesticide business location identified in the 11156
application under division (C)(1) of this section. 11157

(4) The owner or operator of a pesticide business shall 11158
notify the director not later than fifteen days after any change 11159
occurs in the information required under division (C)(1)(a) or (b) 11160
of this section. 11161

(D) The owner or operator of a pesticide business shall 11162
employ at least one commercial applicator for each pesticide 11163
business registered location the owner or operator owns or 11164
operates. 11165

(E) The owner or operator of a pesticide business is 11166
responsible for the acts of each employee in the handling, 11167
application, and use of pesticides and in the conducting of 11168
diagnostic inspections. The pesticide business license is subject 11169
to denial, modification, suspension, or revocation after a hearing 11170
for any violation of this chapter or any rule adopted or order 11171
issued under it. The director may levy against the owner or 11172
operator any civil penalties authorized by division (B) of section 11173
921.16 of the Revised Code for any violation of this chapter or 11174
any rule adopted or order issued under it that is committed by the 11175
owner or operator or by the owner's or operator's officer, 11176
employee, or agent. 11177

(F) The director may modify a license issued under this 11178
section by one of the following methods: 11179

(1) Revoking a licensee's authority to operate out of a 11180

particular pesticide business registered location listed under 11181
division (C)(1)(b) of this section; 11182

(2) Preventing a licensee from operating within a specific 11183
pesticide-use category. 11184

(G) The director may deny a pesticide business license to any 11185
person whose pesticide business license has been revoked within 11186
the previous thirty-six months. 11187

(H) Each pesticide business registered location that is owned 11188
by a pesticide business is subject to inspection by the director. 11189

(I) All money collected under this section shall be credited 11190
to the pesticide, fertilizer, and lime program fund created in 11191
section 921.22 of the Revised Code. 11192

Sec. 921.11. (A)(1) No individual shall apply restricted use 11193
pesticides unless the individual is one of the following: 11194

(a) Licensed under section 921.06 of the Revised Code; 11195

(b) Licensed under division (B) of this section; 11196

(c) A trained serviceperson who is acting under the direct 11197
supervision of a commercial applicator; 11198

(d) An immediate family member or a subordinate employee of a 11199
private applicator who is acting under the direct supervision of 11200
that private applicator. 11201

(2) No individual shall directly supervise the application of 11202
a restricted use pesticide unless the individual is one of the 11203
following: 11204

(a) Licensed under section 921.06 of the Revised Code; 11205

(b) Licensed under division (B) of this section. 11206

(B) The director of agriculture shall adopt rules to 11207
establish standards and procedures for the licensure of private 11208

applicators. An individual shall apply for a private applicator 11209
license to the director, on forms prescribed by the director. The 11210
individual shall include in the application the pesticide-use 11211
category or categories of the license for which the individual is 11212
applying and any other information that the director determines is 11213
essential to the administration of this chapter. The fee for each 11214
license shall be established by rule. Licenses shall be issued for 11215
a period of time established by rule and shall be renewed in 11216
accordance with deadlines established by rule. If a license is not 11217
issued or renewed, the state shall retain any fee submitted as 11218
payment for reasonable expenses of processing the application. 11219

(C) An individual who is licensed under this section shall 11220
use or directly supervise the use of a restricted use pesticide 11221
only for the purpose of producing agricultural commodities on 11222
property that is owned or rented by the individual or the 11223
individual's employer. 11224

(D) All money collected under this section shall be credited 11225
to the pesticide, fertilizer, and lime program fund created in 11226
section 921.22 of the Revised Code. 11227

Sec. 921.13. (A) Any person who is acting in the capacity of 11228
a pesticide dealer or who advertises or assumes to act as a 11229
pesticide dealer at any time shall obtain a pesticide dealer 11230
license from the director of agriculture. Licenses shall be issued 11231
for a period of time established by rule and shall be renewed in 11232
accordance with deadlines established by rule. A license is 11233
required for each location or outlet within this state from which 11234
the person distributes pesticides. 11235

Any pesticide dealer who has no pesticide dealer outlets in 11236
this state and who distributes restricted use pesticides directly 11237
into this state shall obtain a pesticide dealer license from the 11238
director for the pesticide dealer's principal out-of-state 11239

location or outlet and for each sales person operating in the 11240
state. 11241

The applicant shall include a license fee established by rule 11242
with the application for a license. The application shall be made 11243
on a form prescribed by the director. 11244

Each pesticide dealer shall submit records to the director of 11245
all of the restricted use pesticides the pesticide dealer has 11246
distributed, as specified by the director, and duplicate records 11247
shall be retained by the pesticide dealer for a period of time 11248
established by rules. 11249

(B) This section does not apply to any federal, state, 11250
county, or municipal agency that provides pesticides for its own 11251
programs. 11252

(C) Each licensed pesticide dealer is responsible for the 11253
acts of each employee in the solicitation and sale of pesticides 11254
and all claims and recommendations for use of pesticides. The 11255
pesticide dealer's license is subject to denial, suspension, or 11256
revocation after a hearing for any violation of this chapter 11257
whether committed by the pesticide dealer or by the pesticide 11258
dealer's officer, agent, or employee. 11259

(D) All money collected under this section shall be credited 11260
to the pesticide, fertilizer, and lime program fund created in 11261
section 921.22 of the Revised Code. 11262

Sec. 921.16. (A) The director of agriculture shall adopt 11263
rules the director determines necessary for the effective 11264
enforcement and administration of this chapter. The rules may 11265
relate to, but are not limited to, the time, place, manner, and 11266
methods of application, materials, and amounts and concentrations 11267
of application of pesticides, may restrict or prohibit the use of 11268
pesticides in designated areas during specified periods of time, 11269

and shall encompass all reasonable factors that the director 11270
determines necessary to minimize or prevent damage to the 11271
environment. In addition, the rules shall establish the deadlines 11272
and time periods for registration, registration renewal, late 11273
registration renewal, and failure to register under section 921.02 11274
of the Revised Code; the fees for registration, registration 11275
renewal, late registration renewal, and failure to register under 11276
section 921.02 of the Revised Code that shall apply until the fees 11277
that are established under that section take effect on January 1, 11278
2007; and the fees, deadlines, and time periods for licensure and 11279
license renewal under sections 921.06, 921.09, 921.11, and 921.13 11280
of the Revised Code. 11281

(B) The director shall adopt rules that establish a schedule 11282
of civil penalties for violations of this chapter, or any rule or 11283
order adopted or issued under it, provided that the civil penalty 11284
for a first violation shall not exceed five thousand dollars and 11285
the civil penalty for each subsequent violation shall not exceed 11286
ten thousand dollars. In determining the amount of a civil penalty 11287
for a violation, the director shall consider factors relevant to 11288
the severity of the violation, including past violations and the 11289
amount of actual or potential damage to the environment or to 11290
human beings. All money collected under this division shall be 11291
credited to the pesticide, fertilizer, and lime program fund 11292
created in section 921.22 of the Revised Code. 11293

(C) The director shall adopt rules that set forth the 11294
conditions under which the director: 11295

(1) Requires that notice or posting be given of a proposed 11296
application of a pesticide; 11297

(2) Requires inspection, condemnation, or repair of equipment 11298
used to apply a pesticide; 11299

(3) Will suspend, revoke, or refuse to issue any pesticide 11300

registration for a violation of this chapter; 11301

(4) Requires safe handling, transportation, storage, display, 11302
distribution, and disposal of pesticides and their containers; 11303

(5) Ensures the protection of the health and safety of 11304
agricultural workers storing, handling, or applying pesticides, 11305
and all residents of agricultural labor camps, as that term is 11306
defined in section 3733.41 of the Revised Code, who are living or 11307
working in the vicinity of pesticide-treated areas; 11308

(6) Requires a record to be kept of all pesticide 11309
applications made by each commercial applicator and by any trained 11310
serviceperson acting under the commercial applicator's direct 11311
supervision and of all restricted use pesticide applications made 11312
by each private applicator and by any immediate family member or 11313
subordinate employee of that private applicator who is acting 11314
under the private applicator's direct supervision as required 11315
under section 921.14 of the Revised Code; 11316

(7) Determines the pesticide-use categories of diagnostic 11317
inspections that must be conducted by a commercial applicator; 11318

(8) Requires a record to be kept of all diagnostic 11319
inspections conducted by each commercial applicator and by any 11320
trained service person. 11321

(D) The director shall prescribe standards for the licensure 11322
of applicators of pesticides consistent with those prescribed by 11323
the federal act and the regulations adopted under it or prescribe 11324
standards that are more restrictive than those prescribed by the 11325
federal act and the regulations adopted under it. The standards 11326
may relate to the use of a pesticide or to an individual's 11327
pesticide-use category. 11328

The director shall take into consideration standards of the 11329
United States environmental protection agency. 11330

(E) The director may adopt rules setting forth the conditions under which the director will:

- (1) Collect and examine samples of pesticides or devices;
- (2) Specify classes of devices that shall be subject to this chapter;
- (3) Prescribe other necessary registration information.

(F) The director may adopt rules that do either or both of the following:

- (1) Designate, in addition to those restricted uses so classified by the administrator of the United States environmental protection agency, restricted uses of pesticides for the state or for designated areas within the state and, if the director considers it necessary, to further restrict such use;
- (2) Define what constitutes "acting under the instructions and control of a commercial applicator" as used in the definition of "direct supervision" in division (Q)(1) of section 921.01 of the Revised Code. In adopting a rule under division (F)(2) of this section, the director shall consider the factors associated with the use of pesticide in the various pesticide-use categories. Based on consideration of the factors, the director may define "acting under the instructions and control of a commercial applicator" to include communications between a commercial applicator and a trained serviceperson that are conducted via landline telephone or a means of wireless communication. Any rules adopted under division (F)(2) of this section shall be drafted in consultation with representatives of the pesticide industry.

(G) Except as provided in division (D) of this section, the director shall not adopt any rule under this chapter that is inconsistent with the requirements of the federal act and regulations adopted thereunder.

(H) The director, after notice and opportunity for hearing, 11361
may declare as a pest any form of plant or animal life, other than 11362
human beings and other than bacteria, viruses, and other 11363
microorganisms on or in living human beings or other living 11364
animals, that is injurious to health or the environment. 11365

(I) The director may make reports to the United States 11366
environmental protection agency, in the form and containing the 11367
information the agency may require. 11368

(J) The director shall adopt rules for the application, use, 11369
storage, and disposal of pesticides if, in the director's 11370
judgment, existing programs of the United States environmental 11371
protection agency necessitate such rules or pesticide labels do 11372
not sufficiently address issues or situations identified by the 11373
department of agriculture or interested state agencies. 11374

(K) The director shall adopt rules establishing all of the 11375
following: 11376

(1) Standards, requirements, and procedures for the 11377
examination and re-examination of commercial applicators and 11378
private applicators; 11379

(2) With respect to training programs that the director may 11380
require commercial applicators and private applicators to 11381
complete: 11382

(a) Standards and requirements that a training program must 11383
satisfy in order to be offered by the director or the director's 11384
representative or in order to be approved by the director if a 11385
third party wishes to offer it; 11386

(b) Eligibility standards and requirements that must be 11387
satisfied by third parties who wish to provide the training 11388
programs; 11389

(c) Procedures that third parties must follow in order to 11390

submit a proposed training program to the director for approval; 11391

(d) Criteria that the director must consider when determining 11392
whether to authorize a commercial applicator or private applicator 11393
to participate in a training program instead of being required to 11394
pass a re-examination. 11395

(3) Training requirements for a trained serviceperson. 11396

(L) The director shall adopt all rules under this chapter in 11397
accordance with Chapter 119. of the Revised Code. 11398

Sec. 921.22. The pesticide, fertilizer, and lime program fund 11399
is hereby created in the state treasury. The portion of the money 11400
in the fund that is collected under this chapter shall be used to 11401
carry out the purposes of this chapter. The portion of the money 11402
in the fund that is collected under section 927.53 of the Revised 11403
Code shall be used to carry out the purposes specified in that 11404
section, the portion of the money in the fund that is collected 11405
under section 927.69 of the Revised Code shall be used to carry 11406
out the purposes specified in that section, and the portion of the 11407
money in the fund that is collected under section 927.701 of the 11408
Revised Code shall be used to carry out the purposes of that 11409
section. The fund shall consist of fees collected under sections 11410
921.01 to 921.15, division (F) of section 927.53, and section 11411
927.69 of the Revised Code, money collected under section 927.701 11412
money credited to it under this chapter and Chapter 905. of the 11413
Revised Code, and rules adopted under them and all fines, 11414
penalties, costs, and damages, except court costs, that are 11415
collected by either the director of agriculture or the attorney 11416
general in consequence of any violation of this chapter those 11417
chapters or rules adopted under them. The director shall use money 11418
in the fund to administer and enforce those chapters and rules 11419
adopted under them. 11420

The director shall keep accurate records of all receipts into 11421

and disbursements from the fund and shall prepare, and provide 11422
upon request, an annual report classifying the receipts and 11423
disbursements that pertain to pesticides, fertilizers, or lime. 11424

Sec. 921.27. (A) If the director of agriculture has 11425
reasonable cause to believe that a pesticide or device is being 11426
distributed, stored, transported, or used in violation of this 11427
chapter or of any rules, it shall be subject to seizure on 11428
complaint of the director to a court of competent jurisdiction in 11429
the locality in which the pesticide or device is located. 11430

(B) If the article is condemned, it shall, after entry or 11431
decree, be disposed of by destruction or sale as the court may 11432
direct and the proceeds, if the article is sold, less legal costs, 11433
shall be paid to the pesticide, fertilizer, and lime program fund 11434
created in section 921.22 of the Revised Code. The article shall 11435
not be sold contrary to this section. Upon payment of costs and 11436
execution and delivery of a good and sufficient bond conditioned 11437
that the article shall not be disposed of unlawfully, the court 11438
may direct that the article be delivered to the owner thereof for 11439
relabeling or reprocessing. 11440

Sec. 921.29. Fines, penalties, costs, and damages assessed 11441
against a person in consequence of violations of this chapter, as 11442
provided in this chapter or any other section of the Revised Code, 11443
shall be a lien in favor of the state upon the real and personal 11444
property of the person, upon the filing of a judgment or an order 11445
of the director of agriculture with the county in which the real 11446
and personal property is located. The real and personal property 11447
of the person shall be liable to execution for the fines, 11448
penalties, costs, and damages by the attorney general, who shall 11449
deposit any proceeds from an execution upon the property in the 11450
pesticide, fertilizer, and lime program fund created in section 11451
921.22 of the Revised Code. 11452

Sec. 923.44. (A)(1) Except as otherwise provided in divisions 11453
(A)(2), (3), and (4) of this section, the first distributor of a 11454
commercial feed shall pay the director of agriculture a semiannual 11455
inspection fee at the rate of twenty-five cents per ton, with a 11456
minimum payment of twenty-five dollars, on all commercial feeds 11457
distributed by the first distributor in this state. 11458

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(2) The semiannual inspection fee required under division 11460
(A)(1) of this section shall not be paid by the first distributor 11461
of a commercial feed if the distribution is made to an exempt 11462
buyer who shall be responsible for the fee. The director shall 11463
establish an exempt list consisting of those buyers who are 11464
responsible for the fee. 11465

(3) The semiannual inspection fee shall not be paid on a 11466
commercial feed if the fee has been paid by a previous 11467
distributor. 11468

(4) The semiannual inspection fee shall not be paid on 11469
customer-formula feed if the fee has been paid on the commercial 11470
feeds that are used as components in that customer-formula feed. 11471

(B) Each distributor or exempt buyer who is required to pay a 11472
fee under division (A)(1) or (2) of this section shall file a 11473
semiannual statement with the director that includes the number of 11474
net tons of commercial feed distributed by the distributor or 11475
exempt buyer in this state, within thirty days after the thirtieth 11476
day of June and within thirty days after the thirty-first day of 11477
December, respectively, of each calendar year. 11478

The inspection fee at the rate stated in division (A)(1) of 11479
this section shall accompany the statement. For a tonnage report 11480
that is not filed or payment of inspection fees that is not made 11481
within fifteen days after the due date, a penalty of ten per cent 11482
of the amount due, with a minimum penalty of fifty dollars shall 11483

be assessed against the distributor or exempt buyer. The amount of 11484
fees due, plus penalty, shall constitute a debt and become the 11485
basis of a judgment against the distributor or exempt buyer. 11486

(C) No information furnished under this section shall be 11487
disclosed by an employee of the department of agriculture in such 11488
a way as to divulge the operation of any person required to make 11489
such a report. 11490

(D) All money collected under this section shall be credited 11491
to the commercial feed and seed fund created in section 923.46 of 11492
the Revised Code. 11493

Sec. 923.46. ~~All moneys collected by the director of 11494~~
~~agriculture under sections 923.41 to 923.55 of the Revised Code 11495~~
~~shall be deposited into the state treasury to the credit of the 11496~~
~~The commercial feed, fertilizer, and seed, and lime inspection and 11497~~
~~laboratory fund is hereby created in section 905.38 the state 11498~~
~~treasury. The fund shall consist of money credited to it under 11499~~
~~this chapter and Chapter 907. of the Revised Code.~~ 11500

The director shall ~~prepare and provide a report concerning 11501~~
~~the fund in accordance with section 905.381 of the Revised Code 11502~~
keep accurate records of all receipts into and disbursements from 11503
the fund and shall prepare, and provide upon request, an annual 11504
report classifying the receipts and disbursements that pertain to 11505
commercial feed or seed. 11506

Sec. 926.99. (A)(1) Except as provided in division (A)(2) of 11507
this section, whoever violates section 926.04 of the Revised Code 11508
is guilty of a misdemeanor of the first degree on a first offense 11509
and a felony of the fifth degree on each subsequent offense. 11510

(2) A person who violates section 926.04 of the Revised Code 11512
and who is insolvent and financially unable to satisfy a claimant 11513

as defined in section 926.021 of the Revised Code is guilty of a 11514
felony of the fifth degree if the financial obligation owed by the 11515
offender to the claimant is ~~five~~ seven hundred fifty dollars or 11516
more and is less than five thousand dollars. If the financial 11517
obligation is five thousand dollars or more and is less than one 11518
hundred thousand dollars, the offender is guilty of a felony of 11519
the fourth degree. If the financial obligation is one hundred 11520
thousand dollars or more, the offender is guilty of a felony of 11521
the third degree. 11522

(B) Whoever violates division (E) or (F) of section 926.20 or 11523
division (A) of section 926.22 of the Revised Code is guilty of a 11524
minor misdemeanor on a first offense and a misdemeanor of the 11525
second degree on each subsequent offense. 11526

(C) Whoever violates division (G) of section 926.20 or 11527
section 926.34 or 926.35 of the Revised Code is guilty of a felony 11528
of the fourth degree. 11529

(D) Whoever violates division (A) of section 926.28 or 11530
division (B) of section 926.29 of the Revised Code is guilty of a 11531
felony of the fifth degree. 11532

(E) Whoever violates section 926.31 of the Revised Code is 11533
guilty of a misdemeanor of the fourth degree. 11534

Sec. 927.51. As used in sections 927.51 to ~~927.74~~ 927.73 of 11535
the Revised Code: 11536

(A) "Collected plant" means any plant dug or gathered from 11537
any wood lot, field, forest, or any other location in which such a 11538
plant is found growing in its native habitat. 11539

(B) "Collector" means any person who collects, for sale, 11540
plants from wood lots, fields, forests, or other native habitat. 11541

(C) "Dealer" means any person other than a nurseryman who 11542
offers for sale, sells, or distributes nursery stock, either 11543

exclusively or in connection with other merchandise, in or from 11544
any nursery, store, sales ground, stand, lot, truck, railway car, 11545
or other vehicle. "Dealer" includes any landscaper who sells or 11546
offers for sale nursery stock as a part of a grounds improvement 11547
project ~~which~~ that may involve the installation of such plants. 11548

(D) "Hardy," when applied to plants and bulbs, whether wild 11549
or cultivated, means capable of surviving the normal winter 11550
temperatures of this state. 11551

(E) "Host" means any plant or plant product from which any 11552
pest derives its food supply, or upon which it depends for its 11553
well being or to complete any part of its life cycle. 11554

(F) "Infested" means containing or harboring one or more 11555
pests or infected with one or more pests. 11556

(G) "Nursery" means any grounds or premises on or in which 11557
nursery stock is propagated or grown for sale. 11558

(H) "Nurseryman" means a person who owns, leases, manages, or 11559
is in charge of a nursery. 11560

(I) "Nursery stock" means: 11561

(1) Any hardy tree, shrub, plant, or bulb, whether wild or 11562
cultivated, except turfgrass, and any cutting, graft, scion, or 11563
bud thereof; 11564

(2) Any nonhardy plant, or plant part, ~~which~~ that is to be 11565
offered for sale in any state ~~which~~ that requires inspection and 11566
certification of ~~such~~ the plant or plant part as a condition of 11567
entrance therein. 11568

(J) "Person" means any corporation, company, society, 11569
association, partnership, individual or combination of 11570
individuals, institution, park, or any public agency administered 11571
by the state or any subdivision of the state. 11572

(K) "Pest" means any insect, mite, nematode, bacteria, 11573

fungus, virus, parasitic plant, or any other organism or any stage 11574
of any such organism ~~which~~ that causes, or is capable of causing, 11575
injury, disease, or damage to any plant, plant part, or plant 11576
product. 11577

(L) "Place of business" means each separate location from 11578
which nursery stock is sold, offered for sale, or distributed. 11579

(M) "Intensive production area" means a place where nursery 11580
stock is propagated or grown using greenhouses, liner beds, lath 11581
beds, or containers. 11582

(N) "Nonintensive production area" means any place where 11583
nursery stock is propagated or grown as field stock. 11584

(O) "Forced floral plants" means plants with desirable flower 11585
characteristics in which the bloom is artificially induced at an 11586
unnatural time of the year. 11587

Sec. 927.52. (A) The director of agriculture shall adopt and 11588
enforce any rules that are necessary to carry out sections 927.51 11589
to ~~927.74~~ 927.73 of the Revised Code. 11590

(B) The director may revoke, suspend, or refuse to issue any 11591
nursery certificate or dealer's license for any violation of 11592
sections 927.51 to 927.71 of the Revised Code, or of any rules 11593
adopted under those sections. 11594

(C) The director may publish reports describing nursery 11595
inspection and pest control operations authorized by sections 11596
927.51 to 927.71 of the Revised Code. 11597

Sec. 927.53. (A) Each collector or dealer who sells, offers, 11598
or exposes for sale, or distributes nursery stock within this 11599
state, or ships nursery stock to other states, shall pay an annual 11600
license fee of ~~fifty~~ one hundred twenty-five dollars to the 11601
director of agriculture for each place of business the collector 11602

or dealer operates. 11603

(B)(1) Each dealer shall furnish the director, annually, an affidavit that the dealer will buy and sell only nursery stock which has been inspected and certified by an official state or federal inspector. 11604
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(2) Each dealer's license expires on the thirty-first day of December of each year. Each licensed dealer shall apply for renewal of the dealer's license prior to the first day of January of each year and in accordance with the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code. 11608
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(C) Each licensed nurseryperson shall post conspicuously in the nurseryperson's principal place of business, the certificate which is issued to the nurseryperson in accordance with section 927.61 of the Revised Code. 11613
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(D) Each licensed nurseryperson, or dealer, shall post conspicuously in each place of business, each certificate or license which is issued to the nurseryperson or dealer in compliance with this section or section 927.61 of the Revised Code. 11617
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(E)(1) Each nurseryperson who produces, sells, offers for sale, or distributes woody nursery stock within the state, or ships woody nursery stock to other states, shall pay to the director an annual inspection fee of ~~fifty~~ one hundred dollars plus ~~four~~ eleven dollars per acre, or fraction thereof, of growing nursery stock in intensive production areas and ~~two~~ seven dollars per acre, or fraction thereof, of growing nursery stock in nonintensive production areas, as applicable. 11622
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(2) Each nurseryperson who limits production and sales of nursery stock to brambles, herbaceous, perennial, and other nonwoody plants, shall pay to the director an inspection fee of ~~thirty~~ one hundred dollars, plus ~~four~~ eleven dollars per acre, or 11630
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fraction thereof, of growing nursery stock in intensive and 11634
nonintensive production areas. 11635

~~(F) On and after the effective date of this amendment, the 11636
following additional fees shall be assessed: 11637~~

~~(1) Each collector or dealer who pays a fee under division 11638
(A) of this section shall pay an additional fee of twenty five 11639
dollars. 11640~~

~~(2) Each nursery person who pays fees under division (E)(1) of 11641
this section shall pay additional fees as follows: 11642~~

~~(a) Fifteen dollars for the inspection fee; 11643~~

~~(b) Fifty cents per acre, or fraction thereof, of growing 11644
nursery stock in intensive production areas; 11645~~

~~(c) One dollar and fifty cents per acre, or fraction thereof, 11646
of growing nursery stock in nonintensive production areas. 11647~~

~~(3) Each nursery person who pays fees under division (E)(2) 11648
of this section shall pay additional fees as follows: 11649~~

~~(a) Thirty five dollars for the inspection fee; 11650~~

~~(b) Fifty cents per acre, or fraction thereof, of growing 11651
stock in intensive and nonintensive production areas. The 11652~~

~~The fees collected under division (F) of this section shall 11653
be deposited into the state treasury credited to the credit of the 11654
pesticide plant pest program fund created in Chapter 921. section 11655
927.54 of the Revised Code. Moneys so credited to the fund shall 11656
be used to pay the costs incurred by the department of agriculture 11657
in administering this chapter, including employing a minimum of 11658
two additional inspectors. 11659~~

Sec. 927.54. The plant pest program fund is hereby created in 11660
the state treasury. The fund shall consist of money credited to it 11661
under this chapter and any rules adopted under it. The director of 11662

agriculture shall use money in the fund to administer this 11663
chapter. 11664

The director shall keep accurate records of all receipts into 11665
and disbursements from the fund and shall prepare, and provide 11666
upon request, an annual report classifying the receipts and 11667
disbursements that pertain to plant pests. 11668

Sec. 927.56. (A) Each nurseryman, dealer, or collector of 11669
nursery stock, who resides in or has his principal place of 11670
business in another state and who sends nursery stock into this 11671
state without having a bona fide order in advance for all such 11672
nursery stock, shall obtain the same license ~~which~~ that is 11673
required by section 927.53 of the Revised Code. 11674

(B) The director of agriculture may enter into such 11675
reciprocal contracts and agreements as ~~he~~ the director determines 11676
proper and expedient, with the proper authorities of other states 11677
or of the federal government to regulate the shipment, sale, and 11678
distribution of nursery stock in this state by persons residing in 11679
or located in another state, in accordance with sections 927.51 to 11680
~~927.74, inclusive,~~ 927.73 of the Revised Code. 11681

Sec. 927.69. To effect the purpose of sections 927.51 to 11682
~~927.74~~ 927.73 of the Revised Code, the director of agriculture or 11683
the director's authorized representative may: 11684

(A) Make reasonable inspection of any premises in this state 11685
and any property therein or thereon; 11686

(B) Stop and inspect in a reasonable manner, any means of 11687
conveyance moving within this state upon probable cause to believe 11688
it contains or carries any pest, host, commodity, or other article 11689
that is subject to sections 927.51 to 927.72 of the Revised Code; 11690

(C) Conduct inspections of agricultural products that are 11691

required by other states, the United States department of 11692
agriculture, other federal agencies, or foreign countries to 11693
determine whether the products are infested. If, upon making such 11694
an inspection, the director or the director's authorized 11695
representative determines that an agricultural product is not 11696
infested, the director or the director's authorized representative 11697
may issue a certificate, as required by other states, the United 11698
States department of agriculture, other federal agencies, or 11699
foreign countries, indicating that the product is not infested. 11700

If the director charges fees for any of the certificates, 11701
agreements, or inspections specified in this section, the fees 11702
shall be as follows: 11703

(1) Phyto sanitary certificates, twenty-five dollars for 11704
those collectors or dealers that are licensed under section 927.53 11705
of the Revised Code; 11706

(2) Phyto sanitary certificates, one hundred dollars for all 11707
others; 11708

(3) Compliance agreements, twenty forty dollars; 11709

~~(3) Solid wood packing certificates, twenty dollars;~~ 11710

(4) Agricultural products and their conveyances inspections, 11711
an amount equal to the hourly rate of pay in the highest step in 11712
the pay range, including fringe benefits, of a plant pest control 11713
specialist multiplied by the number of hours worked by such a 11714
specialist in conducting an inspection. 11715

The director may adopt rules under section 927.52 of the 11716
Revised Code that define the certificates, agreements, and 11717
inspections. 11718

The fees shall be ~~deposited into the state treasury~~ credited 11719
to the ~~credit of the pesticide~~ plant pest program fund created in 11720
~~Chapter 921.~~ section 927.54 of the Revised Code. ~~Money credited to~~ 11721

~~the fund shall be used to pay the costs incurred by the department 11722
of agriculture in administering this chapter, including employing 11723
a minimum of two additional inspectors. 11724~~

Sec. 927.70. (A) No person shall knowingly permit any plant 11725
pest ~~which~~ that has been determined to be destructive or 11726
dangerously harmful by the director of agriculture, in compliance 11727
with procedures required by division (A) of section 927.52 of the 11728
Revised Code, to exist in or on ~~his~~ the person's premises. 11729

(B) Whenever the director or ~~his~~ the director's authorized 11730
representative finds any article or commodity to be infested or 11731
has reason to believe it to be infested, or finds that a host or 11732
pest exists on any premises, or is in transit in this state, ~~he~~ 11733
the director may: 11734

(1) Upon giving notice to the owner or ~~his~~ the owner's agent 11735
in possession thereof, seize, quarantine, treat, or otherwise 11736
dispose of ~~such~~ the pest, host, article, or commodity in such 11737
manner as ~~he~~ the director determines necessary to suppress, 11738
control, eradicate, or to prevent or retard the spread of a pest; 11739

(2) Order ~~such~~ the owner or agent to so treat or otherwise 11740
dispose of the pest, host, article, or commodity. 11741

(C) If the owner or person in charge of ~~such~~ the premises 11742
refuses or neglects to carry out the orders of the director within 11743
seven days after receiving written notice, the director may treat 11744
the premises; treat or destroy the infested plants or plant 11745
material; or apply any other preventive or remedial measure ~~which~~ 11746
~~he~~ that the director determines necessary. The expense of any such 11747
preventative or remedial measures shall be assessed, collected, 11748
and enforced, as taxes are assessed, collected, and enforced, 11749
against the premises upon which ~~such~~ the expense was incurred. The 11750
amount of ~~such~~ the expense when collected shall be ~~paid to the~~ 11751
~~director and by him deposited with the treasurer of state~~ credited 11752

to the plant pest program fund created in section 927.54 of the 11753
Revised Code. 11754

Sec. 927.701. (A) As used in this section, "gypsy moth" means 11755
the live insect, *Lymantria dispar*, in any stage of development. 11756
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(B) The director of agriculture may establish a voluntary 11758
gypsy moth suppression program under which a landowner may request 11759
that the department of agriculture have the landowner's property 11760
aerially sprayed to suppress the presence of gypsy moths in 11761
exchange for payment from the landowner of a portion of the cost 11762
of the spraying. To determine the ~~amount of payment that is due~~ 11763
~~from a landowner~~ total cost per acre, the department ~~first~~ shall 11764
~~determine the projected cost per acre to the department of gypsy~~ 11765
~~moth suppression activities for the year in which the landowner's~~ 11766
~~request is made. The cost shall be calculated by determining the~~ 11767
~~total expense of aerial spraying for gypsy moths to be incurred by~~ 11768
~~the department in that year divided by the total number of acres~~ 11769
~~proposed to be sprayed in that year. With respect to a landowner~~ 11770
add the per-acre cost of the product selected by the landowner to 11771
suppress gypsy moths and the per-acre cost of applying the product 11772
as determined by the director in rules. To determine the aggregate 11773
total cost, the department shall multiply the total cost per acre 11774
by the number of acres that the landowner requests to be sprayed. 11775
The department shall add to that amount any administrative costs 11776
that it incurs in billing the landowner and collecting payment. 11777
~~The amount that the landowner shall pay to the department shall~~ 11778
~~not exceed fifty per cent of the resulting amount. The portion of~~ 11779
the cost that is assessed to the landowner, if any, shall be 11780
determined by the funding that is allocated to the department by 11781
the federal and state gypsy moth suppression programs. 11782

(C) The director shall adopt rules under Chapter 119. of the 11783

Revised Code to establish procedures under which a landowner may 11784
make a request under division (B) of this section, to establish 11785
the per-acre cost of applying product to suppress gypsy moths, and 11786
to establish provisions governing agreements between the 11787
department and landowners concerning gypsy moth suppression 11788
together with any other provisions that the director considers 11789
appropriate to administer this section. 11790

(D) The director shall deposit all money collected under this 11791
section ~~into the state treasury~~ to the credit of the ~~pesticide~~ 11792
~~plant pest~~ program fund created in ~~Chapter 921.~~ section 927.54 of 11793
the Revised Code. Money credited to the fund under this section 11794
shall be used for the suppression of gypsy moths in accordance 11795
with this section. 11796

Sec. 927.71. (A) The director of agriculture, in accordance 11797
with Chapter 119. of the Revised Code, may quarantine: 11798

(1) This state or any portion thereof when ~~he~~ the director 11799
determines that such action is necessary to prevent or retard the 11800
spread of a pest into, within, or from this state; 11801

(2) Any other state or portion thereof when ~~he~~ the director 11802
determines that a pest exists therein and that such action is 11803
necessary to prevent or retard its spread into this state. 11804

(B) The director may limit the application of a quarantine to 11805
the infested portions of the quarantined area and appropriate 11806
environs, to be known as the regulated area, and may, without 11807
further hearing, extend the regulated area to include additional 11808
portions of the quarantined area either: 11809

(1) Upon publication of a notice to that effect in such 11810
newspapers in the quarantined area as ~~he~~ the director may select; 11811

(2) Upon written notice to those concerned. 11812

(C) Following establishment of a quarantine, no person shall 11813

move any regulated article described in the quarantine, or move 11814
the pest against which the quarantine is established, within, 11815
from, into, or through this state contrary to ~~regulations~~ 11816
~~promulgated~~ rules adopted by the director without prior permission 11817
or order of the director. 11818

(D) A ~~regulation~~ rule may restrict the movement of a pest and 11819
any regulated article from the quarantined or regulated area in 11820
this state into or through other parts of this state or other 11821
states and from the quarantine or regulated area in other states 11822
into or through this state and may impose such inspection, 11823
disinfection, certification, permit, or other requirements as the 11824
director determines necessary to effectuate the purpose of 11825
sections 927.51 to ~~927.74, inclusive,~~ 927.73 of the Revised Code. 11826

Sec. 942.02. (A) No person shall feed on ~~his~~ the person's 11827
premises, or permit the feeding of, treated garbage to swine 11828
without a license to do so issued by the department of 11829
agriculture. 11830

(B) An application for a license to feed treated garbage 11831
shall be made in writing on a form prescribed by the director of 11832
agriculture. 11833

(C) A license shall be renewed before the thirty-first day of 11834
December of each year, and an application for renewal shall be 11835
filed before the thirtieth day of November of each year. 11836

(D) The fee for the license shall be ~~fifty~~ one hundred 11837
dollars per annum. A late fee of fifty dollars shall be paid for 11838
each application that is received after the thirtieth day of 11839
November each year. 11840

(E) All money collected under this section shall be credited 11841
to the animal and consumer analytical laboratory fund created in 11842
section 901.43 of the Revised Code. 11843

Sec. 943.01. As used in sections 943.01 to 943.18 of the 11844
Revised Code: 11845

(A) "Animals" or "livestock" means horses, mules, and other 11846
equidae, cattle, sheep, and goats and other bovidae, swine and 11847
other suidae, poultry, alpacas, and llamas. 11848

(B) "Dealer" or "broker" means any person found by the 11849
department of agriculture buying, receiving, selling, 11850
slaughtering, with the exception of those persons designated by 11851
division (B)(1) of section 918.10 of the Revised Code, exchanging, 11852
negotiating, or soliciting the sale, resale, exchange, or transfer 11853
of any animals in an amount of more than two hundred fifty head of 11854
cattle, horses, or other equidae or five hundred head of sheep, 11855
goats, or other bovidae ~~or~~, swine and other suidae ~~or~~, poultry, 11856
alpacas, or llamas during any one calendar year. "Dealer" or 11857
"broker" does not mean any of the following: 11858

(1) Any railroad or other carrier transporting animals either 11859
interstate or intrastate; 11860

(2) Any person who by dispersal sale is permanently 11861
discontinuing the business of farming, dairying, breeding, 11862
raising, or feeding animals; 11863

(3) Any person who sells livestock that has been raised from 11864
birth on the premises of the person; 11865

(4) Any person who buys or receives animals for grazing or 11866
feeding purposes at a premises owned or controlled by the person 11867
and sells or disposes of the animals after the minimum grazing or 11868
feeding period of thirty days; 11869

(5) Any person who places livestock in facilities other than 11870
the person's own pursuant to a written agreement for feeding or 11871
finishing, provided that the person retains legal and equitable 11872
title to the livestock during the term of the agreement; 11873

(6) Any poultry dealer that is certified by the animal and plant health inspection service in the United States department of agriculture as a participant in the national poultry improvement plan. 11874
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The exemptions set forth in divisions (B)(1) to ~~(5)~~(6) of this section are exclusive of those activities requiring licensure under this chapter, so that a person shall be deemed to be a dealer or broker or subject to divisions (B)(1) to ~~(5)~~(6) of this section, but shall not be, or be subject to, both. No person who is a licensed dealer or broker and whose license is suspended shall have livestock or animals exempted pursuant to divisions (B)(1) to ~~(5)~~(6) of this section. 11878
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(C) "Employee" means any person employed by a dealer or broker to act in the dealer's or broker's behalf to buy, sell, exchange, negotiate, or solicit sale or resale of animals in the dealer's or broker's name. 11886
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(D) "Small dealer" means any person found by the department buying, receiving, selling, slaughtering, with the exception of those persons designated by division (B)(1) of section 918.10 of the Revised Code, exchanging, negotiating, or soliciting the sale, resale, exchange, or transfer of any animals in an amount of two hundred fifty head or less of cattle, horses, or other equidae or five hundred head or less of sheep, goats, or other bovidae, swine or other suidae, poultry, alpacas, or llamas during any one calendar year. 11890
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Sec. 943.02. (A) No person shall act as a small dealer, dealer, or broker without first being licensed. No person shall be an employee of more than one small dealer, dealer, or broker. Except as provided in division (B) of this section, no person holding a license as a small dealer, dealer, or broker shall be an employee. No employee shall act for any small dealer, dealer, or 11899
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broker unless the small dealer, dealer, or broker is licensed, and 11905
has designated the employee to act in ~~his~~ the small dealer's, 11906
dealer's, or broker's behalf and has notified the department of 11907
agriculture in ~~his~~ the application for license or has given 11908
official notice in writing of the appointment of the employee. The 11909
small dealer, dealer, or broker shall be accountable and 11910
responsible for all contracts pertaining to the purchase, 11911
exchange, or sale of livestock made by the employee. The small 11912
dealer, dealer, or broker who terminates the services of an 11913
employee shall notify the department in writing of the employee's 11914
termination. No person who is a licensed small dealer, dealer, or 11915
broker shall have livestock exempted pursuant to divisions (B)(1) 11916
~~through (5)~~ to (6) of section 943.01 of the Revised Code. 11917

(B) A small dealer, dealer, or broker may be an employee of 11918
other small dealers, dealers, or brokers only when ~~he~~ the small 11919
dealer, dealer, or broker so employed is a soliciting agent for a 11920
video auction. 11921

(C) The director of agriculture shall define by rule 11922
"soliciting agent" and "video auction" for the purposes of this 11923
section. 11924

Sec. 943.031. (A) Application for a license as a small dealer 11925
shall be made in writing to the department of agriculture. The 11926
application shall state the nature of the business, the municipal 11927
corporation or township, county, and post-office address of the 11928
location where the business is to be conducted, the name of any 11929
employee who is authorized to act in the small dealer's behalf, 11930
and any additional information that the department prescribes. 11931

(B) The applicant shall satisfy the department of the 11933
applicant's character and good faith in seeking to engage in the 11934
business of a small dealer. The department then shall issue to the 11935

applicant a license to conduct the business of a small dealer at 11936
the place named in the application. Licenses, unless revoked, 11937
shall expire annually on the thirty-first day of March and shall 11938
be renewed according to the standard renewal procedure established 11939
in sections 4745.01 to 4745.03 of the Revised Code. 11940

(C) No license shall be issued by the department to a small 11941
dealer having weighing facilities until the applicant has filed 11942
with the department a copy of a scale test certificate showing the 11943
weighing facilities to be in satisfactory condition, a copy of the 11944
license of each weigher employed by the applicant, and a 11945
certificate of inspection by the department showing livestock 11946
market facilities to be in satisfactory sanitary condition. 11947

(D) No licensed small dealer shall employ as an employee a 11948
person who, as a small dealer, dealer, or broker, previously 11949
defaulted on contracts pertaining to the purchase, exchange, or 11950
sale of livestock until the licensee does both of the following: 11951

(1) Appears at a hearing before the director of agriculture 11952
or the director's designee conducted in accordance with Chapter 11953
119. of the Revised Code pertaining to that person; 11954

(2) Signs and files with the director an agreement that 11955
guarantees, without condition, all contracts pertaining to the 11956
purchase, exchange, or sale of livestock made by the person while 11957
in the employ of the licensee. The director shall prescribe the 11958
form and content of the agreement. 11959

Sec. 943.04. (A) Fees for the initial issuance of any license 11960
issued pursuant to sections 943.02 and, 943.03, and 943.031 of the 11961
Revised Code, shall be paid to the department of agriculture. 11962

(B) All annual renewal fees for ~~such~~ the licenses shall be 11963
paid by the applicant for ~~such~~ the renewal of a license on or 11964
before the thirty-first day of March of each year to the treasurer 11965

of state. ~~Such~~ Except for license fees for small dealers, the fees 11966
shall be based on the number of head of livestock purchased, sold, 11967
or exchanged, in this state, whichever is the greatest, during the 11968
preceding calendar year. ~~Such~~ Those fees for dealers or brokers 11969
shall be as follows: 11970

Less than 1,000 head ~~\$10.00~~ \$50.00 per annum; 11971

For 1,001 to 10,000 head ~~\$25.00~~ \$125.00 per annum; 11972

For more than 10,000 head ~~\$50.00~~ \$250.00 per 11973
annum. 11974

In the event a dealer or broker operates more than one place 11975
where livestock is purchased, sold, or exchanged, a fee shall be 11976
paid for each ~~such~~ place, but only the original purchase, sale, 11977
or exchange shall be counted in computing the amount of the fee to 11978
be paid for each ~~such~~ place operated by ~~such~~ the dealer or broker. 11979
Shipment between yards owned or operated by ~~such~~ the dealer or 11980
broker shall be exempt. 11981

A late fee of one hundred dollars shall be paid for each 11982
dealer or broker license renewal application that is received 11983
after the thirty-first day of March each year. 11984

(C)(1) A fee of twenty-five dollars shall be paid by each 11985
small dealer. 11986

If a small dealer operates more than one place where 11987
livestock is purchased, sold, or exchanged, a fee shall be paid 11988
for each place, but only the original purchase, sale, or exchange 11989
shall be counted in computing the amount of fee to be paid for 11990
each place operated by the small dealer. Shipment between yards 11991
owned or operated by the small dealer shall be exempt. 11992

(2) A late fee of twenty-five dollars shall be paid for each 11993
small dealer license renewal application that is received after 11994
the thirty-first day of March each year. 11995

(D) A fee of twenty dollars shall be paid by each employee 11996
that is appointed by a small dealer, dealer, or broker as provided 11997
in section 943.02 of the Revised Code. 11998

(E) A fee of ~~five~~ ten dollars shall be paid by each licensed 11999
weigher. 12000

(F) All ~~fees and charges~~ money collected under section 943.03 12001
of the Revised Code, and under this section shall be ~~paid into the~~ 12002
state treasury, and shall be credited to the ~~general revenue~~ 12003
animal and consumer analytical laboratory fund created in section 12004
901.43 of the Revised Code. 12005

Sec. 943.05. (A) The director of agriculture may refuse to 12006
grant or may suspend a small dealer's, dealer's, or broker's 12007
license, without prior hearing, ~~when he determines~~ after 12008
determining from evidence presented to ~~him~~ the director that there 12009
is reasonable cause to believe any of the following situations 12010
exist: 12011

(1) Where the applicant or licensee or an employee has 12012
violated the laws of the state or official regulations governing 12013
the interstate or intrastate movement, shipment, or transportation 12014
of animals, or has been convicted of a crime involving moral 12015
turpitude or convicted of a felony; 12016

(2) Where there have been false or misleading statements as 12017
to the health or physical condition of the animals with regard to 12018
official tests or quantity of animals, or the practice of fraud or 12019
misrepresentation in connection therewith or in the buying or 12020
receiving of animals or receiving, selling, exchanging, 12021
soliciting, or negotiating the sale, resale, exchange, weighing, 12022
or shipment of animals; 12023

(3) Where the applicant or licensee acts as a small dealer, 12024
dealer, or broker for a person attempting to conduct business in 12025

violation of section 943.02 of the Revised Code, after the notice 12026
of the violation has been given to the licensee by the department 12027
of agriculture; 12028

(4) Where the applicant or licensee or employee fails to 12029
practice measures of sanitation, disinfection, and inspection as 12030
required by sections 943.01 to 943.18 of the Revised Code, or 12031
prescribed by the department, of premises or vehicles used for the 12032
yarding, holding, or transporting of animals; 12033

(5) Where there has been a failure to keep records required 12034
by the department or where there is a refusal on the part of the 12035
applicant or licensee or employee to produce records of 12036
transactions in the carrying on of the business for which the 12037
license is granted; 12038

(6) Where the applicant or licensee providing weighing 12039
facilities used for, in connection with, or incident to the 12040
purchase or sale of livestock for the account of the licensee or 12041
others, fails to maintain and operate the weighing facilities in 12042
accordance with sections 943.08 and 943.10 of the Revised Code; 12043

(7) Where the applicant or licensee in the conduct of the 12044
business covered by the license fails to maintain and operate 12045
weighing facilities in accordance with sections 943.08 and 943.10 12046
of the Revised Code or fails to cause its livestock to be weighed 12047
by licensed weighers as provided in those sections; 12048

(8) ~~Where~~ With regard to a dealer or broker licensee, where 12049
the licensee fails to maintain a bond or deposit, or letter of 12050
credit, if applicable, or fails to adjust the bond or deposit upon 12051
thirty days' notice or refuses or neglects to pay the fees or 12052
inspection charges required to be paid; 12053

(9) Where the licensee has been suspended by order of the 12054
secretary of agriculture of the United States department of 12055
agriculture under provisions of the "Packers and Stockyards Act of 12056

1921," 42 Stat. 159, 7 U.S.C.A. 181, as amended; 12057

(10) ~~Where~~ With regard to a dealer or broker licensee, where 12058
the surety company, trustee, or issuer of a letter of credit of 12059
the licensee issues a notice of termination of the licensee's bond 12060
agreement, deposit agreement, or letter of credit. 12061

(B) When the director refuses to grant or suspends a small 12062
dealer's, dealer's, or broker's license, ~~he~~ the director or ~~his~~ 12063
the director's designee may hand deliver the order. The licensee 12064
to whom a suspension order is issued shall be afforded a hearing 12065
in accordance with Chapter 119. of the Revised Code, after which 12066
the director shall reinstate, revoke, or suspend for a longer or 12067
indefinite period the suspended license. 12068

Sec. 943.06. Every small dealer, dealer, and broker licensed 12069
under section 943.03 or 943.031 of the Revised Code, as 12070
applicable, and carrying on or conducting business under ~~such that~~ 12071
license, shall post in a conspicuous place in or at the place of 12072
business of ~~such the~~ licensee a copy of ~~such the~~ license furnished 12073
by the department of agriculture, to be kept so posted and exposed 12074
for inspection by any person. 12075

Sec. 943.07. Each small dealer, dealer, or broker leasing, 12076
renting, operating, or owning livestock yards, pens, premises, or 12077
vehicles in which animals are quartered, fed, held, or 12078
transported, shall have a veterinary inspector approved by the 12079
department of agriculture, inspect, when directed, all such yards, 12080
premises, and vehicles and shall thoroughly and completely 12081
disinfect all such yards, pens, premises, and vehicles under the 12082
direction of the veterinary inspector and as prescribed by the 12083
department. The cost of ~~such the~~ inspection and disinfection shall 12084
be borne by ~~such the~~ small dealer, dealer, or broker. 12085

The department shall not require such veterinary inspection 12086

of yards, pens, premises, or other facilities where veterinary 12087
inspection is regularly maintained by the United States department 12088
of agriculture, or by the municipal corporation in which the same 12089
are located, or where livestock is transported to markets or 12090
slaughtering establishments where such inspection is maintained. 12091

The department may adopt ~~and promulgate~~ adequate sanitary 12092
requirements covering the construction and maintenance of 12093
buildings, pens, and chutes on all premises regularly used for the 12094
assembling, receiving, handling, feeding, watering, holding, 12095
buying, or selling of livestock, and may prescribe and enforce 12096
rules ~~and regulations~~ for the purpose of carrying into effect 12097
sections 943.01 to 943.18 of the Revised Code. ~~Such~~ Those sections 12098
shall not apply to railroads subject to the "Interstate Commerce 12099
Act of 1887," 24 Stat. 379, 49 U.S.C.A. 1. 12100

Sec. 943.13. The department of agriculture shall require 12101
inspection, tests, and treatments necessary to prevent the spread 12102
of diseases of all animals sold or transferred from pens, yards, 12103
premises, or vehicles by ~~brokers or~~ small dealers, dealers, or 12104
brokers except when such animals are immediately delivered to a 12105
slaughtering establishment. ~~Such~~ The inspection, tests, and 12106
treatments shall be made by a veterinary inspector approved by the 12107
department and shall be made and reported as prescribed by the 12108
department. The fees for ~~such~~ that service shall be paid by the 12109
~~broker or~~ small dealer, dealer, or broker. This section shall not 12110
apply to a person operating a slaughtering establishment at which 12111
antemortem veterinary inspection is regularly maintained. 12112

The director of agriculture, without a prior hearing, may 12113
revoke the approval of a veterinary inspector. A person to whom an 12114
order of revocation is issued shall be afforded a hearing in 12115
accordance with sections 119.01 to 119.13 of the Revised Code. 12116

Animals sold through a livestock auction market shall be 12117

accompanied by a release as may be prescribed by the department 12118
and issued by the ~~broker or~~ small dealer, dealer, or broker. Such 12119
The release shall state the date, number and kind of animals 12120
moved, point of origin, and buyer. 12121

Animals sold for slaughter may be identified by an ear tag, a 12122
livestock paint brand, or other prescribed identification, 12123
whenever the department finds such identification necessary. 12124

Operators of livestock auction markets shall furnish and 12125
maintain cattle chutes suitable for restraining animals for 12126
careful inspection and shall provide suitable laboratory space for 12127
the veterinary inspector. All swine pens shall be paved and 12128
maintained so that they can be cleaned and disinfected. All 12129
diseased animals shall be segregated by species and held in 12130
designated pens constructed to facilitate cleaning and 12131
disinfecting. 12132

Sec. 943.14. (A) The department of agriculture or any of its 12133
authorized agents may inspect the records of any licensee or 12134
employee at any time to determine the origin and destination of 12135
any livestock handled by the licensee and to determine if sections 12136
943.01 to 943.18 of the Revised Code, or the rules ~~promulgated~~ 12137
adopted thereunder, have been violated. 12138

(B) A small dealer, dealer, or broker, employee, or person 12139
described in division (B)(4) of section 943.01 of the Revised 12140
Code, who acquires or disposes of an animal by any means, shall 12141
make a record of the name and address of the person from whom the 12142
animal was acquired and to whom disposed. The record also shall 12143
show the individual identification of each animal at the time of 12144
acquisition or disposal. These records shall be maintained for a 12145
period of twenty-four months or longer from the date of 12146
acquisition or disposal. 12147

(C) The individual identification in division (B) of this 12148

section shall be in a manner or form approved by the department. 12149

(D) A person who is a soliciting agent for a video auction 12150
pursuant to division (B) of section 943.02 of the Revised Code 12151
shall maintain records in a manner or form approved by the 12152
department. 12153

Sec. 953.23. (A) Application for a license shall be made to 12154
the department of agriculture on a form prescribed by the 12155
department. 12156

(B) Each application shall include all of the following: 12157

(1) The name and address of the applicant; 12158

(2) The applicant's proposed place of business; 12159

(3) A detailed statement of the method that the applicant 12160
intends to use to dispose of, pick up, render, or collect raw 12161
rendering material or to transport it to a composting facility; 12162

(4) Such other relevant information as the department may 12163
require. 12164

(C) Each applicant shall submit the annual license fee with 12165
~~his~~ the application. 12166

(1) The license fee for a person applying for an annual 12167
license to pick up or collect raw rendering material and dispose 12168
of the material to a licensee or in accordance with divisions (B) 12169
and (C) of section 953.26 of the Revised Code, or to transport raw 12170
rendering material to a composting facility, is twenty-five 12171
dollars per vehicle that is used to pick up or collect and dispose 12172
of or to transport raw rendering material. A late fee of ten 12173
dollars per vehicle shall be charged for each application that is 12174
received after the thirtieth day of November each year. 12175

(2) The license fee for a person applying for an annual 12176
license to pick up or collect raw rendering material and to 12177

operate one or more rendering plants is ~~one~~ three hundred dollars 12178
for each such plant. A late fee of one hundred dollars shall be 12179
charged for each application that is received after the thirtieth 12180
day of November each year. 12181

(D) On receipt of an application and fee, under this section, 12182
the department shall inspect the means of conveyance and premises 12183
that the applicant proposes to use to dispose of, collect, pick 12184
up, or render raw rendering material or to transport it to a 12185
composting facility for profit. 12186

(E) If the department finds that the applicant's means of 12187
conveyance, premises, and operation meet the requirements of this 12188
chapter and rules adopted thereunder, the department shall issue a 12189
license to the applicant to dispose of, pick up, render, or 12190
collect for profit raw rendering material or to transport it to a 12191
composting facility for profit. 12192

(F) Each license issued under this section shall expire on 12193
the thirty-first day of December of each year. Each person 12194
licensed under this section shall make application for renewal of 12195
~~his~~ the person's license no later than the thirtieth day of 12196
November of each year. 12197

(G) Application for renewal shall be in accordance with the 12198
requirements of this section for initial application for a license 12199
and the standard renewal procedure of sections 4745.01 to 4745.03 12200
of the Revised Code. 12201

(H) All money collected under this section shall be credited 12202
to the animal and consumer analytical laboratory fund created in 12203
section 901.43 of the Revised Code. 12204

Sec. 955.201. (A) As used in this section and in section 12205
955.202 of the Revised Code, "Ohio pet fund" means a nonprofit 12206
corporation organized by that name under Chapter 1702. of the 12207

Revised Code that consists of humane societies, veterinarians, 12208
animal shelters, companion animal breeders, dog wardens, and 12209
similar individuals and entities. 12210

(B) The Ohio pet fund shall do all of the following: 12211

(1) Establish eligibility criteria for organizations that may 12212
receive financial assistance from the pets program funding board 12213
created in section 955.202 of the Revised Code. Those 12214
organizations may include any of the following: 12215

(a) An animal shelter as defined in section 4729.01 of the 12216
Revised Code; 12217

(b) A local nonprofit veterinary association that operates a 12218
program for the sterilization of dogs and cats; 12219

(c) A charitable organization that is exempt from federal 12220
income taxation under subsection 501(c)(3) of the Internal Revenue 12221
Code and the primary purpose of which is to support programs for 12222
the sterilization of dogs and cats and educational programs 12223
concerning the proper veterinary care of those animals. 12224

(2) Establish procedures for applying for financial 12225
assistance from the pets program funding board. Application 12226
procedures shall require eligible organizations to submit detailed 12227
proposals that outline the intended uses of the moneys sought. 12228

(3) Establish eligibility criteria for sterilization and 12229
educational programs for which moneys from the pets program 12230
funding board may be used and, consistent with division (C) of 12231
this section, establish eligibility criteria for individuals who 12232
seek sterilization for their dogs and cats from eligible 12233
organizations; 12234

(4) Establish procedures for the disbursement of moneys the 12235
pets program funding board receives from license plate 12236
contributions pursuant to division (C) of section 4503.551 of the 12237

Revised Code;	12238
(5) Advertise or otherwise provide notification of the availability of financial assistance from the pets program funding board for eligible organizations;	12239 12240 12241
(6) Design markings to be inscribed on "pets" license plates under section 4503.551 of the Revised Code.	12242 12243
(C)(1) The owner of a dog or cat is eligible for dog or cat sterilization services from an eligible organization when those services are subsidized in whole or in part by money from the pets program funding board if any of the following applies:	12244 12245 12246 12247
(a) The income of the owner's family does not exceed one hundred fifty per cent of the federal poverty guideline.	12248 12249
(b) The owner, or any member of the owner's family who resides with the owner, is a recipient or beneficiary of one of the following government assistance programs:	12250 12251 12252
(i) Low-income housing assistance under the "United States Housing Act of 1937," 42 U.S.C.A. 1437f, as amended, known as the federal section 8 housing program;	12253 12254 12255
(ii) The Ohio works first program established by Chapter 5107. of the Revised Code;	12256 12257
(iii) Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, known as the medical assistance program or medicaid, provided by the department of job and family services under Chapter 5111. of the Revised Code;	12258 12259 12260 12261
(iv) A program or law administered by the United States department of veterans' affairs or veterans' administration for any service-connected disability;	12262 12263 12264
(v) The food stamp <u>supplemental nutrition assistance</u> program established under the "Food Stamp and Nutrition Act of 1977," 91 Stat. 958, <u>2008 (7 U.S.C.A. 2011, as amended, et seq.)</u>	12265 12266 12267

administered by the department of job and family services under 12268
section 5101.54 of the Revised Code; 12269

(vi) The "special supplemental nutrition program for women, 12270
infants, and children" established under the "Child Nutrition Act 12271
of 1966," 80 Stat. 885, 42 U.S.C. 1786, as amended, administered 12272
by the department of health under section 3701.132 of the Revised 12273
Code; 12274

(vii) Supplemental security income under Title XVI of the 12275
"Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as 12276
amended; 12277

(viii) Social security disability insurance benefits provided 12278
under Title II of the "Social Security Act," 49 Stat. 620 (1935), 12279
42 U.S.C.A. 401, as amended. 12280

(c) The owner of the dog or cat submits to the eligible 12281
organization operating the sterilization program either of the 12282
following: 12283

(i) A certificate of adoption showing that the dog or cat was 12284
adopted from a licensed animal shelter, a municipal, county, or 12285
regional pound, or a holding and impoundment facility that 12286
contracts with a municipal corporation; 12287

(ii) A certificate of adoption showing that the dog or cat 12288
was adopted through a nonprofit corporation operating an animal 12289
adoption referral service whose holding facility, if any, is 12290
licensed in accordance with state law or a municipal ordinance. 12291

(2) The Ohio pet fund shall determine the type of documentary 12292
evidence that must be presented by the owner of a dog or cat to 12293
show that the income of the owner's family does not exceed one 12294
hundred fifty per cent of the federal poverty guideline or that 12295
the owner is eligible under division (C)(1)(b) of this section. 12296

(D) As used in division (C) of this section, "federal poverty 12297

guideline" means the official poverty guideline as revised 12298
annually by the United States department of health and human 12299
services in accordance with section 673(2) of the "Omnibus Budget 12300
Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as 12301
amended, for a family size equal to the size of the family of the 12302
person whose income is being determined. 12303

Sec. 1322.03. (A) An application for a certificate of 12304
registration as a mortgage broker shall be in writing, under oath, 12305
and in the form prescribed by the superintendent of financial 12306
institutions. The application shall be accompanied by a 12307
nonrefundable application fee of ~~three~~ five hundred ~~fifty~~ dollars 12308
for each location of an office to be maintained by the applicant 12309
in accordance with division (A) of section 1322.02 of the Revised 12310
Code; ~~however, an applicant that is registered under sections~~ 12311
~~1321.51 to 1321.60 of the Revised Code shall not be required to~~ 12312
~~pay an application fee.~~ The application shall provide all of the 12313
following: 12314

(1) The location or locations where the business is to be 12315
transacted and whether any location is a residence. If any 12316
location where the business is to be transacted is a residence, 12317
the application shall be accompanied by a certified copy of a 12318
zoning permit authorizing the use of the residence for commercial 12319
purposes, or shall be accompanied by a written opinion or other 12320
document issued by the county or political subdivision where the 12321
residence is located certifying that the use of the residence to 12322
transact business as a mortgage broker is not prohibited by the 12323
county or political subdivision. The application also shall be 12324
accompanied by a photograph of each location at which the business 12325
will be transacted. 12326

(2)(a) In the case of a sole proprietor, the name and address 12327
of the sole proprietor; 12328

(b) In the case of a partnership, the name and address of 12329
each partner; 12330

(c) In the case of a corporation, the name and address of 12331
each shareholder owning five per cent or more of the corporation; 12332

(d) In the case of any other entity, the name and address of 12333
any person that owns five per cent or more of the entity that will 12334
transact business as a mortgage broker. 12335

(3) If the applicant is a partnership, corporation, limited 12336
liability company, or any other business entity or association, 12337
the applicant shall designate an employee or owner of the 12338
applicant as the applicant's operations manager. While acting as 12339
the operations manager, the employee or owner shall not be 12340
employed by any other mortgage broker. 12341

(4) Evidence that the sole proprietor or the person 12342
designated on the application pursuant to division (A)(3) of this 12343
section, as applicable, possesses at least three years of 12344
experience in the mortgage and lending field, which experience may 12345
include employment with or as a mortgage broker or with a 12346
financial institution, mortgage lending institution, or other 12347
lending institution, or possesses at least three years of other 12348
experience related specifically to the business of mortgage loans 12349
that the superintendent determines meets the requirements of 12350
division (A)(4) of this section; 12351

(5) On or after January 1, 2007, evidence that the sole 12352
proprietor or the person designated on the application pursuant to 12353
division (A)(3) of this section has successfully completed either 12354
of the following: 12355

(a) At least twenty-four hours of live classroom instruction 12356
in a course or program of study approved by the superintendent 12357
that consists of at least all of the following: 12358

(i) Four hours of instruction concerning state and federal 12359

mortgage lending laws, which shall include no less than two hours	12360
on this chapter;	12361
(ii) Four hours of instruction concerning the Ohio consumer	12362
sales practices act, Chapter 1345. of the Revised Code, as it	12363
applies to registrants and licensees;	12364
(iii) Four hours of instruction concerning the loan	12365
application process;	12366
(iv) Two hours of instruction concerning the underwriting	12367
process;	12368
(v) Two hours of instruction concerning the secondary market	12369
for mortgage loans;	12370
(vi) Four hours of instruction concerning the loan closing	12371
process;	12372
(vii) Two hours of instruction covering basic mortgage	12373
financing concepts and terms;	12374
(viii) Two hours of instruction concerning the ethical	12375
responsibilities of a registrant, including with respect to	12376
confidentiality, consumer counseling, and the duties and standards	12377
of care created in section 1322.081 of the Revised Code.	12378
(b) Other post-secondary education related specifically to	12379
the business of mortgage loans that the superintendent determines	12380
meets the requirements of division (A)(5)(a) of this section.	12381
Division (A)(5) of this section does not apply to any	12382
applicant who has an application on file with the division of	12383
financial institutions prior to January 1, 2007.	12384
The evidence submitted by the applicant pursuant to division	12385
(A)(5) of this section may be in the form of transcripts or a	12386
statement indicating that the applicant has, and will maintain,	12387
transcripts at the applicant's place of business for a period of	12388
five years for inspection by the superintendent at the	12389

superintendent's request. 12390

(6) Evidence of compliance with the surety bond requirements 12391
of section 1322.05 of the Revised Code and with sections 1322.01 12392
to 1322.12 of the Revised Code; 12393

(7) In the case of a foreign business entity, evidence that 12394
it maintains a license or registration pursuant to Chapter 1703., 12395
1705., 1775., 1776., 1777., 1782., or 1783. of the Revised Code to 12396
transact business in this state; 12397

(8) A statement as to whether the applicant or, to the best 12398
of the applicant's knowledge, any shareholder, member, partner, 12399
operations manager, or employee of the applicant has been 12400
convicted of or pleaded guilty to any criminal offense involving 12401
theft, receiving stolen property, embezzlement, forgery, fraud, 12402
passing bad checks, money laundering, or drug trafficking, or any 12403
criminal offense involving money or securities; 12404

(9) A statement as to whether the applicant or, to the best 12405
of the applicant's knowledge, any shareholder, member, partner, 12406
operations manager, or employee of the applicant has been subject 12407
to any adverse judgment for conversion, embezzlement, 12408
misappropriation of funds, fraud, misfeasance or malfeasance, or 12409
breach of fiduciary duty; 12410

(10) Evidence that the applicant's operations manager has 12411
successfully completed the examination required under division (A) 12412
of section 1322.051 of the Revised Code; 12413

(11) Any further information that the superintendent 12414
requires. 12415

(B) Upon the filing of the application and payment of the 12416
application fee, the superintendent of financial institutions 12417
shall investigate the applicant as set forth in division (B) of 12418
this section. 12419

(1) The superintendent shall request the superintendent of 12420
the bureau of criminal identification and investigation, or a 12421
vendor approved by the bureau, to conduct a criminal records check 12422
based on the applicant's fingerprints in accordance with division 12423
(A)(11) of section 109.572 of the Revised Code. Notwithstanding 12424
division (K) of section 121.08 of the Revised Code, the 12425
superintendent of financial institutions shall request that 12426
criminal record information from the federal bureau of 12427
investigation be obtained as part of the criminal records check. 12428
Any fee required under division (C)(3) of section 109.572 of the 12429
Revised Code shall be paid by the applicant. 12430

(2) The superintendent shall conduct a civil records check. 12431

(3) If, in order to issue a certificate of registration to an 12432
applicant, additional investigation by the superintendent outside 12433
this state is necessary, the superintendent may require the 12434
applicant to advance sufficient funds to pay the actual expenses 12435
of the investigation, if it appears that these expenses will 12436
exceed ~~three~~ five hundred ~~fifty~~ dollars. The superintendent shall 12437
provide the applicant with an itemized statement of the actual 12438
expenses that the applicant is required to pay. 12439

(C) The superintendent shall pay all funds advanced and 12440
application and renewal fees and penalties the superintendent 12441
receives pursuant to this section and section 1322.04 of the 12442
Revised Code to the treasurer of state to the credit of the 12443
consumer finance fund created in section 1321.21 of the Revised 12444
Code. 12445

(D) If an application for a certificate of registration does 12446
not contain all of the information required under division (A) of 12447
this section, and if that information is not submitted to the 12448
superintendent within ninety days after the superintendent 12449
requests the information in writing, the superintendent may 12450
consider the application withdrawn. 12451

(E) A certificate of registration and the authority granted 12452
under that certificate is not transferable or assignable and 12453
cannot be franchised by contract or any other means. 12454

(F) The registration requirements of this chapter apply to 12455
any person acting as a mortgage broker, and no person is exempt 12456
from the requirements of this chapter on the basis of prior work 12457
or employment as a mortgage broker. 12458

Sec. 1322.031. (A) An application for a license as a loan 12459
officer shall be in writing, under oath, and in the form 12460
prescribed by the superintendent of financial institutions. The 12461
application shall be accompanied by a nonrefundable application 12462
fee of one hundred fifty dollars and shall provide all of the 12463
following: 12464

(1) The name and address of the applicant; 12465

(2) A statement as to whether the applicant has been 12466
convicted of or pleaded guilty to any criminal offense involving 12467
theft, receiving stolen property, embezzlement, forgery, fraud, 12468
passing bad checks, money laundering, or drug trafficking, or any 12469
criminal offense involving money or securities; 12470

(3) A statement as to whether the applicant has been subject 12471
to an adverse judgment for conversion, embezzlement, 12472
misappropriation of funds, fraud, misfeasance or malfeasance, or 12473
breach of fiduciary duty; 12474

(4) For loan officer applications submitted on or after 12475
January 1, 2007, proof, as determined by the superintendent, that 12476
the applicant has successfully completed at least twenty-four 12477
hours of live classroom instruction in a course or program of 12478
study approved by the superintendent that consists of at least all 12479
of the following: 12480

(a) Four hours of instruction concerning state and federal 12481

mortgage lending laws, which shall include no less than two hours	12482
on this chapter;	12483
(b) Four hours of instruction concerning the Ohio consumer	12484
sales practices act, Chapter 1345. of the Revised Code, as it	12485
applies to registrants and licensees;	12486
(c) Four hours of instruction concerning the loan application	12487
process;	12488
(d) Two hours of instruction concerning the underwriting	12489
process;	12490
(e) Two hours of instruction concerning the secondary market	12491
for mortgage loans;	12492
(f) Four hours of instruction concerning the loan closing	12493
process;	12494
(g) Two hours of instruction covering basic mortgage	12495
financing concepts and terms;	12496
(h) Two hours of instruction concerning the ethical	12497
responsibilities of a licensee, including with respect to	12498
confidentiality, consumer counseling, and the duties and standards	12499
of care created in section 1322.081 of the Revised Code.	12500
Division (A)(4) of this section does not apply to any	12501
applicant who has an application on file with the division of	12502
financial institutions prior to January 1, 2007.	12503
The proof submitted by the applicant pursuant to division	12504
(A)(4) of this section may be in the form of transcripts or a	12505
statement indicating that the applicant has, and will maintain,	12506
transcripts at the applicant's place of business for a period of	12507
five years for inspection by the superintendent at the	12508
superintendent's request.	12509
(5) Any further information that the superintendent requires.	12510
(B) Upon the filing of the application and payment of the	12511

application fee, the superintendent of financial institutions 12512
shall investigate the applicant as set forth in division (B) of 12513
this section. 12514

(1) The superintendent shall request the superintendent of 12515
the bureau of criminal identification and investigation, or a 12516
vendor approved by the bureau, to conduct a criminal records check 12517
based on the applicant's fingerprints in accordance with division 12518
(A)(11) of section 109.572 of the Revised Code. Notwithstanding 12519
division (K) of section 121.08 of the Revised Code, the 12520
superintendent of financial institutions shall request that 12521
criminal record information from the federal bureau of 12522
investigation be obtained as part of the criminal records check. 12523
Any fee required under division (C)(3) of section 109.572 of the 12524
Revised Code shall be paid by the applicant. 12525

(2) The superintendent shall conduct a civil records check. 12526

(3) If, in order to issue a license to an applicant, 12527
additional investigation by the superintendent outside this state 12528
is necessary, the superintendent may require the applicant to 12529
advance sufficient funds to pay the actual expenses of the 12530
investigation, if it appears that these expenses will exceed one 12531
hundred fifty dollars. The superintendent shall provide the 12532
applicant with an itemized statement of the actual expenses that 12533
the applicant is required to pay. 12534

(C) The superintendent shall pay all funds advanced and 12535
application and renewal fees and penalties the superintendent 12536
receives pursuant to this section and section 1322.041 of the 12537
Revised Code to the treasurer of state to the credit of the 12538
consumer finance fund created in section 1321.21 of the Revised 12539
Code. 12540

(D) If an application for a license does not contain all of 12541
the information required under division (A) of this section, and 12542

if that information is not submitted to the superintendent within 12543
ninety days after the superintendent requests the information in 12544
writing, the superintendent may consider the application 12545
withdrawn. 12546

(E)(1) The business of a loan officer shall principally be 12547
transacted at an office of the employing mortgage broker, which 12548
office is registered in accordance with division (A) of section 12549
1322.02 of the Revised Code. Each original license shall be 12550
deposited with and maintained by the employing mortgage broker at 12551
the mortgage broker's main office. A copy of the license shall be 12552
maintained and displayed at the office where the loan officer 12553
principally transacts business. 12554

(2) If a loan officer's employment is terminated, the 12555
mortgage broker shall return the original license to the 12556
superintendent within five business days after the termination. 12557
The licensee may request the transfer of the license to another 12558
mortgage broker by submitting a relocation application, along with 12559
a fifteen dollar fee, to the superintendent or may request the 12560
superintendent in writing to hold the license in escrow for a 12561
period not to exceed one year. Any licensee whose license is held 12562
in escrow shall cease activity as a loan officer. 12563

A mortgage broker may employ a loan officer on a temporary 12564
basis pending the transfer of the loan officer's license to the 12565
mortgage broker, if the mortgage broker receives written 12566
confirmation from the superintendent that the loan officer is 12567
licensed under sections 1322.01 to 1322.12 of the Revised Code. 12568

(F) A license, or the authority granted under that license, 12569
is not assignable and cannot be franchised by contract or any 12570
other means. 12571

Sec. 1322.04. (A) Upon the conclusion of the investigation 12572
required under division (B) of section 1322.03 of the Revised 12573

Code, the superintendent of financial institutions shall issue a 12574
certificate of registration to the applicant if the superintendent 12575
finds that the following conditions are met: 12576

(1) ~~Except as otherwise provided in division (A) of section~~ 12577
~~1322.03 of the Revised Code, the~~ The application is accompanied by 12578
the application fee. If a check or other draft instrument is 12579
returned to the superintendent for insufficient funds, the 12580
superintendent shall notify the registrant by certified mail, 12581
return receipt requested, that the certificate of registration 12582
issued in reliance on the check or other draft instrument will be 12583
canceled unless the registrant, within thirty days after receipt 12584
of the notice, submits the application fee and a 12585
one-hundred-dollar penalty to the superintendent. If the 12586
registrant does not submit the application fee and penalty within 12587
that time period, or if any check or other draft instrument used 12588
to pay the fee or penalty is returned to the superintendent for 12589
insufficient funds, the certificate of registration shall be 12590
canceled immediately without a hearing, and the registrant shall 12591
cease activity as a mortgage broker. 12592

(2) If the application is for a location that is a residence, 12593
that the applicant has obtained a valid zoning permit authorizing 12594
the use of the residence for commercial purposes, or has obtained 12595
a valid written opinion or other document issued by the county or 12596
political subdivision where the residence is located certifying 12597
that the use of the residence to transact business as a mortgage 12598
broker is not prohibited by the county or political subdivision. 12599
The application also is accompanied by a photograph of each 12600
location at which the mortgage broker's business will be 12601
transacted. 12602

(3) The sole proprietor or the person designated on the 12603
application pursuant to division (A)(3) of section 1322.03 of the 12604
Revised Code, as applicable, meets the experience requirements 12605

provided in division (A)(4) of section 1322.03 of the Revised Code 12606
and the education requirements set forth in division (A)(5) of 12607
section 1322.03 of the Revised Code. 12608

(4) The applicant maintains all licenses and registrations 12609
required by the secretary of state. 12610

(5) The applicant complies with the surety bond requirements 12611
of section 1322.05 of the Revised Code. 12612

(6) The applicant complies with sections 1322.01 to 1322.12 12613
of the Revised Code. 12614

(7) Neither the applicant nor any shareholder, member, 12615
partner, operations manager, or employee of the applicant has 12616
pleaded guilty to or been convicted of any criminal offense 12617
described in division (A)(8) of section 1322.03 of the Revised 12618
Code or any violation of an existing or former law of this state, 12619
any other state, or the United States that substantially is 12620
equivalent to a criminal offense described in that division. 12621
However, if the applicant or any of those other persons has 12622
pleaded guilty to or been convicted of any such offense other than 12623
theft, the superintendent shall not consider the offense if the 12624
applicant has proven to the superintendent, by a preponderance of 12625
the evidence, that the applicant's or other person's activities 12626
and employment record since the conviction show that the applicant 12627
or other person is honest, truthful, and of good reputation, and 12628
there is no basis in fact for believing that the applicant or 12629
other person will commit such an offense again. 12630

(8) Neither the applicant nor any shareholder, member, 12631
partner, operations manager, or employee of the applicant has been 12632
subject to any adverse judgment for conversion, embezzlement, 12633
misappropriation of funds, fraud, misfeasance or malfeasance, or 12634
breach of fiduciary duty, or, if the applicant or any of those 12635
other persons has been subject to such a judgment, the applicant 12636

has proven to the superintendent, by a preponderance of the 12637
evidence, that the applicant's or other person's activities and 12638
employment record since the judgment show that the applicant or 12639
other person is honest, truthful, and of good reputation, and 12640
there is no basis in fact for believing that the applicant or 12641
other person will be subject to such a judgment again. 12642

(9) The applicant's operations manager successfully completed 12643
the examination required under division (A) of section 1322.051 of 12644
the Revised Code. 12645

(10) The applicant's financial responsibility, experience, 12646
character, and general fitness command the confidence of the 12647
public and warrant the belief that the business will be operated 12648
honestly and fairly in compliance with the purposes of sections 12649
1322.01 to 1322.12 of the Revised Code. 12650

For purposes of determining whether an applicant that is a 12651
partnership, corporation, or other business entity or association 12652
has met the conditions set forth in divisions (A)(7), (A)(8), and 12653
(A)(10) of this section, the superintendent shall determine which 12654
partners, shareholders, or persons named in the application 12655
pursuant to division (A)(2) of section 1322.03 of the Revised Code 12656
must meet the conditions set forth in divisions (A)(7), (A)(8), 12657
and (A)(10) of this section. This determination shall be based on 12658
the extent and nature of the partner's, shareholder's, or person's 12659
ownership interest in the partnership, corporation, or other 12660
business entity or association that is the applicant. 12661

(B) The certificate of registration issued pursuant to 12662
division (A) of this section may be renewed annually on or before 12663
the thirtieth day of April if the superintendent finds that all of 12664
the following conditions are met: 12665

(1) The renewal application is accompanied by a nonrefundable 12666
renewal fee of ~~three~~ five hundred ~~fifty~~ dollars for each location 12667

of an office to be maintained by the applicant in accordance with 12668
division (A) of section 1322.02 of the Revised Code; ~~however, an~~ 12669
~~applicant that is registered under sections 1321.51 to 1321.60 of~~ 12670
~~the Revised Code shall not be required to pay a renewal fee.~~ If a 12671
check or other draft instrument is returned to the superintendent 12672
for insufficient funds, the superintendent shall notify the 12673
registrant by certified mail, return receipt requested, that the 12674
certificate of registration renewed in reliance on the check or 12675
other draft instrument will be canceled unless the registrant, 12676
within thirty days after receipt of the notice, submits the 12677
renewal fee and a one-hundred-dollar penalty to the 12678
superintendent. If the registrant does not submit the renewal fee 12679
and penalty within that time period, or if any check or other 12680
draft instrument used to pay the fee or penalty is returned to the 12681
superintendent for insufficient funds, the certificate of 12682
registration shall be canceled immediately without a hearing and 12683
the registrant shall cease activity as a mortgage broker. 12684

(2) On and after January 1, 2003, the operations manager 12685
designated under division (A)(3) of section 1322.03 of the Revised 12686
Code has completed, during the immediately preceding calendar 12687
year, at least six hours of continuing education as required under 12688
section 1322.052 of the Revised Code. 12689

(3) The applicant meets the conditions set forth in divisions 12690
(A)(2) to (10) of this section. 12691

(4) The applicant's certificate of registration is not 12692
subject to an order of suspension or revocation by the 12693
superintendent. 12694

(C)(1) Subject to division (C)(2) of this section, if a 12695
renewal fee is received by the superintendent after the thirtieth 12696
day of April, the certificate of registration shall not be 12697
considered renewed, and the applicant shall cease activity as a 12698
mortgage broker and apply for a certificate of registration as a 12699

mortgage broker. 12700

(2) Division (C)(1) of this section shall not apply if the 12701
applicant, no later than the thirty-first day of May, submits the 12702
renewal fee and a one-hundred-dollar penalty to the 12703
superintendent. 12704

(D) If the person designated as the operations manager 12705
pursuant to division (A)(3) of section 1322.03 of the Revised Code 12706
is no longer the operations manager, the registrant shall do all 12707
of the following: 12708

(1) Designate another person as the operations manager; 12709

(2) Within ten days after the designation described in 12710
division (D)(1) of this section, notify the superintendent in 12711
writing of the designation; 12712

(3) Submit any additional information that the superintendent 12713
requires to establish that the newly designated operations manager 12714
complies with the experience requirements set forth in division 12715
(A)(4) of section 1322.03 of the Revised Code. 12716

Sec. 1322.041. (A) Upon the conclusion of the investigation 12717
required under division (B) of section 1322.031 of the Revised 12718
Code, the superintendent of financial institutions shall issue a 12719
loan officer license to the applicant if the superintendent finds 12720
that the following conditions are met: 12721

(1) The application is accompanied by the application fee. If 12722
a check or other draft instrument is returned to the 12723
superintendent for insufficient funds, the superintendent shall 12724
notify the licensee by certified mail, return receipt requested, 12725
that the license issued in reliance on the check or other draft 12726
instrument will be canceled unless the licensee, within thirty 12727
days after receipt of the notice, submits the application fee and 12728
a one-hundred-dollar penalty to the superintendent. If the 12729

licensee does not submit the application fee and penalty within 12730
that time period, or if any check or other draft instrument used 12731
to pay the fee or penalty is returned to the superintendent for 12732
insufficient funds, the license shall be canceled immediately 12733
without a hearing, and the licensee shall cease activity as a loan 12734
officer. 12735

(2) The applicant complies with sections 1322.01 to 1322.12 12736
of the Revised Code. 12737

(3) The applicant has not been convicted of or pleaded guilty 12738
to any criminal offense described in division (A)(2) of section 12739
1322.031 of the Revised Code and the applicant has not pleaded 12740
guilty to or been convicted of a violation of an existing or 12741
former law of this state, any other state, or the United States 12742
that substantially is equivalent to a criminal offense described 12743
in that division. However, if the applicant has been convicted of 12744
or pleaded guilty to any such offense other than theft, the 12745
superintendent shall not consider the offense if the applicant has 12746
proven to the superintendent, by a preponderance of the evidence, 12747
that the applicant's activities and employment record since the 12748
conviction show that the applicant is honest, truthful, and of 12749
good reputation, and there is no basis in fact for believing that 12750
the applicant will commit such an offense again. 12751

(4) The applicant has not been subject to an adverse judgment 12752
for conversion, embezzlement, misappropriation of funds, fraud, 12753
misfeasance or malfeasance, or breach of fiduciary duty, or, if 12754
the applicant has been subject to such a judgment, the applicant 12755
has proven to the superintendent, by a preponderance of the 12756
evidence, that the applicant's activities and employment record 12757
since the judgment show that the applicant is honest, truthful, 12758
and of good reputation, and there is no basis in fact for 12759
believing that the applicant will be subject to such a judgment 12760
again. 12761

(5) The applicant successfully completed the examination 12762
required under division (B) of section 1322.051 of the Revised 12763
Code and the education requirements set forth in division (A)(4) 12764
of section 1322.031 of the Revised Code. 12765

(6) The applicant's character and general fitness command the 12766
confidence of the public and warrant the belief that the business 12767
will be operated honestly and fairly in compliance with the 12768
purposes of sections 1322.01 to 1322.12 of the Revised Code. 12769

(B) The license issued under division (A) of this section may 12770
be renewed annually on or before the thirtieth day of April if the 12771
superintendent finds that all of the following conditions are met: 12772

(1) The renewal application is accompanied by a nonrefundable 12773
renewal fee of one hundred fifty dollars. If a check or other 12774
draft instrument is returned to the superintendent for 12775
insufficient funds, the superintendent shall notify the licensee 12776
by certified mail, return receipt requested, that the license 12777
renewed in reliance on the check or other draft instrument will be 12778
canceled unless the licensee, within thirty days after receipt of 12779
the notice, submits the renewal fee and a one-hundred-dollar 12780
penalty to the superintendent. If the licensee does not submit the 12781
renewal fee and penalty within that time period, or if any check 12782
or other draft instrument used to pay the fee or penalty is 12783
returned to the superintendent for insufficient funds, the license 12784
shall be canceled immediately without a hearing, and the licensee 12785
shall cease activity as a loan officer. 12786

(2) On and after January 1, 2003, the loan officer has 12787
completed, during the immediately preceding calendar year, at 12788
least six hours of continuing education as required under section 12789
1322.052 of the Revised Code. 12790

(3) The applicant meets the conditions set forth in divisions 12791
(A)(2) to (6) of this section. 12792

(4) The applicant's license is not subject to an order of suspension or revocation by the superintendent. 12793
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(C)(1) Subject to division (C)(2) of this section, if a license renewal application or renewal fee is received by the superintendent after the thirtieth day of April, the license shall not be considered renewed, and the applicant shall cease activity as a loan officer. 12795
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(2) Division (C)(1) of this section shall not apply if the applicant, no later than the thirty-first day of May, submits the renewal application and fee and a one-hundred-dollar penalty to the superintendent. 12800
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Sec. 1327.46. ~~(A)~~ As used in sections 1327.46 to 1327.71 of the Revised Code: 12804
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(A) "Weights and measures" means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any such instruments and devices, except that the term shall not be construed to include meters for the measurement of electricity, gas, whether natural or manufactured, or water when the same are operated in a public utility system. Such electricity, gas, and water meters, and appliances or accessories associated therewith are specifically excluded from the purview of the weights and measures laws. 12806
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(B) "Intrastate commerce" means all commerce or trade that is begun, carried on, and completed wholly within the limits of this state, and "introduced into intrastate commerce" defines the time and place in which the first sale and delivery of a commodity is made within the state, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser. 12816
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(C) "Package" means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.	12823 12824 12825
(D) "Consumer package" means a package that is customarily produced or distributed for sale through a retail sales agency for consumption by an individual or use by an individual.	12826 12827 12828
(E) "Weight" as used in connection with any commodity means net weight.	12829 12830
(F) "Correct" as used in connection with weights and measures means conformity with all applicable requirements of sections 1327.46 to 1327.61 <u>1327.71</u> of the Revised Code and rules adopted pursuant to those sections.	12831 12832 12833 12834
(G) "Primary standards" means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived.	12835 12836 12837
(H) "Secondary standards" means the physical standards that are traceable to the primary standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and rules.	12838 12839 12840 12841
(I) "Sale from bulk" means the sale of commodities when the quantity is determined at the time of sale.	12842 12843
(J) "Net weight" means the weight of a commodity, excluding any materials, substances, or items not considered to be a part of the commodity. Materials, substances, or items not considered to be part of the commodity include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons.	12844 12845 12846 12847 12848 12849 12850
(K) "Random weight package" means a package that is one of a lot, shipment, or delivery of packages of the same commodity with	12851 12852

no fixed pattern of weights. 12853

(L) "Motor fuel" means any liquid or gaseous matter that is used individually or blended for the generation of power in an internal combustion engine. 12854
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(M) "ASTM" means the American society for testing and materials. 12857
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(N) "NIST handbook 130" means the national institute of standards and technology handbook 130 "uniform laws and regulations in the areas of legal metrology and engine fuel quality." 12859
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(O) "Petroleum products" means products that are obtained from the distilling and processing of crude oil and refinery blend stocks. 12863
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(P) "Sold" includes keeping, offering, or exposing for sale. 12866

(Q) "Commercially used weighing and measuring device" means a device described in the national institute of standards and technology handbook 44 or its supplements and revisions and any other weighing and measuring device designated by rules adopted under section 1327.501 of the Revised Code. 12867
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Sec. 1327.50. The director of agriculture shall: 12872

(A) Maintain traceability of the state standards to those of the national institute of standards and technology; 12873
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(B) Enforce sections 1327.46 to ~~1327.61~~ 1327.71 of the Revised Code; 12875
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(C) Issue reasonable rules for the uniform enforcement of sections 1327.46 to ~~1327.61~~ 1327.71 of the Revised Code, which rules shall have the force and effect of law; 12877
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(D) Establish standards of weight, measure, or count, reasonable standards of fill, and standards for the voluntary 12880
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presentation of cost per unit information for any package;	12882
(E) Grant any exemptions from sections 1327.46 to 1327.61	12883
<u>1327.71</u> of the Revised Code, or any rules adopted under those	12884
sections, when appropriate to the maintenance of good commercial	12885
practices in the state;	12886
(F) Conduct investigations to ensure compliance with sections	12887
1327.46 to 1327.61 <u>1327.71</u> of the Revised Code;	12888
(G) Delegate to appropriate personnel any of these	12889
responsibilities for the proper administration of the director's	12890
office;	12891
(H) Test as often as is prescribed by rule the standards of	12892
weight and measure used by any municipal corporation or county	12893
within the state, and approve the same when found to be correct;	12894
(I) Inspect and test weights and measures kept, offered, or	12895
exposed for sale that are sold;	12896
(J) Inspect and test to ascertain if they are correct,	12897
weights and measures commercially used either:	12898
(1) In determining the weight, measure, or count of	12899
commodities or things sold, or offered or exposed for sale, on the	12900
basis of weight, measure, or count;	12901
(2) In computing the basic charge or payment for goods or	12902
services rendered on the basis of weight, measure, or count.	12903
(K) Test all weights and measures used in checking the	12904
receipt or disbursement of supplies in every institution, for the	12905
maintenance of which funds are appropriated by the general	12906
assembly;	12907
(L) Approve for use, and may mark, such weights and measures	12908
as the director finds to be correct, and shall reject and mark as	12909
rejected such weights and measures as the director finds to be	12910
incorrect. Weights and measures that have been rejected may be	12911

seized if not corrected within the time specified or if used or 12912
disposed of in a manner not specifically authorized, and may be 12913
condemned and seized if found to be incorrect and not capable of 12914
being made correct. 12915

(M) Weigh, measure, or inspect packaged commodities ~~kept,~~ 12916
~~offered, or exposed for sale,~~ that are sold, or in the process of 12917
delivery to determine whether they contain the amounts represented 12918
and whether they are ~~kept, offered, or exposed for sale~~ sold in 12919
accordance with sections 1327.46 to ~~1327.61~~ 1327.71 of the Revised 12920
Code or rules adopted under those sections. In carrying out this 12921
section, the director shall employ recognized sampling procedures, 12922
such as those designated in the national institute of standards 12923
and technology handbook 133 "checking the net contents of packaged 12924
goods." 12925

(N) Prescribe by rule the appropriate term or unit of weight 12926
or measure to be used, whenever the director determines in the 12927
case of a specific commodity that an existing practice of 12928
declaring the quantity by weight, measure, numerical count, or 12929
combination thereof, does not facilitate value comparisons by 12930
consumers, or offers an opportunity for consumer confusion; 12931

(O) Allow reasonable variations from the stated quantity of 12932
contents, which shall include those caused by unavoidable 12933
deviations in good manufacturing practice and by loss or gain of 12934
moisture during the course of good distribution practice, only 12935
after the commodity has entered intrastate commerce; 12936

(P) Provide for the weights and measures training of 12937
inspector personnel and establish minimum training requirements, 12938
which shall be met by all inspector personnel, whether county, 12939
municipal, or state; 12940

(Q) Prescribe the methods of tests and inspections to be 12941
employed in the enforcement of sections 1327.46 to ~~1327.61~~ 1327.71 12942

of the Revised Code. The director may prescribe the official test 12943
and inspection forms to be used. 12944

(R) Provide by rule for voluntary registration with the 12945
director of private weighing and measuring device servicing 12946
agencies, and personnel; 12947

(S) In conjunction with the national institute of standards 12948
and technology, operate a type evaluation program for 12949
certification of weighing and measuring devices as part of the 12950
national type evaluation program and operate a metrology 12951
laboratory program. The director shall establish a schedule of 12952
fees for services rendered by the department of agriculture for 12953
the type evaluation ~~services~~ program and the metrology laboratory 12954
program. The director may require any weighing or measuring 12955
instrument or device to be traceable to a national type evaluation 12956
program certificate of conformance prior to use for commercial or 12957
law enforcement purposes. 12958

(T) Administer the fuel quality testing program in accordance 12959
with sections 1327.70 and 1327.71 of the Revised Code and rules 12960
adopted under them. 12961

Sec. 1327.501. (A) On and after the effective date of the 12962
rules adopted under this section, no person shall operate a 12963
commercially used weighing and measuring device in this state 12964
unless the operator of the device obtains a permit issued by the 12965
director of agriculture or the director's designee. 12966

(B) An application for a permit shall be submitted to the 12967
director on a form that the director prescribes and provides. The 12968
applicant shall include with the application any information that 12969
is specified on the application form as well as the application 12970
fee established in rules adopted under this section. 12971

(C) Upon receipt of a completed application and the required 12972

fee from an applicant, the director or the director's designee 12973
shall issue or deny the permit to operate the commercially used 12974
weighing and measuring device that was the subject of the 12975
application. 12976

(D) A permit issued under this section expires on the 12977
thirtieth day of June of the year following its issuance and may 12978
be renewed annually on or before the first day of July of that 12979
year upon payment of a permit renewal fee established in rules 12980
adopted under this section. 12981

(E) If a permit renewal fee is more than sixty days past due, 12982
the director may assess a late penalty in an amount established by 12983
rules adopted under this section. 12984

(F) The director shall adopt rules in accordance with Chapter 12985
119. of the Revised Code that do all of the following: 12986

(1) Establish procedures and requirements governing the 12987
issuance or denial of permits under this section; 12988

(2) Designate weighing and measuring devices for which a 12989
permit is required under this section in addition to those devices 12990
specified in the national institute of standards and technology 12991
handbook 44 or its supplements and revisions; 12992

(3) Establish application fees required to be paid by 12993
applicants for permits under this section; 12994

(4) Establish permit renewal fees required to be paid by 12995
permittees under this section; 12996

(5) Establish late penalties to be assessed for the late 12997
payment of a permit renewal fee and fees for the replacement of 12998
lost or destroyed permits. 12999

(G) All money collected through the payment of fees and the 13000
imposition of penalties under this section shall be credited to 13001
the metrology and scale certification and device permitting fund 13002

created in section 1327.511 of the Revised Code. 13003

Sec. 1327.51. (A) When necessary for the enforcement of 13004
sections 1327.46 to ~~1327.61~~ 1327.71 of the Revised Code or rules 13005
adopted pursuant thereto, the director of agriculture and any 13006
weights and measures official acting under the authority of 13007
section 1327.52 of the Revised Code may do any of the following: 13008

(1) Enter any commercial premises during normal business 13009
hours, except that in the event such premises are not open to the 13010
public, ~~he~~ the director or official shall first present ~~his~~ the 13011
director's or official's credentials and obtain consent before 13012
making entry thereto, unless a search warrant previously has been 13013
obtained; 13014

(2) Issue stop-use, hold, and removal orders with respect to 13015
any weights and measures commercially used, and stop-sale, hold, 13016
and removal orders with respect to any packaged commodities or 13017
bulk commodity observed to be or believed to be ~~kept, offered, or~~ 13018
~~exposed for sale~~ sold; 13019

(3) Seize for use as evidence any incorrect or unapproved 13020
weight or measure or any package or commodity found to be used, 13021
retained, ~~offered or exposed for sale,~~ or sold in violation of 13022
sections 1327.46 to ~~1327.61~~ 1327.71 of the Revised Code or rules 13023
~~promulgated~~ adopted pursuant thereto. 13024

(B) The director shall afford an opportunity for a hearing in 13025
accordance with Chapter 119. of the Revised Code to any owner or 13026
operator whose property is seized by the ~~Ohio~~ department of 13027
agriculture. 13028

Sec. 1327.511. All money collected under ~~section~~ sections 13029
1327.50 and 1327.501 of the Revised Code from fees and for 13030
services rendered by the department of agriculture in operating 13031
the type evaluation program, metrology laboratory program, and 13032

device permitting program, as applicable, shall be deposited in 13033
the state treasury to the credit of the metrology and scale 13034
certification and device permitting fund, which is hereby created. 13035
Money credited to the fund shall be used to pay operating costs 13036
incurred by the department in administering the ~~program~~ division 13037
of weights and measures, including administrative costs incurred 13038
by the division. 13039

Sec. 1327.52. Any weights and measures official elected or 13040
appointed for a county or ~~municipality~~ municipal corporation shall 13041
have the duties enumerated in divisions (I) to ~~(M)~~ (L) of section 13042
1327.50 of the Revised Code; the duties enumerated in division 13043
(M) of section 1327.50 of the Revised Code with the exception of 13044
duties enumerated in sections 1327.501, 1327.511, 1327.62, 13045
1327.65, 1327.70, and 1327.71 of the Revised Code; and the powers 13046
enumerated in section 1327.51 of the Revised Code. These powers 13047
and duties shall extend to the respective jurisdictions, except 13048
that the jurisdiction of a county official shall not extend to any 13049
municipal corporation for which a weights and measures official 13050
has been appointed. The director of agriculture shall advise and 13051
assist these officials. 13052

Sec. 1327.54. No person shall misrepresent the price of any 13053
commodity or service sold, ~~offered, exposed,~~ or advertised for 13054
sale by weight, measure, or count, nor represent the price in any 13055
manner calculated or tending to mislead or in any way deceive a 13056
person. 13057

Sec. 1327.57. (A) Except as otherwise provided by law, any 13058
consumer package or commodity in package form introduced or 13059
delivered for introduction into or received in intrastate 13060
commerce, ~~kept for the purpose of sale, or offered or exposed for~~ 13061
sale sold in intrastate commerce shall bear on the outside of the 13062

package a definite, plain, and conspicuous declaration, as may be 13063
prescribed by rule adopted by the director of agriculture, of any 13064
of the following, as applicable: 13065

(1) The identity of the commodity in the package unless the 13066
same can easily be identified through the wrapper or container; 13067

(2) The net quantity of the contents in terms of weight, 13068
measure, or count; 13069

(3) In the case of any package ~~kept, or offered or exposed~~ 13070
~~for sale, or~~ sold at any place other than on the premises where 13071
packed, the name and place of business of the manufacturer, 13072
packer, or distributor. 13073

This section does not apply to beer or intoxicating liquor as 13074
defined in section 4301.01 of the Revised Code, or packages 13075
thereof, or to malt or brewer's wort, or packages thereof. 13076

(B) Under division (A)(2) of this section, neither the 13077
qualifying term "when packed" or any words of similar import, nor 13078
any term qualifying a unit of weight, measure, or count that tends 13079
to exaggerate the amount of commodity in a package, shall be used. 13080

(C) In addition to the declarations required by division (A) 13081
of this section, any package or commodity in package form, if the 13082
package is one of a lot containing random weights, measures, or 13083
counts of the same commodity and bears the total selling price of 13084
the package, shall bear on the outside of the package a plain and 13085
conspicuous declaration of the price per single unit of weight, 13086
measure, or count. 13087

(D) No package or commodity in package form shall be so 13088
wrapped, nor shall it be in a container so made, formed, or 13089
filled, as to mislead the purchaser as to the quantity of the 13090
contents of the package, and the contents of a container shall not 13091
fall below any reasonable standard of fill that may have been 13092
prescribed for the commodity in question by the director. 13093

Sec. 1327.58. Irrespective of whether or not there exists an adequate remedy at law, the director of agriculture may apply to any court of competent jurisdiction for a temporary or permanent injunction or other appropriate relief restraining any person from continued violation of sections 1327.46 to ~~1327.61~~ 1327.71 of the Revised Code and of ~~regulations promulgated~~ rules adopted thereunder.

Sec. 1327.60. Enactment of sections 1327.46 to ~~1327.61~~ 1327.71 of the Revised Code does not affect any ~~regulations promulgated~~ rules adopted pursuant to the authority of any earlier enabling statute unless inconsistent with sections 1327.46 to ~~1327.61~~ 1327.71 of the Revised Code or modified or revoked by the director of agriculture.

Sec. 1327.62. Whenever the director of agriculture, or ~~his~~ the director's designee, has cause to believe that any person has violated, or is violating, ~~section 1327.54 or 1327.61~~ any provision of sections 1327.46 to 1327.71 of the Revised Code or rules adopted under them, ~~he the director~~, or ~~his~~ the director's designee, may conduct a hearing in accordance with Chapter 119. of the Revised Code to determine whether a violation has occurred. If the director or ~~his~~ the director's designee determines that the person has violated or is violating ~~section 1327.54 or 1327.61~~ any provision of sections 1327.46 to 1327.71 of the Revised Code or rules adopted under them, ~~he the director or the director's~~ designee may assess a civil penalty against the person. The person is liable for a civil penalty of not more than five hundred dollars for a first violation; for a second violation the person is liable for a civil penalty of not more than two thousand five hundred dollars; for each subsequent violation that occurs within five years after the second violation, the person is liable for a

civil penalty of not more than ten thousand dollars. 13124

Any person assessed a civil penalty under this section shall 13125
pay the amount prescribed to the department of agriculture. The 13126
department shall remit all moneys collected under this section to 13127
the treasurer of state for deposit in the general revenue fund. 13128

Sec. 1327.70. ~~(A) As used in this section:~~ 13129

~~(1) "Diesel fuel" has the same meaning as in section 5735.01 13130
of the Revised Code. 13131~~

~~(2) "Motor fuel" means gasoline or diesel fuel that is sold 13132
by a retailer. 13133~~

~~(B) The director of agriculture may adopt rules in accordance 13134
with Chapter 119. of the Revised Code establishing a motor fuel 13135
quality testing program that is uniform throughout the state. The 13136
rules shall do all of the following: 13137~~

~~(A) Establish fuel quality requirements that are modeled on 13138
the uniform laws and regulations in NIST handbook 130; 13139~~

~~(B) Incorporate standards for motor fuel based on the 13140
standards developed by ASTM committee D02 on petroleum products; 13141~~

~~(C) Establish requirements governing the standards and 13142
identity of fuels and petroleum and the advertising, posting of 13143
prices, and labeling of products; 13144~~

~~(D) Establish any other procedures and requirements that are 13145
necessary to implement this section, including the imposition of 13146
penalties. 13147~~

Sec. 1327.71. There is hereby created in the state treasury 13148
the fuel quality testing fund consisting of the proceeds of any 13149
fines resulting from penalties imposed in accordance with rules 13150
adopted under section 1327.70 of the Revised Code. Money in the 13151
fund shall be used to pay the costs incurred by the department of 13152

agriculture in implementing and administering the motor fuel 13153
quality testing program and the weights and measures program and 13154
to pay overhead costs of the department. 13155

Sec. 1327.99. Whoever violates section 1327.501, section 13156
1327.54 ~~or~~ division (A), (B), (C), or (D) of section 1327.61, or 13157
section 1327.70 of the Revised Code or rules adopted under those 13158
sections is guilty of a misdemeanor of the second degree on a 13159
first offense; on each subsequent offense within seven years after 13160
the first offense, ~~such~~ the person is guilty of a misdemeanor of 13161
the first degree. 13162

Sec. 1332.24. (A)(1) In accordance with section 1332.25 of 13163
the Revised Code, the director of commerce may issue to any 13164
person, or renew, a video service authorization, which 13165
authorization confers on the person the authority, subject to 13166
sections 1332.21 to 1332.34 of the Revised Code, to provide video 13167
service in its video service area; construct and operate a video 13168
service network in, along, across, or on public rights-of-way for 13169
the provision of video service; and, when necessary to provide 13170
that service, exercise the power of a telegraph company under 13171
section 4931.04 of the Revised Code. The term of a video service 13172
authorization or authorization renewal shall be ten years. 13173

(2) For the purposes of the "Cable Communications Policy Act 13174
of 1984," Pub. L. No. 98-549, 98 Stat. 2779, 47 U.S.C. 521 et 13175
seq., a video service authorization shall constitute a franchise 13176
under that law, and the director shall be the sole franchising 13177
authority under that law for video service authorizations in this 13178
state. The director may adopt rules under Chapter 119. of the 13179
Revised Code to carry out sections 1332.21 to 1332.34 of the 13180
Revised Code. 13181

(3) The director may impose upon and collect an annual 13182

assessment on video service providers. However, the director, by 13183
rule, may exclude any classification of video service providers 13184
from being so assessed based solely upon the scope of the video 13185
service subscriber base or the purpose of the video service. All 13186
money collected under division (A)(3) of this section shall be 13187
deposited to the credit of the video service authorization fund 13188
created under section 1332.25 of the Revised Code. The director 13189
annually shall determine the total amount to be so assessed based 13190
on the department's actual, current fiscal year administrative 13191
costs in carrying out those duties. The director shall allocate 13192
that amount proportionately among the video service providers to 13193
be assessed, using a competitively neutral formula established by 13194
rule. On or about the first day of July of each year, the director 13195
shall send to each video service provider to be assessed written 13196
notice of its proportional amount of the total assessment. The 13197
provider shall pay that amount not later than fourteen days 13198
following the date the notice is sent. After the initial 13199
assessment, the director annually shall reconcile the amount 13200
collected with the department's actual, fiscal year administrative 13201
costs in carrying out its duties under sections 1332.21 to 1332.34 13202
of the Revised Code and either shall charge each assessed video 13203
service provider its respective proportion of any insufficiency or 13204
proportionately credit the provider's next assessment for any 13205
excess collected. The total amount in any fiscal year assessed 13206
shall not exceed the department's actual, current fiscal year 13207
administrative costs in carrying out its duties under sections 13208
1332.21 to 1332.34 of the Revised Code. 13209

(B)(1) The director may investigate alleged violations of or 13210
failures to comply with division (A) of section 1332.23, division 13211
(C) of section 1332.25, division (C) or (D) of section 1332.26, 13212
division (A), (B), or (C) of section 1332.27, division (A) of 13213
section 1332.28, division (A) or (B) of section 1332.29, or 13214
section 1332.30 or 1332.31 of the Revised Code, or complaints 13215

concerning any such violation or failure. Except as provided in 13216
this section, the director has no authority to regulate video 13217
service in this state, including, but not limited to, the rates, 13218
terms, or conditions of that service. 13219

(2) In conducting an investigation under division (B)(1) of 13220
this section, the director, by subpoena, may compel witnesses to 13221
testify in relation to any matter over which the director has 13222
jurisdiction and may require the production of any book, record, 13223
or other document pertaining to that matter. If a person fails to 13224
file any statement or report, obey any subpoena, give testimony, 13225
produce any book, record, or other document as required by a 13226
subpoena, or permit photocopying of any book, record, or other 13227
document subpoenaed, the court of common pleas of any county in 13228
this state, upon application made to it by the director, shall 13229
compel obedience by attachment proceedings for contempt, as in the 13230
case of disobedience of the requirements of a subpoena issued from 13231
the court or a refusal to testify. 13232

(C)(1) If the director finds that a person has violated or 13233
failed to comply with division (A) of section 1332.23, division 13234
(C) of section 1332.25, division (C) or (D) of section 1332.26, 13235
division (A), (B), or (C) of section 1332.27, division (A) of 13236
section 1332.28, division (A) or (B) of section 1332.29, or 13237
section 1332.30 or 1332.31 of the Revised Code, and the person has 13238
failed to cure the violation or failure after reasonable, written 13239
notice and reasonable time to cure, the director may do any of the 13240
following: 13241

(a) Apply to the court of common pleas of any county in this 13242
state for an order enjoining the activity or requiring compliance. 13243
Such an action shall be commenced not later than three years after 13244
the date the alleged violation or failure occurred or was 13245
reasonably discovered. Upon a showing by the director that the 13246
person has engaged in a violation or failure to comply, the court 13247

shall grant an injunction, restraining order, or other appropriate relief. 13248
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(b) Enter into a written assurance of voluntary compliance with the person; 13250
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(c) Pursuant to an adjudication under Chapter 119. of the Revised Code, assess a civil penalty in an amount determined by the director, including for any failure to comply with an assurance of voluntary compliance under division (C)(1)(b) of this section. The amount shall be not more than one thousand dollars for each day of violation or noncompliance, not to exceed a total of ten thousand dollars, counting all subscriber impacts as a single violation or act of noncompliance. In determining whether a civil penalty is appropriate under division (C)(1)(c) of this section, the director shall consider all of the following factors: 13252
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(i) The seriousness of the noncompliance; 13262

(ii) The good faith efforts of the person to comply; 13263

(iii) The person's history of noncompliance; 13264

(iv) The financial resources of the person; 13265

(v) Any other matter that justice requires. 13266

Civil penalties collected pursuant to division (C)(1)(c) of this section shall be deposited to the credit of the video service enforcement fund in the state treasury, which is hereby created, to be used by the department of commerce in carrying out its duties under this section. 13267
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(2) Pursuant to an adjudication under Chapter 119. of the Revised Code, the director may revoke, in whole or in part, the video service authorization of any person that has repeatedly and knowingly violated or failed to comply with division (A) of section 1332.23, division (C) of section 1332.25, division (C) or (D) of section 1332.26, division (A), (B), or (C) of section 13272
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1332.27, division (A) of section 1332.28, division (A) or (B) of 13278
section 1332.29, or section 1332.30 or 1332.31 of the Revised Code 13279
and that has failed to cure the violations or noncompliances after 13280
reasonable written notice and reasonable time to cure. Such person 13281
acts knowingly, regardless of the person's purpose, when the 13282
person is aware that the person's conduct will probably cause a 13283
certain result or will probably be of a certain nature. A person 13284
has knowledge of circumstances when the person is aware that such 13285
circumstances probably exist. 13286

(3) The court shall conduct a de novo review in any appeal 13287
from an adjudication under division (C)(1)(c) or (C)(2) of this 13288
section. 13289

(D) The public utilities commission has no authority over a 13290
video service provider in its offering of video service or a cable 13291
operator in its offering of cable or video service, or over any 13292
person in its offering of video service pursuant to a competitive 13293
video service agreement. 13294

Sec. 1332.25. (A) An application made to the director of 13295
commerce for a video service authorization under section 1332.24 13296
of the Revised Code shall require and contain only the following: 13297

(1) Specification of the location of the applicant's 13298
principal place of business and the names of the applicant's 13299
principal executive officers; 13300

(2) Specification of the geographic and political boundaries 13301
of the applicant's proposed video service area; 13302

(3) A general description of the type or types of 13303
technologies the applicant will use to deliver the video 13304
programming, which may include wireline, wireless, or any other 13305
alternative technology, subject, as applicable, to section 1332.29 13306
of the Revised Code; 13307

(4) An attestation that the applicant has filed or will	13308
timely file with the federal communications commission all forms	13309
required by that agency in advance of offering video service in	13310
this state;	13311
(5) An attestation that the applicant will comply with	13312
applicable federal, state, and local laws;	13313
(6) An attestation that the applicant is legally,	13314
financially, and technically qualified to provide video service;	13315
(7) A description of the applicant's customer complaint	13316
handling process, including policies on addressing customer	13317
service issues, billing adjustments, and communication with	13318
government officials regarding customer complaints, and a local or	13319
toll-free telephone number at which a customer may contact the	13320
applicant.	13321
(B) For the purpose of division (A)(2) of this section:	13322
(1) The video service areas of video service providers may	13323
overlap.	13324
(2) A specified video service area shall be coextensive with	13325
municipal, township unincorporated area, or county boundaries,	13326
except as authorized under division (B)(3) or (4) of this section,	13327
but nothing in sections 1332.21 to 1332.34 of the Revised Code	13328
shall require a video service provider to provide access to video	13329
service within the entire video service area.	13330
(3) The specified video service area of a person using	13331
telecommunications facilities to provide video service on the	13332
effective date of this section <u>September 24, 2007</u> , or of any other	13333
person later so using telecommunications facilities shall be the	13334
geographic area in which the person offers basic local exchange	13335
service.	13336
(4) Subject to division (C)(2) of section 1332.27 of the	13337

Revised Code, the specified video service area of an applicant 13338
cable operator that offers service under a franchise in effect on 13339
~~the effective date of this section~~ September 24, 2007, initially 13340
shall be, at minimum, the franchise area established under that 13341
franchise. 13342

(C) A video service provider shall immediately file an 13343
application to amend its video service authorization with the 13344
director to reflect any change in the information required under 13345
division (A)(1), (2), or (3) of this section. An amendment 13346
pursuant to division (A)(2) of this section shall include any new 13347
delivery technology information required by division (A)(3) of 13348
this section. 13349

(D) Within thirty days after its filing or within thirty days 13350
after the filing of supplemental information necessary to make it 13351
complete, the director shall determine the completeness of an 13352
application filed under division (A) or (C) of this section 13353
relative to the respective requirements of divisions (A), (B), and 13354
(C) of this section and, as applicable, shall notify the applicant 13355
of an incompleteness determination, state the bases for that 13356
determination, and inform the applicant that it may resubmit a 13357
corrected application. The director shall issue a video service 13358
authorization, authorization renewal, or amended authorization 13359
within fifteen days after the director's determination that the 13360
filed application is complete. 13361

If the director does not notify the applicant regarding the 13362
completeness of the application within the time period specified 13363
in this division or does not issue the authorization requested by 13364
a completed application within the applicable time period, the 13365
application shall be deemed complete, and the authorization or 13366
amended authorization deemed issued on the forty-fifth day after 13367
the application's filing date. 13368

(E) An applicant shall pay a two thousand dollar 13369

nonrefundable fee for each application filed under division (A) of 13370
this section and a one hundred dollar nonrefundable fee for each 13371
application to amend filed under division (C) of this section. 13372
Fees collected under this division shall be deposited to the 13373
credit of the video service authorization fund in the state 13374
treasury, which is hereby created, to be used by the department of 13375
commerce in carrying out its duties under ~~this section~~ sections 13376
1332.21 to 1332.34 of the Revised Code. 13377

(F) No video service provider shall identify or make 13378
reference to an application fee under division (E) of this section 13379
or an assessment under section 1332.24 of the Revised Code on any 13380
subscriber bill or in conjunction with charging any fee to the 13381
subscriber. 13382

(G) An applicant may identify any information in its 13383
application as trade secret information, and if, upon its written 13384
request to the director, the director reasonably affirms all or 13385
part of that information as trade secret information, the 13386
information so affirmed does not constitute a public record for 13387
the purpose of section 149.43 of the Revised Code. 13388

Sec. 1333.99. (A) Whoever violates sections 1333.01 to 13389
1333.04 of the Revised Code is guilty of a minor misdemeanor. 13390

(B) Whoever violates section 1333.12 or 1333.71 of the 13391
Revised Code is guilty of a misdemeanor of the fourth degree. 13392

(C) Whoever violates section 1333.36 of the Revised Code is 13393
guilty of a misdemeanor of the third degree. 13394

(D) A prosecuting attorney may file an action to restrain any 13395
person found in violation of section 1333.36 of the Revised Code. 13396
Upon the filing of such an action, the common pleas court may 13397
receive evidence of such violation and forthwith grant a temporary 13398
restraining order as may be prayed for, pending a hearing on the 13399

merits of said cause. 13400

(E) Whoever violates division (A)(1) of section 1333.52 or 13401
section 1333.81 of the Revised Code is guilty of a misdemeanor of 13402
the first degree. 13403

(F) Whoever violates division (A)(2) or (B) of section 13404
1333.52 of the Revised Code is guilty of a misdemeanor of the 13405
second degree. 13406

(G) Except as otherwise provided in this division, whoever 13407
violates section 1333.92 of the Revised Code is guilty of a 13408
misdemeanor of the first degree. If the value of the compensation 13409
is ~~five~~ seven hundred fifty dollars or more and less than five 13410
thousand dollars, whoever violates section 1333.92 of the Revised 13411
Code is guilty of a felony of the fifth degree. If the value of 13412
the compensation is five thousand dollars or more and less than 13413
one hundred thousand dollars, whoever violates section 1333.92 of 13414
the Revised Code is guilty of a felony of the fourth degree. If 13415
the value of the compensation is one hundred thousand dollars or 13416
more, whoever violates section 1333.92 of the Revised Code is 13417
guilty of a felony of the third degree. 13418

Sec. 1347.08. (A) Every state or local agency that maintains 13419
a personal information system, upon the request and the proper 13420
identification of any person who is the subject of personal 13421
information in the system, shall: 13422

(1) Inform the person of the existence of any personal 13423
information in the system of which the person is the subject; 13424

(2) Except as provided in divisions (C) and (E)(2) of this 13425
section, permit the person, the person's legal guardian, or an 13426
attorney who presents a signed written authorization made by the 13427
person, to inspect all personal information in the system of which 13428
the person is the subject; 13429

(3) Inform the person about the types of uses made of the personal information, including the identity of any users usually granted access to the system.

(B) Any person who wishes to exercise a right provided by this section may be accompanied by another individual of the person's choice.

(C)(1) A state or local agency, upon request, shall disclose medical, psychiatric, or psychological information to a person who is the subject of the information or to the person's legal guardian, unless a physician, psychiatrist, or psychologist determines for the agency that the disclosure of the information is likely to have an adverse effect on the person, in which case the information shall be released to a physician, psychiatrist, or psychologist who is designated by the person or by the person's legal guardian.

(2) Upon the signed written request of either a licensed attorney at law or a licensed physician designated by the inmate, together with the signed written request of an inmate of a correctional institution under the administration of the department of rehabilitation and correction, the department shall disclose medical information to the designated attorney or physician as provided in division (C) of section 5120.21 of the Revised Code.

(D) If an individual who is authorized to inspect personal information that is maintained in a personal information system requests the state or local agency that maintains the system to provide a copy of any personal information that the individual is authorized to inspect, the agency shall provide a copy of the personal information to the individual. Each state and local agency may establish reasonable fees for the service of copying, upon request, personal information that is maintained by the agency.

(E)(1) This section regulates access to personal information 13462
that is maintained in a personal information system by persons who 13463
are the subject of the information, but does not limit the 13464
authority of any person, including a person who is the subject of 13465
personal information maintained in a personal information system, 13466
to inspect or have copied, pursuant to section 149.43 of the 13467
Revised Code, a public record as defined in that section. 13468

(2) This section does not provide a person who is the subject 13469
of personal information maintained in a personal information 13470
system, the person's legal guardian, or an attorney authorized by 13471
the person, with a right to inspect or have copied, or require an 13472
agency that maintains a personal information system to permit the 13473
inspection of or to copy, a confidential law enforcement 13474
investigatory record or trial preparation record, as defined in 13475
divisions (A)(2) and (4) of section 149.43 of the Revised Code. 13476

(F) This section does not apply to any of the following: 13477

(1) The contents of an adoption file maintained by the 13478
department of health under section 3705.12 of the Revised Code; 13479

(2) Information contained in the putative father registry 13480
established by section 3107.062 of the Revised Code, regardless of 13481
whether the information is held by the department of job and 13482
family services or, pursuant to section 3111.69 of the Revised 13483
Code, the office of child support in the department or a child 13484
support enforcement agency; 13485

(3) Papers, records, and books that pertain to an adoption 13486
and that are subject to inspection in accordance with section 13487
3107.17 of the Revised Code; 13488

(4) Records listed in division (A) of section 3107.42 of the 13489
Revised Code or specified in division (A) of section 3107.52 of 13490
the Revised Code; 13491

(5) Records that identify an individual described in division 13492

(A)(1) of section 3721.031 of the Revised Code, or that would tend to identify such an individual;	13493 13494
(6) Files and records that have been expunged under division (D)(1) <u>or (2)</u> of section 3721.23 of the Revised Code;	13495 13496
(7) Records that identify an individual described in division (A)(1) of section 3721.25 of the Revised Code, or that would tend to identify such an individual;	13497 13498 13499
(8) Records that identify an individual described in division (A)(1) of section 5111.61 of the Revised Code, or that would tend to identify such an individual;	13500 13501 13502
(9) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of examiners of nursing home administrators administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer;	13503 13504 13505 13506 13507
(10) Information contained in a database established and maintained pursuant to section 5101.13 of the Revised Code.	13508 13509
Sec. 1502.12. (A) There is hereby created in the state treasury the scrap tire grant fund, consisting of moneys transferred to the fund under section 3734.82 of the Revised Code. The chief of the division of recycling and litter prevention, with the approval of the director of natural resources, may make grants from the fund for the purpose of supporting <u>following purposes:</u>	13510 13511 13512 13513 13514 13515
(1) <u>Supporting</u> market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes;	13516 13517 13518
(2) <u>Supporting scrap tire amnesty and cleanup events sponsored by solid waste management districts.</u> The grants	13519 13520
<u>Grants awarded under division (A)(1) of this section</u> may be awarded to individuals, businesses, and entities certified under	13521 13522

division (A) of section 1502.04 of the Revised Code. 13523

(B) Projects and activities that are eligible for grants 13524
under division (A)(1) of this section shall be evaluated for 13525
funding using, at a minimum, the following criteria: 13526

(1) The degree to which a proposed project contributes to the 13527
increased use of scrap tires generated in this state; 13528

(2) The degree of local financial support for a proposed 13529
project; 13530

(3) The technical merit and quality of a proposed project. 13531

Sec. 1509.021. (A) As used in this section: 13532

(1) "First purchaser of natural gas" means the person to whom 13533
title first is transferred beyond the inlet side of the 13534
measurement station from which the natural gas was first produced. 13535

(2) "First purchaser of crude oil" means the person to whom 13536
title first is transferred beyond the gathering tank or tanks, 13537
beyond the facility from which the crude oil was first produced, 13538
or both. 13539

(B) Except as otherwise provided in division (E) of this 13540
section, there is charged to the first purchaser of crude oil an 13541
energy resource extraction fee of twenty cents per barrel of crude 13542
oil or fifty-six one-hundredths of one per cent of the total 13543
purchase price of the crude oil after the severance tax that is 13544
paid under section 5749.02 of the Revised Code has been 13545
subtracted, whichever results in the greater amount. The fee that 13546
is charged under this division is to provide funding to the 13547
division of mineral resources management for the purposes of 13548
satisfying the regulatory, environmental, and natural resources 13549
management requirements of this state with respect to oil. 13550

(C) Except as otherwise provided in division (E) of this 13551
section, there is charged to the first purchaser of natural gas an 13552

energy resource extraction fee of five cents per one thousand 13553
cubic feet of natural gas or two and one-quarter per cent of the 13554
total purchase price of the natural gas after the severance tax 13555
that is paid under section 5749.02 of the Revised Code has been 13556
subtracted, whichever results in the greater amount. The fee that 13557
is charged under this division is to provide funding to the 13558
division for the purposes of satisfying the regulatory, 13559
environmental, and natural resources management requirements of 13560
this state with respect to natural gas. 13561

(D) In accordance with rules adopted under this section, the 13562
chief of the division of mineral resources management shall 13563
collect from each first purchaser of crude oil and each first 13564
purchaser of natural gas the applicable fee that is charged under 13565
this section. The chief shall transmit all money collected under 13566
this section to the treasurer of state to be credited to the oil 13567
and gas well fund created in section 1509.02 of the Revised Code. 13568

(E) Beginning July 1, 2013, and thereafter not later than 13569
thirty days after the end of a fiscal biennium, the director of 13570
natural resources shall examine the balance of the oil and gas 13571
well fund to determine if the fund contains sufficient money to 13572
fulfill the purposes specified in divisions (B) and (C) of this 13573
section for the fiscal biennium in which the examination is 13574
conducted. The director shall certify the director's determination 13575
to the director of budget and management and the treasurer of 13576
state. If the director of natural resources determines that the 13577
fund contains sufficient money for that fiscal biennium, the 13578
energy extraction fee for crude oil shall be twenty cents per 13579
barrel of crude oil and the energy extraction fee for natural gas 13580
shall be five cents per one thousand cubic feet of natural gas. If 13581
the director determines that the fund does not contain sufficient 13582
money, the energy resource extraction fee for crude oil shall be 13583
the fee established in division (B) of this section and the energy 13584

resource extraction fee for natural gas shall be the fee 13585
established in division (C) of this section. 13586

(F) The chief, with the approval of the director of natural 13587
resources, shall adopt rules in accordance with Chapter 119. of 13588
the Revised Code for the administration of this section. 13589

(G) In any fiscal year, the director of natural resources may 13590
request the director of budget and management to transfer from the 13591
oil and gas well fund to the geological mapping fund created in 13592
section 1505.09 of the Revised Code a portion of the money 13593
credited to the oil and gas well fund resulting from the energy 13594
resource extraction fees that are collected under this section. 13595

(H) Not later than January 1, 2015, the chief, in cooperation 13596
with a statewide association representing the oil and natural gas 13597
industry and a statewide environmental advocacy association, shall 13598
complete a study to determine the solvency of the oil and gas well 13599
fund and shall report the determination to the director of budget 13600
and management and make recommendations to the director concerning 13601
the rate of the energy resource extraction fees charged under this 13602
section. 13603

Sec. 1513.021. (A) As used in this section, "ton" means two 13604
thousand pounds of coal that is measured at the point and time of 13605
extraction after the removal of any impurities. 13606

(B) Except as otherwise provided in division (D) of this 13607
section, there is charged to an operator an energy resource 13608
extraction fee of eight cents per ton of coal. The fee that is 13609
charged under this section is to provide funding for the division 13610
of mineral resources management to administer the coal mining and 13611
reclamation program, satisfy the regulatory, environmental, and 13612
natural resources management requirements of this state, and 13613
reclaim land affected by mining. 13614

(C) In accordance with rules adopted under this section, the chief of the division of mineral resources management shall collect from each operator the fee that is charged under this section. The chief shall transmit all money collected under this section to the treasurer of state to be credited to the coal mining administration and reclamation reserve fund created in section 1513.181 of the Revised Code.

(D) Beginning July 1, 2013, and thereafter not later than thirty days after the end of a fiscal biennium, the director of natural resources shall examine the balance of the coal mining administration and reclamation reserve fund to determine if the fund contains sufficient money to fulfill the purposes specified in division (B) of this section for the fiscal biennium in which the examination is conducted. The director shall certify the director's determination to the director of budget and management and the treasurer of state. If the director of natural resources determines that the fund contains sufficient money for that fiscal biennium, the energy resource extraction fee shall be four cents per ton of coal. If the director determines that the fund does not contain sufficient money, the energy resource extraction fee shall be eight cents per ton of coal.

(E) The chief, with the approval of the director of natural resources, shall adopt rules in accordance with Chapter 119. of the Revised Code for the administration of this section.

(F) In any fiscal year, the director of natural resources may request the director of budget and management to transfer from the coal mining administration and reclamation reserve fund to the geological mapping fund created in section 1505.09 of the Revised Code a portion of the money credited to the coal mining administration and reclamation reserve fund resulting from the energy resource extraction fee that is collected under this section.

(G) Not later than January 1, 2015, the chief, in cooperation with a statewide association representing the coal mining industry and a statewide environmental advocacy association, shall complete a study to determine the solvency of the coal mining administration and reclamation fund and shall report the determination to the director of budget and management and make recommendations to the director concerning the rate of the energy resource extraction fee charged under this section.

Sec. 1515.14. Within the limits of funds appropriated to the department of natural resources and the soil and water conservation district assistance fund created in this section, there shall be paid in each calendar year to each local soil and water conservation district an amount not to exceed one dollar for each one dollar received in accordance with section 1515.10 of the Revised Code, received from tax levies in excess of the ten-mill levy limitation approved for the benefit of local soil and water conservation districts, or received from an appropriation by a municipal corporation or a township to a maximum of eight thousand dollars, provided that the Ohio soil and water conservation commission may approve payment to a district in an amount in excess of eight thousand dollars in any calendar year upon receipt of a request and justification from the district. The county auditor shall credit such payments to the special fund established pursuant to section 1515.10 of the Revised Code for the local soil and water conservation district. The department may make advances at least quarterly to each district on the basis of the estimated contribution of the state to each district. Moneys received by each district shall be expended for the purposes of the district.

For the purpose of providing money to soil and water conservation districts under this section, there is hereby created in the state treasury the soil and water conservation district assistance fund consisting of money credited to it under section

3714.073 and division (A)(4) of section 3734.57 of the Revised Code. 13679
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Sec. 1517.02. There is hereby created in the department of 13681
natural resources the division of natural areas and preserves, 13682
which shall be administered by the chief of the division of 13683
natural areas and preserves. The chief shall take an oath of 13684
office and shall file in the office of the secretary of state a 13685
bond signed by the chief and by a surety approved by the governor 13686
for a sum fixed pursuant to section 121.11 of the Revised Code. 13687

The chief shall administer a system of nature preserves ~~and~~ 13688
~~wild, scenic, and recreational river areas.~~ The chief shall 13689
establish a system of nature preserves through acquisition and 13690
dedication of natural areas of state or national significance, 13691
which shall include, but not be limited to, areas that represent 13692
characteristic examples of Ohio's natural landscape types and its 13693
natural vegetation and geological history. The chief shall 13694
encourage landowners to dedicate areas of unusual significance as 13695
nature preserves, and shall establish and maintain a registry of 13696
natural areas of unusual significance. 13697

The chief may ~~supervise, operate, protect, and maintain wild,~~ 13698
~~scenic, and recreational river areas, as designated by the~~ 13699
~~director of natural resources. The chief may cooperate with~~ 13700
participate in watershed planning activities with other states or 13701
federal agencies ~~administering any federal program concerning~~ 13702
~~wild, scenic, or recreational river areas.~~ 13703

The chief shall do the following: 13704

(A) Formulate policies and plans for the acquisition, use, 13705
management, and protection of nature preserves; 13706

(B) Formulate policies for the selection of areas suitable 13707
for registration; 13708

(C) Formulate policies for the dedication of areas as nature preserves; 13709
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(D) Prepare and maintain surveys and inventories of natural areas, rare and endangered species of plants and animals, and other unique natural features. The information shall be stored in the Ohio natural heritage database, established pursuant to this division, and may be made available to any individual or private or public agency for research, educational, environmental, land management, or other similar purposes that are not detrimental to the conservation of a species or feature. Information regarding sensitive site locations of species that are listed pursuant to section 1518.01 of the Revised Code and of unique natural features that are included in the Ohio natural heritage database is not subject to section 149.43 of the Revised Code if the chief determines that the release of the information could be detrimental to the conservation of a species or unique natural feature. 13711
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(E) Adopt rules for the use, visitation, and protection of nature preserves, and natural areas owned or managed through easement, license, or lease by the department and administered by the division, ~~and lands owned or managed through easement, license, or lease by the department and administered by the division that are within or adjacent to any wild, scenic, or recreational river area,~~ in accordance with Chapter 119. of the Revised Code; 13726
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(F) Provide facilities and improvements within the state system of nature preserves that are necessary for their visitation, use, restoration, and protection and do not impair their natural character; 13734
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(G) Provide interpretive programs and publish and disseminate information pertaining to nature preserves and natural areas for their visitation and use; 13738
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(H) Conduct and grant permits to qualified persons for the 13741
conduct of scientific research and investigations within nature 13742
preserves; 13743

(I) Establish an appropriate system for marking nature 13744
preserves; 13745

(J) Publish and submit to the governor and the general 13746
assembly a biennial report of the status and condition of each 13747
nature preserve, activities conducted within each preserve, and 13748
plans and recommendations for natural area preservation. 13749

Sec. 1517.10. (A) As used in this section, "felony" has the 13750
same meaning as in section 109.511 of the Revised Code. 13751

(B)(1) Any person selected by the chief of the division of 13752
natural areas and preserves for custodial or patrol service on the 13753
lands and waters operated or administered by the division shall be 13754
employed in conformity with the law applicable to the classified 13755
civil service of the state. Subject to division (C) of this 13756
section, the chief may designate that person as a preserve 13757
officer. A preserve officer, in any nature preserve, in any 13758
natural area owned or managed through easement, license, or lease 13759
by the department of natural resources and administered by the 13760
division, and on lands owned or managed through easement, license, 13761
or lease by the department and administered by the division that 13762
are ~~within or adjacent to any wild, scenic, or recreational river~~ 13763
~~area established under this chapter and~~ along any trail 13764
established under Chapter 1519. of the Revised Code, has the 13765
authority specified under section 2935.03 of the Revised Code for 13766
peace officers of the department of natural resources to keep the 13767
peace, to enforce all laws and rules governing those lands and 13768
waters, and to make arrests for violation of those laws and rules, 13769
provided that the authority shall be exercised on lands or waters 13770
administered by another division of the department only pursuant 13771

to an agreement with the chief of that division or to a request 13772
for assistance by an enforcement officer of that division in an 13773
emergency. A preserve officer, in or along any watercourse within, 13774
abutting, or upstream from the boundary of any area administered 13775
by the department, has the authority to enforce section 3767.32 of 13776
the Revised Code and any other laws prohibiting the dumping of 13777
refuse into or along waters and to make arrests for violation of 13778
those laws. The jurisdiction of a preserve officer shall be 13779
concurrent with that of the peace officers of the county, 13780
township, or municipal corporation in which the violation occurs. 13781

The governor, upon the recommendation of the chief, shall 13782
issue to each preserve officer a commission indicating authority 13783
to make arrests as provided in this section. 13784

The chief shall furnish a suitable badge to each commissioned 13785
preserve officer as evidence of the preserve officer's authority. 13786

(2) If any person employed under this section is designated 13787
by the chief to act as an agent of the state in the collection of 13788
money resulting from the sale of licenses, fees of any nature, or 13789
other money belonging to the state, the chief shall require a 13790
surety bond from the person in an amount not less than one 13791
thousand dollars. 13792

(3) A preserve officer may render assistance to a state or 13793
local law enforcement officer at the request of the officer or in 13794
the event of an emergency. Preserve officers serving outside the 13795
division of natural areas and preserves under this section or 13796
serving under the terms of a mutual aid compact authorized under 13797
section 1501.02 of the Revised Code shall be considered as 13798
performing services within their regular employment for the 13799
purposes of compensation, pension or indemnity fund rights, 13800
workers' compensation, and other rights or benefits to which they 13801
may be entitled as incidents of their regular employment. 13802

Preserve officers serving outside the division of natural areas and preserves under this section or under the terms of a mutual aid compact retain personal immunity from civil liability as specified in section 9.86 of the Revised Code and shall not be considered an employee of a political subdivision for purposes of Chapter 2744. of the Revised Code. A political subdivision that uses preserve officers under this section or under the terms of a mutual aid compact authorized under section 1501.02 of the Revised Code is not subject to civil liability under Chapter 2744. of the Revised Code as a result of any action or omission of any preserve officer acting under this section or under a mutual aid compact.

(C)(1) The chief of the division of natural areas and preserves shall not designate a person as a preserve officer pursuant to division (B)(1) of this section on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the person previously has been convicted of or has pleaded guilty to a felony.

(2)(a) The chief of the division of natural areas and preserves shall terminate the employment as a preserve officer of a person designated as a preserve officer under division (B)(1) of this section if that person does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.43 of the Revised Code in which the preserve officer agrees to surrender the certificate awarded to the preserve officer under section 109.77 of the Revised Code.

(b) The chief shall suspend from employment as a preserve officer a person designated as a preserve officer under division (B)(1) of this section if that person is convicted, after trial, of a felony. If the preserve officer files an appeal from that

conviction and the conviction is upheld by the highest court to 13834
which the appeal is taken or if the preserve officer does not file 13835
a timely appeal, the chief shall terminate the employment of that 13836
preserve officer. If the preserve officer files an appeal that 13837
results in the preserve officer's acquittal of the felony or 13838
conviction of a misdemeanor, or in the dismissal of the felony 13839
charge against the preserve officer, the chief shall reinstate 13840
that preserve officer. A preserve officer who is reinstated under 13841
division (C)(2)(b) of this section shall not receive any back pay 13842
unless that preserve officer's conviction of the felony was 13843
reversed on appeal, or the felony charge was dismissed, because 13844
the court found insufficient evidence to convict the preserve 13845
officer of the felony. 13846

(3) Division (C) of this section does not apply regarding an 13847
offense that was committed prior to January 1, 1997. 13848

(4) The suspension from employment, or the termination of the 13849
employment, of a preserve officer under division (C)(2) of this 13850
section shall be in accordance with Chapter 119. of the Revised 13851
Code. 13852

Sec. 1517.11. There is hereby created in the state treasury 13853
the natural areas and preserves fund, which shall consist of 13854
moneys transferred into it under section 5747.113 of the Revised 13855
Code and of contributions made directly to it. Any person may 13856
contribute directly to the fund in addition to or independently of 13857
the income tax refund contribution system established in that 13858
section. 13859

Moneys in the fund shall be disbursed pursuant to vouchers 13860
approved by the director of natural resources for use by the 13861
division of natural areas and preserves solely for the following 13862
purposes: 13863

(A) The acquisition of new or expanded natural areas, and 13864

nature preserves, ~~and wild, scenic, and recreational river areas;~~ 13865

(B) Facility development in natural areas, and nature 13866
preserves, ~~and wild, scenic, and recreational river areas;~~ 13867

(C) Special projects, including, but not limited to, 13868
biological inventories, research grants, and the production of 13869
interpretive material related to natural areas, and nature 13870
preserves, ~~and wild, scenic, and recreational river areas;~~ 13871

(D) Routine maintenance for health and safety purposes. 13872

Moneys appropriated from the fund shall not be used to fund 13873
salaries of permanent employees or administrative costs. 13874

All investment earnings of the fund shall be credited to the 13875
fund. 13876

Sec. 1521.05. (A) As used in this section: 13877

(1) "Construct" or "construction" includes drilling, boring, 13878
digging, deepening, altering, and logging. 13879

(2) "Altering" means changing the configuration of a well, 13880
including, without limitation, deepening a well, extending or 13881
replacing any portion of the inside or outside casing or wall of a 13882
well that extends below ground level, plugging a portion of a well 13883
back to a certain depth, and reaming out a well to enlarge its 13884
original diameter. 13885

(3) "Logging" means describing the lithology, grain size, 13886
color, and texture of the formations encountered during the 13887
drilling, boring, digging, deepening, or altering of a well. 13888

(4) "Grouting" means neat cement; bentonite products in 13889
slurry, granular, or pelletized form, excluding drilling mud or 13890
fluids; or any combination of neat cement and bentonite products 13891
that is placed within a well to seal the annular space or to seal 13892
an abandoned well and that is impervious to and capable of 13893

preventing the movement of water.	13894
(5) "Abandoned well" means a well whose use has been	13895
permanently discontinued and that poses potential health and	13896
safety hazards or that has the potential to transmit surface	13897
contaminants into the aquifer in which the well has been	13898
constructed.	13899
(6) "Sealing" means the complete filling of an abandoned well	13900
with grouting or other approved materials in order to permanently	13901
prevent the vertical movement of water in the well and thus	13902
prevent the contamination of ground water or the intermixing of	13903
water between aquifers.	13904
(B) Any person that constructs a well shall keep a careful	13905
and accurate log of the construction of the well. The log shall	13906
show all of the following:	13907
(1) The character, including, without limitation, the	13908
lithology, color, texture, and grain size, the name, if known, and	13909
the depth of all formations passed through or encountered;	13910
(2) The depths at which water is encountered;	13911
(3) The static water level of the completed well;	13912
(4) A copy of the record of all pumping tests and analyses	13913
related to those tests, if any;	13914
(5) Construction details, including lengths, diameters, and	13915
thicknesses of casing and screening and the volume, type of	13916
material, and method of introducing gravel packing and grouting	13917
into the well;	13918
(6) The type of pumping equipment installed, if any;	13919
(7) The name of the owner of the well, the address of the	13920
location where the well was constructed, and either the state	13921
plane coordinates or the latitude and longitude of the well;	13922
(8) The signature of the individual who constructed the well	13923

and filed the well log; 13924

(9) Any other information required by the chief of the 13925
division of water. 13926

The log shall be ~~furnished to~~ filed with the division of 13927
water within thirty days after the completion of construction of 13928
the well on forms prescribed and prepared by the division. The log 13929
shall be kept on file by the division. 13930

(C) Any person that seals a well shall keep a careful and 13931
accurate report of the sealing of the well. The sealing report 13932
shall show all of the following: 13933

(1) The name of the owner of the well, the address of the 13934
location where the well was constructed, and either the state 13935
plane coordinates or the latitude and longitude of the well; 13936

(2) The depth of the well, the size and length of its casing, 13937
and the static water level of the well; 13938

(3) The sealing procedures, including the volume and type of 13939
sealing material or materials and the method and depth of 13940
placement of each material; 13941

(4) The date on which the sealing was performed; 13942

(5) The signature of the individual who sealed the well and 13943
filed the sealing report; 13944

(6) Any other information required by the chief. 13945

The sealing report shall be ~~furnished to~~ filed with the 13946
division within thirty days after the completion of the sealing of 13947
the well on forms prescribed and prepared by the division. 13948

(D) In accordance with Chapter 119. of the Revised Code, the 13949
chief may adopt, amend, and rescind rules requiring other persons 13950
that are involved in the construction or subsequent development of 13951
a well to submit well logs under division (B) of this section 13952
containing any or all of the information specified in divisions 13953

(B)(1) to (9) of this section and specifying additional 13954
information to be included in sealing reports required under 13955
division (C) of this section. The chief shall adopt rules 13956
establishing procedures and requirements governing the payment and 13957
collection of water well log filing fees, including the amount of 13958
any filing fee to be imposed as an alternative to the 13959
twenty-dollar filing fee established in division (G) of this 13960
section and including procedures for the quarterly transfer of 13961
filing fees by boards of health and the director of environmental 13962
protection under that division. 13963

(E)(1) No person shall fail to keep and ~~submit~~ file a well 13964
log or a sealing report as required by this section. 13965

(2) No person shall make a false statement in any well log or 13966
sealing report required to be kept and ~~submitted~~ filed under this 13967
section. Violation of division (E)(2) of this section is 13968
falsification under section 2921.13 of the Revised Code. 13969

(F) For the purposes of prosecution of a violation of 13970
division (E)(1) of this section, a prima-facie case is established 13971
when the division obtains either of the following: 13972

(1) A certified copy of a permit for a private water system 13973
issued in accordance with rules adopted under section 3701.344 of 13974
the Revised Code, or a certified copy of the invoice or a canceled 13975
check from the owner of a well indicating the construction or 13976
sealing services performed; 13977

(2) A certified copy of any permit issued under Chapter 3734. 13978
or 6111. of the Revised Code or plan approval granted under 13979
Chapter 6109. of the Revised Code for any activity that includes 13980
the construction or sealing of a well as applicable. 13981

(G) In accordance with rules adopted under this section, a 13982
person or entity that constructs a well for the purpose of 13983
extracting potable water as part of a private water system that is 13984

subject to rules adopted under section 3701.344 of the Revised Code or a public water system that is required to be licensed under Chapter 6109. of the Revised Code shall pay a well log filing fee of twenty dollars per well log or, if the chief has adopted rules establishing an alternative fee amount, the fee amount established under rules. The fee shall be collected by a board of health under section 3701.344 of the Revised Code or the environmental protection agency under section 6109.22 of the Revised Code, as applicable.

Each calendar quarter, a board of health or the environmental protection agency, as applicable, shall forward all well log filing fees collected during the previous calendar quarter to the division of water. The fees shall be forwarded in accordance with procedures established in rules adopted under this section.

Proceeds of well log filing fees shall be used by the division of water for the purposes of acquiring, maintaining, and dispensing digital and paper records of well logs that are filed with the division.

Sec. 1521.06. (A) No dam may be constructed for the purpose of storing, conserving, or retarding water, or for any other purpose, nor shall any levee be constructed for the purpose of diverting or retaining flood water, unless the person or governmental agency desiring the construction has a construction permit for the dam or levee issued by the chief of the division of water.

A construction permit is not required under this section for:

(1) A dam that is or will be less than ten feet in height and that has or will have a storage capacity of not more than fifty acre-feet at the elevation of the top of the dam, as determined by the chief. For the purposes of this section, the height of a dam shall be measured from the natural stream bed or lowest ground

elevation at the downstream or outside limit of the dam to the 14016
elevation of the top of the dam. 14017

(2) A dam, regardless of height, that has or will have a 14018
storage capacity of not more than fifteen acre-feet at the 14019
elevation of the top of the dam, as determined by the chief; 14020

(3) A dam, regardless of storage capacity, that is or will be 14021
six feet or less in height, as determined by the chief; 14022

(4) A dam or levee that belongs to a class exempted by the 14023
chief; 14024

(5) The repair, maintenance, improvement, alteration, or 14025
removal of a dam or levee that is subject to section 1521.062 of 14026
the Revised Code, unless the construction constitutes an 14027
enlargement or reconstruction of the structure as determined by 14028
the chief; 14029

(6) A dam or impoundment constructed under Chapter 1513. of 14030
the Revised Code. 14031

(B) Before a construction permit may be issued, three copies 14032
of the plans and specifications, including a detailed cost 14033
estimate, for the proposed construction, prepared by a registered 14034
professional engineer, together with the filing fee specified by 14035
this section and the bond or other security required by section 14036
1521.061 of the Revised Code, shall be filed with the chief. The 14037
detailed estimate of the cost shall include all costs associated 14038
with the construction of the dam or levee, including supervision 14039
and inspection of the construction by a registered professional 14040
engineer. The filing fee shall be based on the detailed cost 14041
estimate for the proposed construction as filed with and approved 14042
by the chief, and shall be determined by the following schedule 14043
unless otherwise provided by rules adopted under this section: 14044

(1) For the first one hundred thousand dollars of estimated 14045
cost, a fee of four per cent; 14046

(2) For the next four hundred thousand dollars of estimated cost, a fee of three per cent; 14047
14048

(3) For the next five hundred thousand dollars of estimated cost, a fee of two per cent; 14049
14050

(4) For all costs in excess of one million dollars, a fee of one-half of one per cent. 14051
14052

In no case shall the filing fee be less than one thousand five hundred dollars or more than ~~one~~ five hundred thousand dollars. If the actual cost exceeds the estimated cost by more than fifteen per cent, an additional filing fee shall be required equal to the fee determined by the preceding schedule less the original filing fee. All fees collected pursuant to this section, and all fines collected pursuant to section 1521.99 of the Revised Code, shall be deposited in the state treasury to the credit of the dam safety fund, which is hereby created. Expenditures from the fund shall be made by the chief for the purpose of administering this section and sections 1521.061 and 1521.062 of the Revised Code. 14053
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(C) The chief shall, within thirty days from the date of the receipt of the application, fee, and bond or other security, issue or deny a construction permit for the construction or may issue a construction permit conditioned upon the making of such changes in the plans and specifications for the construction as the chief considers advisable if the chief determines that the construction of the proposed dam or levee, in accordance with the plans and specifications filed, would endanger life, health, or property. 14065
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(D) The chief may deny a construction permit after finding that a dam or levee built in accordance with the plans and specifications would endanger life, health, or property, because of improper or inadequate design, or for such other reasons as the chief may determine. 14073
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In the event the chief denies a permit for the construction 14078
of the dam or levee, or issues a permit conditioned upon a making 14079
of changes in the plans or specifications for the construction, 14080
the chief shall state the reasons therefor and so notify, in 14081
writing, the person or governmental agency making the application 14082
for a permit. If the permit is denied, the chief shall return the 14083
bond or other security to the person or governmental agency making 14084
application for the permit. 14085

The decision of the chief conditioning or denying a 14086
construction permit is subject to appeal as provided in Chapter 14087
119. of the Revised Code. A dam or levee built substantially at 14088
variance from the plans and specifications upon which a 14089
construction permit was issued is in violation of this section. 14090
The chief may at any time inspect any dam or levee, or site upon 14091
which any dam or levee is to be constructed, in order to determine 14092
whether it complies with this section. 14093

(E) A registered professional engineer shall inspect the 14094
construction for which the permit was issued during all phases of 14095
construction and shall furnish to the chief such regular reports 14096
of the engineer's inspections as the chief may require. When the 14097
chief finds that construction has been fully completed in 14098
accordance with the terms of the permit and the plans and 14099
specifications approved by the chief, the chief shall approve the 14100
construction. When one year has elapsed after approval of the 14101
completed construction, and the chief finds that within this 14102
period no fact has become apparent to indicate that the 14103
construction was not performed in accordance with the terms of the 14104
permit and the plans and specifications approved by the chief, or 14105
that the construction as performed would endanger life, health, or 14106
property, the chief shall release the bond or other security. No 14107
bond or other security shall be released until one year after 14108
final approval by the chief, unless the dam or levee has been 14109

modified so that it will not retain water and has been approved as 14110
nonhazardous after determination by the chief that the dam or 14111
levee as modified will not endanger life, health, or property. 14112

(F) When inspections required by this section are not being 14113
performed, the chief shall notify the person or governmental 14114
agency to which the permit has been issued that inspections are 14115
not being performed by the registered professional engineer and 14116
that the chief will inspect the remainder of the construction. 14117
Thereafter, the chief shall inspect the construction and the cost 14118
of inspection shall be charged against the owner. Failure of the 14119
registered professional engineer to submit required inspection 14120
reports shall be deemed notice that the engineer's inspections are 14121
not being performed. 14122

(G) The chief may order construction to cease on any dam or 14123
levee that is being built in violation of this section, and may 14124
prohibit the retention of water behind any dam or levee that has 14125
been built in violation of this section. The attorney general, 14126
upon written request of the chief, may bring an action for an 14127
injunction against any person who violates this section or to 14128
enforce an order or prohibition of the chief made pursuant to this 14129
section. 14130

(H) The chief may adopt rules in accordance with Chapter 119. 14131
of the Revised Code, for the design and construction of dams and 14132
levees for which a construction permit is required by this section 14133
or for which periodic inspection is required by section 1521.062 14134
of the Revised Code, for establishing a filing fee schedule in 14135
lieu of the schedule established under division (B) of this 14136
section and for establishing the minimum and maximum amounts of a 14137
filing fee in lieu of the amounts established in that division, 14138
for deposit and forfeiture of bonds and other securities required 14139
by section 1521.061 of the Revised Code, for the periodic 14140
inspection, operation, repair, improvement, alteration, or removal 14141

of all dams and levees, as specified in section 1521.062 of the Revised Code, and for establishing classes of dams or levees that are exempt from the requirements of this section and section 1521.062 of the Revised Code as being of a size, purpose, or situation that does not present a substantial hazard to life, health, or property. The chief may, by rule, limit the period during which a construction permit issued under this section is valid. The rules may allow for the extension of the period during which a permit is valid upon written request, provided that the written request includes a revised construction cost estimate, and may require the payment of an additional filing fee for the requested extension. If a construction permit expires without an extension before construction is completed, the person or agency shall apply for a new permit, and shall not continue construction until the new permit is issued.

Sec. 1521.063. (A) Except for the federal government, the owner of ~~any a~~ dam, that is classified as a class I, class II, or class III dam under rules adopted under section 1521.06 of the Revised Code and subject to section 1521.062 of the Revised Code shall pay an annual fee, based upon the height of the dam, the linear foot length of the dam, and the per-acre foot of volume of water impounded by the dam. The fee shall be paid to the division of water ~~on or before June 30, 1988,~~ and on or before the thirtieth day of June of each ~~succeeding~~ year. The annual fee shall be as follows until otherwise provided by rules adopted under this section:

(1) For any dam classified as a class I dam under rules adopted by the chief of the division of water under section 1521.06 of the Revised Code, thirty dollars plus ten dollars per foot of height of dam, five cents per foot of length of the dam and five cents per-acre foot of water impounded by the dam;

(2) For any dam classified as a class II dam under those 14173
rules, thirty dollars plus ~~one dollar~~ six dollars per foot of 14174
height of dam, five cents per foot of length of the dam and five 14175
cents per-acre foot of water impounded by the dam; 14176

(3) For any dam classified as a class III dam under those 14177
rules, thirty dollars plus four dollars per foot of height of the 14178
dam, five cents per foot of length of the dam, and five cents 14179
per-acre foot of volume of water impounded by the dam. 14180

For purposes of this section, the height of a dam is the 14181
vertical height, to the nearest foot, as determined by the 14182
division under section 1521.062 of the Revised Code. 14183

All fees collected under this section shall be deposited in 14184
the dam safety fund created in section 1521.06 of the Revised 14185
Code. Any owner who fails to pay any annual fee required by this 14186
section within sixty days after the due date shall be assessed a 14187
penalty of ten per cent of the annual fee plus interest at the 14188
rate of one-half per cent per month from the due date until the 14189
date of payment. 14190

There is hereby created the compliant dam discount program to 14191
be administered by the chief. Under the program, the chief may 14192
reduce the amount of the annual fee that an owner of a dam is 14193
required to pay under division (A)(1), (2), or (3) of this section 14194
if the owner is in compliance with section 1521.062 of the Revised 14195
Code and has developed an emergency action plan pursuant to 14196
standards established in rules adopted under this section. The 14197
chief shall not discount an annual fee by more than twenty-five 14198
per cent of the total annual fee that is due. In addition, the 14199
chief shall not discount the annual fee that is due from the owner 14200
of a dam who has been assessed a penalty under this section. 14201

(B) The chief shall, in accordance with Chapter 119. of the 14202
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Revised Code and subject to the prior approval of the director of 14204
natural resources, adopt, and may amend or rescind, rules for the 14205
collection of fees and the administration, implementation, and 14206
enforcement of this section and for the establishment of an annual 14207
fee schedule in lieu of the schedule established ~~under~~ in division 14208
(A) of this section. 14209

(C)(1) No person, political subdivision, or state 14210
governmental agency shall violate or fail to comply with this 14211
section or any rule or order adopted or issued under it. 14212

(2) The attorney general, upon written request of the chief, 14213
may commence an action against any such violator. Any action under 14214
division (C)(2) of this section is a civil action. 14215

(D) As used in this section, "political subdivision" includes 14216
townships, municipal corporations, counties, school districts, 14217
municipal universities, park districts, sanitary districts, and 14218
conservancy districts and subdivisions thereof. 14219

Sec. 1531.01. As used in this chapter and Chapter 1533. of 14220
the Revised Code: 14221

(A) "Person" means a person as defined in section 1.59 of the 14222
Revised Code or a company; an employee, agent, or officer of such 14223
a person or company; a combination of individuals; the state; a 14224
political subdivision of the state; an interstate body created by 14225
a compact; or the federal government or a department, agency, or 14226
instrumentality of it. 14227

(B) "Resident" means any individual who has resided in this 14228
state for not less than six months next preceding the date of 14229
making application for a license. 14230

(C) "Nonresident" means any individual who does not qualify 14231
as a resident. 14232

(D) "Division rule" or "rule" means any rule adopted by the 14233

chief of the division of wildlife under section 1531.10 of the Revised Code unless the context indicates otherwise.

(E) "Closed season" means that period of time during which the taking of wild animals protected by this chapter and Chapter 1533. of the Revised Code is prohibited.

(F) "Open season" means that period of time during which the taking of wild animals protected by this chapter and Chapter 1533. of the Revised Code is permitted.

(G) "Take or taking" includes pursuing, shooting, hunting, killing, trapping, angling, fishing with a trotline, or netting any clam, mussel, crayfish, aquatic insect, fish, frog, turtle, wild bird, or wild quadruped, and any lesser act, such as wounding, or placing, setting, drawing, or using any other device for killing or capturing any wild animal, whether it results in killing or capturing the animal or not. "Take or taking" includes every attempt to kill or capture and every act of assistance to any other person in killing or capturing or attempting to kill or capture a wild animal.

(H) "Possession" means both actual and constructive possession and any control of things referred to.

(I) "Bag limit" means the number, measurement, or weight of any kind of crayfish, aquatic insects, fish, frogs, turtles, wild birds, and wild quadrupeds permitted to be taken.

(J) "Transport and transportation" means carrying or moving or causing to be carried or moved.

(K) "Sell and sale" means barter, exchange, or offer or expose for sale.

(L) "Whole to include part" means that every provision relating to any wild animal protected by this chapter and Chapter 1533. of the Revised Code applies to any part of the wild animal

with the same effect as it applies to the whole. 14264

(M) "Angling" means fishing with not more than two hand 14265
lines, not more than two units of rod and line, or a combination 14266
of not more than one hand line and one rod and line, either in 14267
hand or under control at any time while fishing. The hand line or 14268
rod and line shall have attached to it not more than three baited 14269
hooks, not more than three artificial fly rod lures, or one 14270
artificial bait casting lure equipped with not more than three 14271
sets of three hooks each. 14272

(N) "Trotline" means a device for catching fish that consists 14273
of a line having suspended from it, at frequent intervals, 14274
vertical lines with hooks attached. 14275

(O) "Fish" means a cold-blooded vertebrate having fins. 14276

(P) "Measurement of fish" means length from the end of the 14277
nose to the longest tip or end of the tail. 14278

(Q) "Wild birds" includes game birds and nongame birds. 14279

(R) "Game" includes game birds, game quadrupeds, and 14280
fur-bearing animals. 14281

(S) "Game birds" includes mourning doves, ringneck pheasants, 14282
bobwhite quail, ruffed grouse, sharp-tailed grouse, pinnated 14283
grouse, wild turkey, Hungarian partridge, Chukar partridge, 14284
woodcocks, black-breasted plover, golden plover, Wilson's snipe or 14285
jacksnipe, greater and lesser yellowlegs, rail, coots, gallinules, 14286
duck, geese, brant, and crows. 14287

(T) "Nongame birds" includes all other wild birds not 14288
included and defined as game birds or migratory game birds. 14289

(U) "Wild quadrupeds" includes game quadrupeds and 14290
fur-bearing animals. 14291

(V) "Game quadrupeds" includes cottontail rabbits, gray 14292
squirrels, black squirrels, fox squirrels, red squirrels, flying 14293

squirrels, chipmunks, groundhogs or woodchucks, white-tailed deer, 14294
wild boar, and black bears. 14295

(W) "Fur-bearing animals" includes minks, weasels, raccoons, 14296
skunks, opossums, muskrats, fox, beavers, badgers, otters, 14297
coyotes, and bobcats. 14298

(X) "Wild animals" includes mollusks, crustaceans, aquatic 14299
insects, fish, reptiles, amphibians, wild birds, wild quadrupeds, 14300
and all other wild mammals, but does not include domestic deer. 14301

(Y) "Hunting" means pursuing, shooting, killing, following 14302
after or on the trail of, lying in wait for, shooting at, or 14303
wounding wild birds or wild quadrupeds while employing any device 14304
commonly used to kill or wound wild birds or wild quadrupeds 14305
whether or not the acts result in killing or wounding. "Hunting" 14306
includes every attempt to kill or wound and every act of 14307
assistance to any other person in killing or wounding or 14308
attempting to kill or wound wild birds or wild quadrupeds. 14309

(Z) "Trapping" means securing or attempting to secure 14310
possession of a wild bird or wild quadruped by means of setting, 14311
placing, drawing, or using any device that is designed to close 14312
upon, hold fast, confine, or otherwise capture a wild bird or wild 14313
quadruped whether or not the means results in capture. "Trapping" 14314
includes every act of assistance to any other person in capturing 14315
wild birds or wild quadrupeds by means of the device whether or 14316
not the means results in capture. 14317

(AA) "Muskrat spear" means any device used in spearing 14318
muskrats. 14319

(BB) "Channels and passages" means those narrow bodies of 14320
water lying between islands or between an island and the mainland 14321
in Lake Erie. 14322

(CC) "Island" means a rock or land elevation above the waters 14323
of Lake Erie having an area of five or more acres above water. 14324

(DD) "Reef" means an elevation of rock, either broken or in place, or gravel shown by the latest United States chart to be above the common level of the surrounding bottom of the lake, other than the rock bottom, or in place forming the base or foundation rock of an island or mainland and sloping from the shore of it. "Reef" also means all elevations shown by that chart to be above the common level of the sloping base or foundation rock of an island or mainland, whether running from the shore of an island or parallel with the contour of the shore of an island or in any other way and whether formed by rock, broken or in place, or from gravel.

(EE) "Fur farm" means any area used exclusively for raising fur-bearing animals or in addition thereto used for hunting game, the boundaries of which are plainly marked as such.

(FF) "Waters" includes any lake, pond, reservoir, stream, channel, lagoon, or other body of water, or any part thereof, whether natural or artificial.

(GG) "Crib" or "car" refers to that particular compartment of the net from which the fish are taken when the net is lifted.

(HH) "Commercial fish" means those species of fish permitted to be taken, possessed, bought, or sold unless otherwise restricted by the Revised Code or division rule and are alewife (*Alosa pseudoharengus*), American eel (*Anguilla rostrata*), bowfin (*Amia calva*), burbot (*Lota lota*), carp (*Cyprinus carpio*), smallmouth buffalo (*Ictiobus bubalus*), bigmouth buffalo (*Ictiobus cyprinellus*), black bullhead (*Ictalurus melas*), yellow bullhead (*Ictalurus natalis*), brown bullhead (*Ictalurus nebulosus*), channel catfish (*Ictalurus punctatus*), flathead catfish (*Pylodictis olivaris*), whitefish (*Coregonus* sp.), cisco (*Coregonus* sp.), freshwater drum or sheepshead (*Aplodinotus grunniens*), gar (*Lepisosteus* sp.), gizzard shad (*Dorosoma cepedianum*), goldfish (*Carassius auratus*), lake trout (*Salvelinus namaycush*), mooneye

(Hiodon tergisus), quillback (Carpiodes cyprinus), smelt 14357
(Allosmerus elongatus, Hypomesus sp., Osmerus sp., Spirinchus 14358
sp.), sturgeon (Acipenser sp., Scaphirhynchus sp.), sucker other 14359
than buffalo and quillback (Carpiodes sp., Catostomus sp., 14360
Hypentelium sp., Minytrema sp., Moxostoma sp.), white bass (Morone 14361
chrysops), white perch (Roccus americanus), and yellow perch 14362
(Perca flavescens). When the common name of a fish is used in this 14363
chapter or Chapter 1533. of the Revised Code, it refers to the 14364
fish designated by the scientific name in this definition. 14365

(II) "Fishing" means taking or attempting to take fish by any 14366
method, and all other acts such as placing, setting, drawing, or 14367
using any device commonly used to take fish whether resulting in a 14368
taking or not. 14369

(JJ) "Fillet" means the pieces of flesh taken or cut from 14370
both sides of a fish, joined to form one piece of flesh. 14371

(KK) "Part fillet" means a piece of flesh taken or cut from 14372
one side of a fish. 14373

(LL) "Round" when used in describing fish means with head and 14374
tail intact. 14375

(MM) "Migrate" means the transit or movement of fish to or 14376
from one place to another as a result of natural forces or 14377
instinct and includes, but is not limited to, movement of fish 14378
induced or caused by changes in the water flow. 14379

(NN) "Spreader bar" means a brail or rigid bar placed across 14380
the entire width of the back, at the top and bottom of the cars in 14381
all trap, crib, and fyke nets for the purpose of keeping the 14382
meshes hanging squarely while the nets are fishing. 14383

(OO) "Fishing guide" means any person who, for consideration 14384
or hire, operates a boat, rents, leases, or otherwise furnishes 14385
angling devices, ice fishing shanties or shelters of any kind, or 14386
other fishing equipment, and accompanies, guides, directs, or 14387

assists any other person in order for the other person to engage 14388
in fishing. 14389

(PP) "Net" means fishing devices with meshes composed of 14390
twine or synthetic material and includes, but is not limited to, 14391
trap nets, fyke nets, crib nets, carp aprons, dip nets, and 14392
seines, except minnow seines and minnow dip nets. 14393

(QQ) "Commercial fishing gear" means seines, trap nets, fyke 14394
nets, dip nets, carp aprons, trotlines, other similar gear, and 14395
any boat used in conjunction with that gear, but does not include 14396
gill nets. 14397

(RR) "Native wildlife" means any species of the animal 14398
kingdom indigenous to this state. 14399

(SS) "Gill net" means a single section of fabric or netting 14400
seamed to a float line at the top and a lead line at the bottom, 14401
which is designed to entangle fish in the net openings as they 14402
swim into it. 14403

(TT) "Tag fishing tournament" means a contest in which a 14404
participant pays a fee, or gives other valuable consideration, for 14405
a chance to win a prize by virtue of catching a tagged or 14406
otherwise specifically marked fish within a limited period of 14407
time. 14408

(UU) "Tenant" means an individual who resides on land for 14409
which the individual pays rent and whose annual income is 14410
primarily derived from agricultural production conducted on that 14411
land, as "agricultural production" is defined in section 929.01 of 14412
the Revised Code. 14413

(VV) "Nonnative wildlife" means any wild animal not 14414
indigenous to this state, but does not include domestic deer. 14415

(WW) "Reptiles" includes common musk turtle (*sternotherus* 14416
odoratus), common snapping turtle (*Chelydra serpentina* 14417

serpentina), spotted turtle (<i>Clemmys guttata</i>), eastern box turtle	14418
(<i>Terrapene carolina carolina</i>), Blanding's turtle (<i>Emydoidea</i>	14419
<i>blandingii</i>), common map turtle (<i>Graptemys geographica</i>), ouachita	14420
map turtle (<i>Graptemys pseudogeographica ouachitensis</i>), midland	14421
painted turtle (<i>Chrysemys picta marginata</i>), red-eared slider	14422
(<i>Trachemys scripta elegans</i>), eastern spiny softshell turtle	14423
(<i>Apalone spinifera spinifera</i>), midland smooth softshell turtle	14424
(<i>Apalone mutica mutica</i>), northern fence lizard (<i>Sceloporus</i>	14425
<i>undulatus hyacinthinus</i>), ground skink (<i>Scincella lateralis</i>),	14426
five-lined skink (<i>Eumeces fasciatus</i>), broadhead skink (<i>Eumeces</i>	14427
<i>laticeps</i>), northern coal skink (<i>Eumeces anthracinus anthracinus</i>),	14428
European wall lizard (<i>Podarcis muralis</i>), queen snake (<i>Regina</i>	14429
<i>septemvittata</i>), Kirtland's snake (<i>Clonophis kirtlandii</i>), northern	14430
water snake (<i>Nerodia sipedon sipedon</i>), Lake Erie watersnake	14431
(<i>Nerodia sipedon insularum</i>), copperbelly water snake (<i>Nerodia</i>	14432
<i>erythrogaster neglecta</i>), northern brown snake (<i>Storeria dekayi</i>	14433
<i>dekayi</i>), midland brown snake (<i>Storeria dekayi wrightorum</i>),	14434
northern redbelly snake (<i>Storeria occipitomaculata</i>	14435
<i>occipitomaculata</i>), eastern garter snake (<i>Thamnophis sirtalis</i>	14436
<i>sirtalis</i>), eastern plains garter snake (<i>Thamnophis radix radix</i>),	14437
Butler's garter snake (<i>Thamnophis butleri</i>), shorthead garter snake	14438
(<i>Thamnophis brachystoma</i>), eastern ribbon snake (<i>Thamnophis</i>	14439
<i>sauritus sauritus</i>), northern ribbon snake (<i>Thamnophis sauritus</i>	14440
<i>septentrionalis</i>), eastern hognose snake (<i>Heterodon platirhinos</i>),	14441
eastern smooth earth snake (<i>Virginia valeriae valeriae</i>), northern	14442
ringneck snake (<i>Diadophis punctatus edwardsii</i>), midwest worm snake	14443
(<i>Carphophis amoenus helena</i>), eastern worm snake (<i>Carphophis</i>	14444
<i>amoenus amoenus</i>), black racer (<i>Coluber constrictor constrictor</i>),	14445
blue racer (<i>Coluber constrictor foxii</i>), rough green snake	14446
(<i>opheodrys aestivus</i>), smooth green snake (<i>opheodrys vernalis</i>	14447
<i>vernalis</i>), black rat snake (<i>Elaphe obsoleta obsoleta</i>), eastern fox	14448
snake (<i>Elaphe vulpina gloydi</i>), black kingsnake (<i>Lampropeltis</i>	14449
<i>getula nigra</i>), eastern milk snake (<i>Lampropeltis triangulum</i>	14450

triangulum), northern copperhead (*Agkistrodon contortrix mokasen*), 14451
eastern massasauga (*Sistrurus catenatus catenatus*), and timber 14452
rattlesnake (*Crotalus horridus horridus*). 14453

(XX) "Amphibians" includes eastern hellbender (*Cryptobranchus* 14454
alleganiensis alleganiensis), mudpuppy (*Necturus maculosus* 14455
maculosus), red-spotted newt (*Notophthalmus viridescens* 14456
viridescens), Jefferson salamander (*Ambystoma jeffersonianum*), 14457
spotted salamander (*Ambystoma maculatum*), blue-spotted salamander 14458
(*Ambystoma laterale*), smallmouth salamander (*Ambystoma texanum*), 14459
streamside salamander (*Ambystoma barbouri*), marbled salamander 14460
(*Ambystoma opacum*), eastern tiger salamander (*Ambystoma tigrinum* 14461
tigrinum), northern dusky salamander (*Desmognathus fuscus fuscus*), 14462
mountain dusky salamander (*Desmognathus ochrophaeus*), redback 14463
salamander (*Plethodon cinereus*), ravine salamander (*Plethodon* 14464
richmondi), northern slimy salamander (*Plethodon glutinosus*), 14465
Wehrle's salamander (*Plethodon wehrlei*), four-toed salamander 14466
(*Hemidactylium scutatum*), Kentucky spring salamander (*Gyrinophilus* 14467
porphyriticus duryi), northern spring salamander (*Gyrinophilus* 14468
porphyriticus porphyriticus), mud salamander (*Pseudotriton* 14469
montanus), northern red salamander (*Pseudotriton ruber ruber*), 14470
green salamander (*Aneides aeneus*), northern two-lined salamander 14471
(*Eurycea bislineata*), longtail salamander (*Eurycea longicauda* 14472
longicauda), cave salamander (*Eurycea lucifuga*), southern 14473
two-lined salamander (*Eurycea cirrigera*), Fowler's toad (*Bufo* 14474
woodhousii fowleri), American toad (*Bufo americanus*), eastern 14475
spadefoot (*Scaphiopus holbrookii*), Blanchard's cricket frog (*Acris* 14476
crepitans blanchardi), northern spring peeper (*Pseudacris crucifer* 14477
crucifer), gray treefrog (*Hyla versicolor*), Cope's gray treefrog 14478
(*Hyla chrysoscelis*), western chorus frog (*Pseudacris triseriata* 14479
triseriata), mountain chorus frog (*Pseudacris brachyphona*), 14480
bullfrog (*Rana catesbeiana*), green frog (*Rana clamitans melanota*), 14481
northern leopard frog (*Rana pipiens*), pickerel frog (*Rana* 14482
palustris), southern leopard frog (*Rana utricularia*), and wood 14483

frog (<i>Rana sylvatica</i>).	14484
(YY) "Deer" means white-tailed deer (<i>Odocoileus virginianus</i>).	14485 14486
(ZZ) "Domestic deer" means nonnative deer that have been legally acquired or their offspring and that are held in private ownership for primarily agricultural purposes.	14487 14488 14489
(AAA) "Migratory game bird" includes waterfowl (<i>Anatidae</i>); doves (<i>Columbidae</i>); cranes (<i>Gruidae</i>); cormorants (<i>Phalacrocoracidae</i>); rails, coots, and gallinules (<i>Rallidae</i>); and woodcock and snipe (<i>Scolopacidae</i>).	14490 14491 14492 14493
(BBB) "Accompany" means to go along with another person while staying within a distance from the person that enables uninterrupted, unaided visual and auditory communication.	14494 14495 14496
(CCC) "Electric-powered all-purpose vehicle" means any battery-powered self-propelled electric vehicle that is designed primarily for cross-country travel on land, water, or land and water and that is steered by wheels, caterpillar treads, or a combination of wheels and caterpillar treads and includes vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all-season vehicles, mini-bikes, and trail bikes. "Electric-powered all-purpose vehicle" does not include a utility vehicle as defined in section 4501.01 of the Revised Code, any vehicle that is principally used in playing golf, any motor vehicle or aircraft that is required to be registered under Chapter 4503. or 4561. of the Revised Code, or any vehicle that is excluded from the definition of "motor vehicle" as provided in division (B) of section 4501.01 of the Revised Code.	14497 14498 14499 14500 14501 14502 14503 14504 14505 14506 14507 14508 14509 14510
<u>(DDD) "Children" means biological or adopted sons or daughters and adopted stepsons or stepdaughters.</u>	14511 14512
<u>(EEE) "Grandchildren" means the children of one's child.</u>	14513

Sec. 1533.10. Except as provided in this section or division 14514
(A)(2) of section 1533.12 of the Revised Code, no person shall 14515
hunt any wild bird or wild quadruped without a hunting license. 14516
Each day that any person hunts within the state without procuring 14517
such a license constitutes a separate offense. Except as otherwise 14518
provided in this section, every applicant for a hunting license 14519
who is a resident of the state and eighteen years of age or more 14520
shall procure a resident hunting license or an apprentice resident 14521
hunting license, the fee for which shall be eighteen dollars 14522
unless the rules adopted under division (B) of section 1533.12 of 14523
the Revised Code provide for issuance of a resident hunting 14524
license to the applicant free of charge. Except as provided in 14525
rules adopted under division (B)(2) of that section, each 14526
applicant who is a resident of this state and who at the time of 14527
application is sixty-six years of age or older shall procure a 14528
special senior hunting license, the fee for which shall be 14529
one-half of the regular hunting license fee. Every applicant who 14530
is under the age of eighteen years shall procure a special youth 14531
hunting license or an apprentice youth hunting license, the fee 14532
for which shall be one-half of the regular hunting license fee. 14533
~~The owner of~~ A resident of this state who owns lands in the state 14534
and the owner's children of any age and grandchildren under 14535
eighteen years of age may hunt on the lands without a hunting 14536
license, but shall obtain a deer or wild turkey permit as required 14537
in section 1533.11 of the Revised Code. The tenant and children of 14538
the tenant, residing on lands in the state, may hunt on them 14539
without a hunting license, but shall obtain a deer or wild turkey 14540
permit as required in section 1533.11 of the Revised Code. Except 14541
as otherwise provided in division (A)(1) of section 1533.12 of the 14542
Revised Code, every applicant for a hunting license who is a 14543
nonresident of the state and who is eighteen years of age or older 14544
shall procure a nonresident hunting license or an apprentice 14545

nonresident hunting license, the fee for which shall be one 14546
hundred twenty-four dollars unless the applicant is a resident of 14547
a state that is a party to an agreement under section 1533.91 of 14548
the Revised Code, in which case the fee shall be eighteen dollars. 14549
Apprentice resident hunting licenses, apprentice youth hunting 14550
licenses, and apprentice nonresident hunting licenses are subject 14551
to the requirements established under section 1533.102 of the 14552
Revised Code and rules adopted pursuant to it. 14553

The chief of the division of wildlife may issue a small game 14554
hunting license expiring three days from the effective date of the 14555
license to a nonresident of the state, the fee for which shall be 14556
thirty-nine dollars. No person shall take or possess deer, wild 14557
turkeys, fur-bearing animals, ducks, geese, brant, or any nongame 14558
animal while possessing only a small game hunting license. A small 14559
game hunting license or an apprentice nonresident hunting license 14560
does not authorize the taking or possessing of ducks, geese, or 14561
brant without having obtained, in addition to the small game 14562
hunting license or the apprentice nonresident hunting license, a 14563
wetlands habitat stamp as provided in section 1533.112 of the 14564
Revised Code. A small game hunting license or an apprentice 14565
nonresident hunting license does not authorize the taking or 14566
possessing of deer, wild turkeys, or fur-bearing animals. A 14567
nonresident of the state who wishes to take or possess deer, wild 14568
turkeys, or fur-bearing animals in this state shall procure, 14569
respectively, a deer or wild turkey permit as provided in section 14570
1533.11 of the Revised Code or a fur taker permit as provided in 14571
section 1533.111 of the Revised Code in addition to a nonresident 14572
hunting license, an apprentice nonresident hunting license, a 14573
special youth hunting license, or an apprentice youth hunting 14574
license, as applicable, as provided in this section. 14575

No person shall procure or attempt to procure a hunting 14576
license by fraud, deceit, misrepresentation, or any false 14577

statement. 14578

This section does not authorize the taking and possessing of 14579
deer or wild turkeys without first having obtained, in addition to 14580
the hunting license required by this section, a deer or wild 14581
turkey permit as provided in section 1533.11 of the Revised Code 14582
or the taking and possessing of ducks, geese, or brant without 14583
first having obtained, in addition to the hunting license required 14584
by this section, a wetlands habitat stamp as provided in section 14585
1533.112 of the Revised Code. 14586

This section does not authorize the hunting or trapping of 14587
fur-bearing animals without first having obtained, in addition to 14588
a hunting license required by this section, a fur taker permit as 14589
provided in section 1533.111 of the Revised Code. 14590

No hunting license shall be issued unless it is accompanied 14591
by a written explanation of the law in section 1533.17 of the 14592
Revised Code and the penalty for its violation, including a 14593
description of terms of imprisonment and fines that may be 14594
imposed. 14595

No hunting license, other than an apprentice hunting license, 14596
shall be issued unless the applicant presents to the agent 14597
authorized to issue the license a previously held hunting license 14598
or evidence of having held such a license in content and manner 14599
approved by the chief, a certificate of completion issued upon 14600
completion of a hunter education and conservation course approved 14601
by the chief, or evidence of equivalent training in content and 14602
manner approved by the chief. A previously held apprentice hunting 14603
license does not satisfy the requirement concerning the 14604
presentation of a previously held hunting license or evidence of 14605
it. 14606

No person shall issue a hunting license, except an apprentice 14607
hunting license, to any person who fails to present the evidence 14608

required by this section. No person shall purchase or obtain a 14609
hunting license, other than an apprentice hunting license, without 14610
presenting to the issuing agent the evidence required by this 14611
section. Issuance of a hunting license in violation of the 14612
requirements of this section is an offense by both the purchaser 14613
of the illegally obtained hunting license and the clerk or agent 14614
who issued the hunting license. Any hunting license issued in 14615
violation of this section is void. 14616

The chief, with approval of the wildlife council, shall adopt 14617
rules prescribing a hunter education and conservation course for 14618
first-time hunting license buyers, other than buyers of apprentice 14619
hunting licenses, and for volunteer instructors. The course shall 14620
consist of subjects including, but not limited to, hunter safety 14621
and health, use of hunting implements, hunting tradition and 14622
ethics, the hunter and conservation, the law in section 1533.17 of 14623
the Revised Code along with the penalty for its violation, 14624
including a description of terms of imprisonment and fines that 14625
may be imposed, and other law relating to hunting. Authorized 14626
personnel of the division or volunteer instructors approved by the 14627
chief shall conduct such courses with such frequency and at such 14628
locations throughout the state as to reasonably meet the needs of 14629
license applicants. The chief shall issue a certificate of 14630
completion to each person who successfully completes the course 14631
and passes an examination prescribed by the chief. 14632

Sec. 1533.11. (A) ~~Except as provided in this section, no (1)~~ 14633
~~No~~ person shall hunt deer ~~on lands of another~~ without first 14634
obtaining an annual deer permit. ~~Except as provided in this~~ 14635
~~section, no~~ No person shall hunt wild turkeys ~~on lands of another~~ 14636
without first obtaining an annual wild turkey permit. ~~Each~~ 14637

(2) Except as otherwise provided in this division, each 14638
applicant for a deer or wild turkey permit shall pay an annual fee 14639

of twenty-three dollars for each permit unless the rules adopted 14640
under division (B) of section 1533.12 of the Revised Code provide 14641
for issuance of a deer or wild turkey permit to the applicant free 14642
of charge. A resident of this state who owns lands in this state 14643
and the owner's children and grandchildren shall procure a 14644
landowner deer or landowner wild turkey permit free of charge in 14645
order to hunt deer or wild turkeys on those lands. A tenant and 14646
children of the tenant residing on lands in this state shall 14647
procure a landowner deer or landowner wild turkey permit free of 14648
charge in order to hunt deer or wild turkeys on those lands. 14649
Except as provided in rules adopted under division (B)(2) of ~~that~~ 14650
section 1533.12 of the Revised Code, each applicant who is a 14651
resident of this state and who at the time of application is 14652
sixty-six years of age or older shall procure a senior deer or 14653
wild turkey permit in order to hunt on lands of another, the fee 14654
for which shall be one-half of the regular deer or wild turkey 14655
permit fee. Each applicant who is under the age of eighteen years 14656
shall procure a youth deer or wild turkey permit in order to hunt 14657
on lands of another, the fee for which shall be one-half of the 14658
regular deer or wild turkey permit fee. ~~Except~~ 14659

(3) ~~Except~~ as provided in division (A)(2) of section 1533.12 14660
of the Revised Code, a deer or wild turkey permit shall run 14661
concurrently with the hunting license. ~~The~~ 14662

(4) ~~The~~ money received shall be paid into the state treasury 14663
to the credit of the wildlife fund, created in section 1531.17 of 14664
the Revised Code, exclusively for the use of the division of 14665
wildlife in the acquisition and development of land for deer or 14666
wild turkey management, for investigating deer or wild turkey 14667
problems, and for the stocking, management, and protection of deer 14668
or wild turkey. ~~Every~~ 14669

(5) ~~Every~~ person, while hunting deer or wild turkey ~~on lands~~ 14670
~~of another~~, shall carry the person's deer or wild turkey permit 14671

and exhibit it to any enforcement officer so requesting. Failure 14672
to so carry and exhibit such a permit constitutes an offense under 14673
this section. The chief of the division of wildlife shall adopt 14674
any additional rules the chief considers necessary to carry out 14675
this section and section 1533.10 of the Revised Code. 14676

~~The owner and the children of the owner of lands in this 14677
state may hunt deer or wild turkey thereon without a deer or wild 14678
turkey permit. The tenant and children of the tenant may hunt deer 14679
or wild turkey on lands where they reside without a deer or wild 14680
turkey permit. 14681~~

(B) A deer or wild turkey permit is not transferable. No 14682
person shall carry a deer or wild turkey permit issued in the name 14683
of another person. 14684

(C) The wildlife refunds fund is hereby created in the state 14685
treasury. The fund shall consist of money received from 14686
application fees for deer permits that are not issued. Money in 14687
the fund shall be used to make refunds of such application fees. 14688

Sec. 1547.01. (A) As used in sections 1541.03, 1547.26, 14689
1547.39, 1547.40, 1547.53, 1547.54, 1547.541, 1547.542, 1547.543, 14690
1547.56, 1547.57, 1547.66, 3733.21, and 5311.01 of the Revised 14691
Code, "watercraft" means any of the following when used or capable 14692
of being used for transportation on the water: 14693

(1) A vessel operated by machinery either permanently or 14694
temporarily affixed; 14695

(2) A sailboat other than a sailboard; 14696

(3) An inflatable, manually propelled boat that is required 14697
by federal law to have a hull identification number meeting the 14698
requirements of the United States coast guard; 14699

(4) A canoe or rowboat. 14700

"Watercraft" does not include ferries as referred to in 14701

Chapter 4583. of the Revised Code.	14702
Watercraft subject to section 1547.54 of the Revised Code	14703
shall be divided into five classes as follows:	14704
Class A: Less than sixteen feet in length;	14705
Class 1: At least sixteen feet, but less than twenty-six feet in length;	14706 14707
Class 2: At least twenty-six feet, but less than forty feet in length;	14708 14709
Class 3: At least forty feet, but less than sixty-five feet in length;	14710 14711
Class 4: At least sixty-five feet in length.	14712
(B) As used in this chapter:	14713
(1) "Vessel" includes every description of craft, including nondisplacement craft and seaplanes, designed to be used as a means of transportation on water.	14714 14715 14716
(2) "Rowboat" means any vessel, except a canoe, that is designed to be rowed and that is propelled by human muscular effort by oars or paddles and upon which no mechanical propulsion device, electric motor, internal combustion engine, or sail has been affixed or is used for the operation of the vessel.	14717 14718 14719 14720 14721
(3) "Sailboat" means any vessel, equipped with mast and sails, dependent upon the wind to propel it in the normal course of operation.	14722 14723 14724
(a) Any sailboat equipped with an inboard engine is deemed a powercraft with auxiliary sail.	14725 14726
(b) Any sailboat equipped with a detachable motor is deemed a sailboat with auxiliary power.	14727 14728
(c) Any sailboat being propelled by mechanical power, whether under sail or not, is deemed a powercraft and subject to all laws	14729 14730

and rules governing powercraft operation. 14731

(4) "Powercraft" means any vessel propelled by machinery, 14732
fuel, rockets, or similar device. 14733

(5) "Person" includes any legal entity defined as a person in 14734
section 1.59 of the Revised Code and any body politic, except the 14735
United States and this state, and includes any agent, trustee, 14736
executor, receiver, assignee, or other representative thereof. 14737

(6) "Owner" includes any person who claims lawful possession 14738
of a vessel by virtue of legal title or equitable interest therein 14739
that entitled the person to that possession. 14740

(7) "Operator" includes any person who navigates or has under 14741
the person's control a vessel, or vessel and detachable motor, on 14742
the waters in this state. 14743

(8) "Visible" means visible on a dark night with clear 14744
atmosphere. 14745

(9) "Waters in this state" means all streams, rivers, lakes, 14746
ponds, marshes, watercourses, waterways, and other bodies of 14747
water, natural or humanmade, that are situated wholly or partially 14748
within this state or within its jurisdiction and are used for 14749
recreational boating. 14750

(10) "Navigable waters" means waters that come under the 14751
jurisdiction of the department of the army of the United States 14752
and any waterways within or adjacent to this state, except inland 14753
lakes having neither a navigable inlet nor outlet. 14754

(11) "In operation" in reference to a vessel means that the 14755
vessel is being navigated or otherwise used on the waters in this 14756
state. 14757

(12) "Sewage" means human body wastes and the wastes from 14758
toilets and other receptacles intended to receive or retain body 14759
waste. 14760

(13) "Canoe" means a narrow vessel of shallow draft, pointed at both ends and propelled by human muscular effort, and includes kayaks, racing shells, and rowing sculls.

(14) "Coast guard approved" means bearing an approval number assigned by the United States coast guard.

(15) "Type one personal flotation device" means a device that is designed to turn an unconscious person floating in water from a face downward position to a vertical or slightly face upward position and that has at least nine kilograms, approximately twenty pounds, of buoyancy.

(16) "Type two personal flotation device" means a device that is designed to turn an unconscious person in the water from a face downward position to a vertical or slightly face upward position and that has at least seven kilograms, approximately fifteen and four-tenths pounds, of buoyancy.

(17) "Type three personal flotation device" means a device that is designed to keep a conscious person in a vertical or slightly face upward position and that has at least seven kilograms, approximately fifteen and four-tenths pounds, of buoyancy.

(18) "Type four personal flotation device" means a device that is designed to be thrown to a person in the water and not worn and that has at least seven and five-tenths kilograms, approximately sixteen and five-tenths pounds, of buoyancy.

(19) "Type five personal flotation device" means a device that, unlike other personal flotation devices, has limitations on its approval by the United States coast guard, including, without limitation, all of the following:

(a) The approval label on the type five personal flotation device indicates that the device is approved for the activity in which the vessel is being used or as a substitute for a personal

flotation device of the type required on the vessel in use. 14792

(b) The personal flotation device is used in accordance with 14793
any requirements on the approval label. 14794

(c) The personal flotation device is used in accordance with 14795
requirements in its owner's manual if the approval label refers to 14796
such a manual. 14797

(20) "Inflatable watercraft" means any vessel constructed of 14798
rubber, canvas, or other material that is designed to be inflated 14799
with any gaseous substance, constructed with two or more air 14800
cells, and operated as a vessel. Inflatable watercraft propelled 14801
by a motor shall be classified as powercraft and shall be 14802
registered by length. Inflatable watercraft propelled by a sail 14803
shall be classified as a sailboat and shall be registered by 14804
length. 14805

(21) "Idle speed" means the slowest possible speed needed to 14806
maintain steerage or maneuverability. 14807

(22) "Diver's flag" means a red flag not less than one foot 14808
square having a diagonal white stripe extending from the masthead 14809
to the opposite lower corner that when displayed indicates that 14810
divers are in the water. 14811

(23) "Muffler" means an acoustical suppression device or 14812
system that is designed and installed to abate the sound of 14813
exhaust gases emitted from an internal combustion engine and that 14814
prevents excessive or unusual noise. 14815

(24) "Law enforcement vessel" means any vessel used in law 14816
enforcement and under the command of a law enforcement officer. 14817

(25) "Personal watercraft" means a vessel, less than sixteen 14818
feet in length, that is propelled by machinery and designed to be 14819
operated by an individual sitting, standing, or kneeling on the 14820
vessel rather than by an individual sitting or standing inside the 14821

vessel. 14822

(26) "No wake" has the same meaning as "idle speed." 14823

(27) "Watercraft dealer" means any person who is regularly 14824
engaged in the business of manufacturing, selling, displaying, 14825
offering for sale, or dealing in vessels at an established place 14826
of business. "Watercraft dealer" does not include a person who is 14827
a marine salvage dealer or any other person who dismantles, 14828
salvages, or rebuilds vessels using used parts. 14829

(28) "Electronic" includes electrical, digital, magnetic, 14830
optical, electromagnetic, or any other form of technology that 14831
entails capabilities similar to these technologies. 14832

(29) "Electronic record" means a record generated, 14833
communicated, received, or stored by electronic means for use in 14834
an information system or for transmission from one information 14835
system to another. 14836

(30) "Electronic signature" means a signature in electronic 14837
form attached to or logically associated with an electronic 14838
record. 14839

(31) "Drug of abuse" has the same meaning as in section 14840
4506.01 of the Revised Code. 14841

~~(C) Unless otherwise provided, this chapter applies to all 14842
vessels operating on the waters in this state. Nothing in this 14843
chapter shall be construed in contravention of any valid federal 14844
act or regulation, but is in addition to the act or regulation 14845
where not inconsistent. 14846~~

~~The state reserves to itself the exclusive right to regulate 14847
the minimum equipment requirements of watercraft and vessels 14848
operated on the waters in this state. 14849~~

(32) "Watercourse" means a substantially natural channel with 14850
recognized banks and bottom in which a flow of water occurs, with 14851

an average of at least ten feet mean surface water width and at 14852
least five miles of length. 14853

(33) "Impoundment" means the reservoir created by a dam or 14854
other artificial barrier across a watercourse that causes water to 14855
be stored deeper than and generally beyond the banks of the 14856
natural channel of the watercourse during periods of normal flow, 14857
but does not include water stored behind rock piles, rock riffle 14858
dams, and low channel dams where the depth of water is less than 14859
ten feet above the channel bottom and is essentially confined 14860
within the banks of the natural channel during periods of normal 14861
stream flow. 14862

(34) "Wild river area" means an area declared a wild river 14863
area by the director of natural resources under this chapter and 14864
includes those rivers or sections of rivers that are free of 14865
impoundments and generally inaccessible except by trail, with 14866
watersheds or shorelines essentially primitive and waters 14867
unpolluted, representing vestiges of primitive America. 14868

(35) "Scenic river area" means an area declared a scenic 14869
river area by the director under this chapter and includes those 14870
rivers or sections of rivers that are free of impoundments, with 14871
shorelines or watersheds still largely primitive and shorelines 14872
largely undeveloped, but accessible in places by roads. 14873

(36) "Recreational river area" means an area declared a 14874
recreational river area by the director under this chapter and 14875
includes those rivers or sections of rivers that are readily 14876
accessible by road or railroad, that may have some development 14877
along their shorelines, and that may have undergone some 14878
impoundment or diversion in the past. 14879

Sec. 1547.02. Unless otherwise provided, this chapter applies 14880
to all vessels operating on the waters in this state. Nothing in 14881
this chapter shall be construed in contravention of any valid 14882

federal act or regulation, but is in addition to the act or 14883
regulation where not inconsistent. 14884

The state reserves to itself the exclusive right to regulate 14885
the minimum equipment requirements of watercraft and vessels 14886
operated on the waters in this state. 14887

Sec. 1547.51. There is hereby created within the department 14888
of natural resources the division of watercraft. The division 14889
shall ~~administer~~ do all of the following: 14890

(A) Administer and enforce all laws relative to the 14891
identification, numbering, registration, titling, use, and 14892
operation of vessels operated on the waters in this state ~~and,~~ 14893
~~with the approval of the director of natural resources, educate;~~ 14894

(B) Educate and inform the citizens of the state about, and 14895
promote, conservation, navigation, safety practices, and the 14896
benefits of recreational boating; 14897

(C) Provide wild, scenic, and recreational river area 14898
conservation education and provide for corridor protection, 14899
restoration, habitat enhancement, and clean-up projects in wild 14900
river areas, scenic river areas, and recreational river areas; 14901

(D) Provide for and assist in the development, maintenance, 14902
and operation of marine recreational facilities, docks, launching 14903
facilities, and harbors for the benefit of public navigation, 14904
recreation, or commerce if the chief of the division of watercraft 14905
determines that they are in the best interests of the state. 14906

Sec. 1547.52. (A) The division of watercraft shall be 14907
administered by the chief of the division of watercraft. The chief 14908
may adopt, amend, and rescind: 14909

(1) Rules considered necessary by the chief to supplement the 14910
identification, operation, titling, use, registration, and 14911

numbering of watercraft or vessels as provided in this chapter and 14912
Chapter 1548. of the Revised Code; 14913

(2) Rules governing the navigation of vessels on waters in 14914
this state, including, but not limited to, rules regarding 14915
steering and sailing, the conduct of vessels in sight of one 14916
another or in restricted visibility, lights and shapes of lights 14917
used on vessels, and sound and light signals. As the chief 14918
considers necessary, these navigational rules shall be consistent 14919
with and equivalent to the regulations and interpretive rulings 14920
governing inland waters adopted or issued under the "Inland 14921
Navigational Rules Act of 1980," 94 Stat. 3415, 33 U.S.C.A. 151, 14922
1604, 1605, 1608, 2001 to 2008, and 2071 to 2073. 14923

(3) Rules governing the use, visitation, protection, and 14924
administration of wild river areas, scenic river areas, and 14925
recreational river areas; 14926

(4) Rules establishing fees and charges for all of the 14927
following: 14928

(a) Boating skill development classes and other educational 14929
classes; 14930

(b) Law enforcement services provided at special events when 14931
the services are in addition to normal enforcement duties; 14932

(c) Inspections of vessels or motors conducted under this 14933
chapter or Chapter 1548. of the Revised Code; 14934

(d) The conducting of stream impact reviews of any planned or 14935
proposed construction, modification, renovation, or development 14936
project that may potentially impact a watercourse within a 14937
designated wild, scenic, or recreational river area. 14938

All rules adopted by the chief under division (A) of this 14939
section shall be adopted in accordance with Chapter 119. of the 14940
Revised Code and are subject to the prior approval of the director 14941

of natural resources. 14942

(B) The chief, with the approval of the director, may employ 14943
such clerical and technical help as the chief considers necessary. 14944

(C) The chief may designate license agents with the approval 14945
of the director. 14946

(D) The division is hereby designated as the agency to 14947
administer the Ohio boating safety program and allocated federal 14948
funds under, and the chief shall prepare and submit reports in 14949
such form as may be required by, the "Federal Boat Safety Act of 14950
1971," 85 Stat. 222, 46 U.S.C.A. 1475(a)(6), as amended. 14951

(E) The chief may sell any of the following: 14952

(1) Items related to or that promote boating safety, 14953
including, but not limited to, pins, badges, books, bulletins, 14954
maps, publications, calendars, and other educational articles; 14955

(2) Artifacts pertaining to boating; 14956

(3) Confiscated or forfeited items; 14957

(4) Surplus equipment. 14958

Sec. 1547.531. (A)(1) Except as provided in division (A)(2) 14959
or (B) of this section, no person shall operate or give permission 14960
for the operation of any watercraft on the waters in this state 14961
unless the watercraft is registered in the name of the current 14962
owner in accordance with section 1547.54 of the Revised Code, and 14963
the registration is valid and in effect. 14964

(2) On and after January 1, 1999, if a watercraft that is 14965
required to be issued a certificate of title under Chapter 1548. 14966
of the Revised Code is transferred to a new owner, it need not be 14967
registered under section 1547.54 of the Revised Code for 14968
forty-five days following the date of the transfer, provided that 14969
the new owner purchases a temporary watercraft registration under 14970

division (A) of this section or holds a bill of sale from a watercraft dealer. 14971
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For the purposes of division (A)(2) of this section, a temporary watercraft registration or a bill of sale from a watercraft dealer shall contain at least all of the following information: 14973
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14975
14976

(a) The hull identification number or serial number of the watercraft; 14977
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(b) The make of the watercraft; 14979

(c) The length of the watercraft; 14980

(d) The type of propulsion, if any; 14981

(e) The state in which the watercraft principally is operated; 14982
14983

(f) The name of the owner; 14984

(g) The address of the owner, including the zip code; 14985

(h) The signature of the owner; 14986

(i) The date of purchase; 14987

(j) A notice to the owner that the temporary watercraft registration expires forty-five days after the date of purchase of the watercraft or that the watercraft cannot be operated on the waters in this state solely under the bill of sale beginning forty-five days after the date of purchase of the watercraft, as applicable. 14988
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(3) A person may purchase a temporary watercraft registration from the chief of the division of watercraft or from an authorized agent designated under section 1547.54 of the Revised Code. The chief shall furnish forms for temporary watercraft registrations to authorized agents. In addition to completing the registration form with the information specified in divisions (A)(2)(a) to (i) 14994
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of this section, the person shall pay one of the applicable fees 15000
required under divisions (A)(2)(a) to (g) of section 1547.54 of 15001
the Revised Code as provided in that section. 15002

Moneys received for the payment of temporary watercraft 15003
registrations shall be deposited to the credit of the waterways 15004
safety fund created in section 1547.75 of the Revised Code. 15005

(4) In addition to the applicable fee required under division 15006
(A)(3) of this section, the chief or an authorized agent shall 15007
charge an additional writing fee of three dollars for a temporary 15008
watercraft registration that the chief or the authorized agent 15009
issues. When the temporary watercraft registration is issued by an 15010
authorized agent, the agent may retain the additional writing fee. 15011
When the temporary watercraft registration is issued by the chief, 15012
the additional writing fee shall be deposited to the credit of the 15013
waterways safety fund. 15014

(5) A person who purchases a temporary watercraft 15015
registration for a watercraft and who subsequently applies for a 15016
registration certificate under section 1547.54 of the Revised Code 15017
need not pay the fee required under division (A)(2) of that 15018
section for the initial registration certificate issued for that 15019
watercraft, provided that at the time of application for the 15020
registration certificate, the person furnishes proof of payment 15021
for the temporary watercraft registration. 15022

(6) A person who purchases a temporary watercraft 15023
registration, who subsequently applies for a registration 15024
certificate under section 1547.54 of the Revised Code, and who is 15025
exempt from payment for the registration certificate under 15026
division ~~(O)~~(P) of that section may apply to the chief for a 15027
refund of the amount paid for the temporary watercraft 15028
registration at the time that the person applies for a 15029
registration certificate. The chief shall refund that amount upon 15030
issuance to the person of a registration certificate. 15031

(7) All records of the division of watercraft made or maintained for the purposes of divisions (A)(2) to (8) of this section are public records. The records shall be available for inspection at reasonable hours and in a manner that is compatible with normal operations of the division.

(8) Pursuant to division (A)(1) of section 1547.52 of the Revised Code, the chief may adopt rules establishing all of the following:

(a) Record-keeping requirements governing the issuance of temporary watercraft registrations and the use of bills of sale from watercraft dealers for the purposes of division (A)(2) of this section;

(b) Procedures and requirements for the refund of fees under division (A)(6) of this section;

(c) Any other procedures and requirements necessary for the administration and enforcement of divisions (A)(2) to (8) of this section.

(B) All of the following watercraft are exempt from registration:

(1) Those that are exempt from numbering by the state under divisions (B) to (G) of section 1547.53 of the Revised Code;

(2) Those that have been issued a commercial documentation by the United States coast guard or its successor and are used exclusively for commercial purposes;

(3) Those that have been documented by the United States coast guard or its successor as temporarily transitting, whose principal use is not on the waters in this state, and that have not been used within this state for more than sixty days.

(C) No person shall operate a watercraft documented by the United States coast guard or its successor unless the certificate

of documentation is valid, is on the watercraft for which it has 15062
been issued, and is available for inspection whenever the 15063
watercraft is in operation. In accordance with 46 C.F.R. part 67, 15064
as amended, the watercraft shall display the official number, the 15065
vessel name, and the home port listed on the certificate of 15066
documentation. 15067

(D)(1) For the purposes of this section and section 1547.53 15068
of the Revised Code, a watercraft is principally using the waters 15069
in this state if any of the following applies: 15070

(a) The owner resides in this state and declares that the 15071
watercraft principally is using the waters in this state. 15072

(b) The owner resides in another state, but declares that the 15073
watercraft principally is using the waters in this state. 15074

(c) The watercraft is registered in another state or 15075
documented by the United States coast guard and is used within 15076
this state for more than sixty days regardless of whether it has 15077
been assigned a seasonal or permanent mooring at any public or 15078
private docking facility in this state. 15079

(2) Notwithstanding division (D)(1)(c) of this section, a 15080
person on active duty in the armed forces of the United States may 15081
register a watercraft in the person's state of permanent residence 15082
in lieu of registering it in this state regardless of the number 15083
of days that the watercraft is used in this state. 15084

Sec. 1547.54. (A)(1) Except as otherwise provided in section 15085
1547.542 of the Revised Code, the owner of every watercraft 15086
requiring registration under this chapter shall file an 15087
application for a triennial registration certificate with the 15088
chief of the division of watercraft on forms that shall be 15089
provided by the chief or by an electronic means approved by the 15090
chief. The application shall be signed by the following: 15091

(a) If the watercraft is owned by two persons under joint ownership with right of survivorship established under section 2131.12 of the Revised Code, by both of those persons as owners of the watercraft. The signatures may be done by electronic signature if the owners themselves are renewing the registration and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures shall be done manually.

(b) If the watercraft is owned by a minor, by the minor and a parent or legal guardian. The signatures may be done by electronic signature if the parent or legal guardian and the minor themselves are renewing the registration and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures shall be done manually.

(c) In all other cases, by the owner of the watercraft. The signature may be done by electronic signature if the owner is renewing the registration personally and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures shall be done manually.

(2) An application for a triennial registration of a watercraft filed under division (A)(1) of this section shall be accompanied by the following fee:

(a) For canoes, rowboats, and inflatable watercraft that are numbered under section 1547.53 of the Revised Code, twelve dollars;

(b) For canoes, row boats, and inflatable watercraft that are not numbered under section 1547.53 of the Revised Code, seventeen dollars;

(c) For class A watercraft, including motorized canoes,

thirty dollars; 15123

(d) For class 1 watercraft, forty-five dollars; 15124

(e) For class 2 watercraft, sixty dollars; 15125

(f) For class 3 watercraft, seventy-five dollars; 15126

(g) For class 4 watercraft, ninety dollars. 15127

(3) For the purpose of registration, any watercraft operated 15128
by means of power, sail, or any other mechanical or electrical 15129
means of propulsion, except motorized canoes, shall be registered 15130
by length as prescribed in this section. 15131

(4) If an application for registration is filed by two 15132
persons as owners under division (A)(1)(a) of this section, the 15133
person who is listed first on the title shall serve as and perform 15134
the duties of the "owner" and shall be considered the person "in 15135
whose name the watercraft is registered" for purposes of divisions 15136
(B) to ~~(Q)~~(R) of this section and for purposes of all other 15137
sections in this chapter. 15138

(B) All registration certificates issued under this section 15139
are valid for three years and are renewable on a triennial basis 15140
unless sooner terminated or discontinued in accordance with this 15141
chapter. The renewal date shall be printed on the registration 15142
certificate. A registration certificate may be renewed by the 15143
owner in the manner prescribed by the chief. All fees shall be 15144
charged according to a proration of the time remaining in the 15145
registration cycle to the nearest year. 15146

(C) In addition to the fees set forth in this section, the 15147
chief, or any authorized agent, shall charge an additional writing 15148
fee of three dollars for any registration certificate the chief or 15149
authorized agent issues. When the registration certificate is 15150
issued by an authorized agent, the additional writing fee of three 15151
dollars shall be retained by the issuing agent. When the 15152

registration certificate is issued by the chief, the additional 15153
writing fee of three dollars shall be deposited to the credit of 15154
the waterways safety fund established in section 1547.75 of the 15155
Revised Code. 15156

(D) In addition to the fees established in this section, 15157
watercraft that are not powercraft shall be charged a waterways 15158
conservation assessment fee of five dollars. The fee shall be 15159
collected at the time of the issuance of a triennial watercraft 15160
registration under division (A)(2) of this section and deposited 15161
in the state treasury and credited to a distinct account in the 15162
waterways safety fund created in section 1547.75 of the Revised 15163
Code. 15164

(E)(1) Upon receipt of the application in approved form, the 15165
chief shall enter the same upon the records of the office of the 15166
division of watercraft, assign a number to the watercraft if a 15167
number is required under section 1547.53 of the Revised Code, and 15168
issue to the applicant a registration certificate. If a number is 15169
assigned by the chief, it shall be set forth on the certificate. 15170
The registration certificate shall be on the watercraft for which 15171
it is issued and available at all times for inspection whenever 15172
the watercraft is in operation, except that livery operators may 15173
retain the registration certificate at the livery where it shall 15174
remain available for inspection at all times and except as 15175
otherwise provided in division ~~(D)~~(E)(2) of this section. 15176

(2) A person who is operating on the waters of this state a 15177
canoe, rowboat, or inflatable watercraft that has not been 15178
numbered under section 1547.53 of the Revised Code and who is 15179
stopped by a law enforcement officer in the enforcement of this 15180
chapter or rules adopted under it shall present to the officer, 15181
not later than seventy-two hours after being stopped, a 15182
registration certificate. The registration certificate shall have 15183
been obtained under this section for the canoe, rowboat, or 15184

inflatable watercraft prior to the time that it was stopped. 15185
Failure of the person to present the registration certificate 15186
within seventy-two hours constitutes prima-facie evidence of a 15187
violation of this section. 15188

~~(E)~~(F) No person shall issue or be issued a registration 15189
certificate for a watercraft that is required to be issued a 15190
certificate of title under Chapter 1548. of the Revised Code 15191
except upon presentation of a certificate of title for the 15192
watercraft as provided in that chapter, proof of current 15193
documentation by the United States coast guard, a renewal 15194
registration form provided by the division of watercraft, or a 15195
certificate of registration issued under this section that has 15196
expired if there is no change in the ownership or description of 15197
the watercraft. 15198

~~(F)~~(G) Whenever the ownership of a watercraft changes, a new 15199
application form together with the prescribed fee shall be filed 15200
with the chief or the chief's agent and a new registration 15201
certificate shall be issued. The application shall be signed 15202
manually by the person or persons specified in divisions (A)(1)(a) 15203
to (c) of this section and shall be accompanied by a two-dollar 15204
transfer fee. Any remaining time on the registration shall be 15205
transferred. An authorized agent of the chief shall charge an 15206
additional writing fee of three dollars, which shall be retained 15207
by the issuing agent. If the certificate is issued by the chief, 15208
an additional writing fee of three dollars for each certificate 15209
issued shall be collected and deposited to the credit of the 15210
waterways safety fund. 15211

~~(G)~~(H) If an agency of the United States has in force an 15212
overall system of identification numbering for watercraft or 15213
certain types of watercraft within the United States, the 15214
numbering system employed by the division shall be in conformity 15215
with that system. 15216

~~(H)~~(I)(1) The chief may assign any registration certificates 15217
to any authorized agent for the assignment of the registration 15218
certificates. If a person accepts that authorization, the person 15219
may be assigned a block of numbers and certificates that upon 15220
assignment, in conformity with this chapter and Chapter 1548. of 15221
the Revised Code and with rules of the division, shall be valid as 15222
if assigned directly by the division. Any person so designated as 15223
an agent by the chief shall post with the division security as may 15224
be required by the director of natural resources. The chief may 15225
issue an order temporarily or permanently restricting or 15226
suspending an agent's authorization without a hearing if the chief 15227
finds that the agent has violated this chapter or Chapter 1548. of 15228
the Revised Code, rules adopted under them, or any agreements 15229
prescribed by the chief. 15230

(2) A clerk of the court of common pleas may apply for 15231
designation as an authorized agent of the chief. The division 15232
shall accept the clerk's bond that is required under section 15233
2303.02 of the Revised Code for any security that is required for 15234
agents under this division, provided that the bond includes a 15235
rider or other provision specifically covering the clerk's duties 15236
as an authorized agent of the chief. 15237

~~(I)~~(J) All records of the division made or kept pursuant to 15238
this section shall be public records. Those records shall be 15239
available for inspection at reasonable hours and in a manner 15240
compatible with normal operations of the division. 15241

~~(J)~~(K) The owner shall furnish the division notice within 15242
fifteen days of the following: 15243

(1) The transfer, other than through the creation of a 15244
security interest in any watercraft, of all or any part of the 15245
owner's interest or, if the watercraft is owned by two persons 15246
under joint ownership with right of survivorship established under 15247
section 2131.12 of the Revised Code, of all or any part of the 15248

joint interest of either of the two persons. The transfer shall 15249
not terminate the registration certificate. 15250

(2) Any change in the address appearing on the certificate . 15251
As a part of the notification, the owner shall furnish the chief 15252
with the owner's new address. 15253

(3) The destruction or abandonment of the watercraft. 15254

~~(K)~~(L) The chief may issue duplicate registration 15255
certificates or duplicate tags to owners of currently registered 15256
watercraft, the fee for which shall be four dollars. 15257

~~(L)~~(M) If the chief finds that a registration certificate 15258
previously issued to an owner is in error to a degree that would 15259
impair its basic purpose and use, the chief may issue a corrected 15260
certificate to the owner without charge. 15261

~~(M)~~(N) No authorized agent shall issue and no person shall 15262
receive or accept from an authorized agent a registration 15263
certificate assigned to the authorized agent under division ~~(H)~~(I) 15264
of this section unless the exact month, day, and year of issue are 15265
plainly written on the certificate by the agent. Certificates 15266
issued with incorrect dates of issue are void from the time they 15267
are issued. 15268

~~(N)~~(O) The chief, in accordance with Chapter 119. of the 15269
Revised Code, shall adopt rules governing the renewal of 15270
watercraft registrations by electronic means. 15271

~~(O)~~(P) As used in this section: 15272

(1) "Disabled veteran" means a person who is included in 15273
either of the following categories: 15274

(a) Because of a service-connected disability, has been or is 15275
awarded funds for the purchase of a motor vehicle under the 15276
"Disabled Veterans' and Servicemen's Automobile Assistance Act of 15277
1970," 84 Stat. 1998, 38 U.S.C. 1901, and amendments thereto; 15278

(b) Has a service-connected disability rated at one hundred 15279
per cent by the veterans administration. 15280

(2) "Prisoner of war" means any regularly appointed, 15281
enrolled, enlisted, or inducted member of the military forces of 15282
the United States who was captured, separated, and incarcerated by 15283
an enemy of the United States at any time, and any regularly 15284
appointed, enrolled, or enlisted member of the military forces of 15285
Great Britain, France, Australia, Belgium, Brazil, Canada, China, 15286
Denmark, Greece, the Netherlands, New Zealand, Norway, Poland, 15287
South Africa, or the republics formerly associated with the Union 15288
of Soviet Socialist Republics or Yugoslavia who was a citizen of 15289
the United States at the time of the appointment, enrollment, or 15290
enlistment, and was captured, separated, and incarcerated by an 15291
enemy of this country during World War II. 15292

~~(P)~~(O) Any disabled veteran, congressional medal of honor 15293
awardee, or prisoner of war may apply to the chief for a 15294
certificate of registration, or for a renewal of the certificate 15295
of registration, without the payment of any fee required by this 15296
section. The application for a certificate of registration shall 15297
be accompanied by evidence of disability or by documentary 15298
evidence in support of a congressional medal of honor that the 15299
chief requires by rule. The application for a certificate of 15300
registration by any person who has been a prisoner of war shall be 15301
accompanied by written evidence in the form of a record of 15302
separation, a letter from one of the armed forces of a country 15303
listed in division ~~(O)~~(P)(2) of this section, or other evidence 15304
that the chief may require by rule, that the person was honorably 15305
discharged or is currently residing in this state on active duty 15306
with one of the branches of the armed forces of the United States, 15307
or was a prisoner of war and was honorably discharged or received 15308
an equivalent discharge or release from one of the armed forces of 15309
a country listed in division ~~(O)~~(P)(2) of this section. 15310

~~(Q)~~(R) Annually by the fifteenth day of January, the director 15311
of natural resources shall determine the amount of fees that would 15312
have been collected in the prior calendar year for each 15313
certificate of registration issued or renewed pursuant to division 15314
~~(P)~~(Q) of this section and shall certify the total amount of 15315
foregone revenue to the director of budget and management for 15316
reimbursement. The director of budget and management shall 15317
transfer the amount certified from the general revenue fund to the 15318
waterways safety fund ~~created pursuant to section 1547.75 of the~~ 15319
~~Revised Code.~~ 15320

Sec. 1547.542. Any person or organization owning any number 15321
of canoes, rowboats, inflatable watercraft, or sailboats for the 15322
purpose of rental to the public may apply with the chief of the 15323
division of watercraft for and receive an annual certificate of 15324
livery registration. No watercraft shall be rented to the public 15325
from a livery or other place of business in this state unless it 15326
first has been numbered and registered in accordance with this 15327
section or section 1547.54 of the Revised Code. Certificates of 15328
livery registration shall be issued by an authorized agent who is 15329
selected by the chief from among those designated under section 15330
1547.54 of the Revised Code. The certificate shall display the 15331
name of the owner of the livery, the date of issuance, the date of 15332
expiration, the number of watercraft registered, the fee paid, an 15333
authorized facsimile of the signature of the chief provided by the 15334
authorized agent who is selected to issue the certificate, and the 15335
signature of the livery owner. The certificate shall bear the 15336
livery watercraft registration number assigned to the livery 15337
owner, which shall be displayed in accordance with section 1547.57 15338
of the Revised Code on each watercraft in the fleet for which the 15339
certificate was issued. The owner of a livery shall obtain an 15340
amended certificate of livery registration from the chief whenever 15341
the composition of the fleet changes. 15342

The fee for each watercraft registered under this section 15343
shall be an annual registration fee. The fee shall be one-third of 15344
the triennial registration fees prescribed in section 1547.54 of 15345
the Revised Code. However, if the size of the fleet does not 15346
increase, the fee for an amended certificate of livery 15347
registration shall be the fee prescribed for issuing a duplicate 15348
registration certificate under section 1547.54 of the Revised 15349
Code, and the chief shall not refund to the livery owner all or 15350
any portion of an annual registration fee applicable to a 15351
watercraft transferred or abandoned by the livery owner. If the 15352
size of the fleet increases, the livery owner shall be required to 15353
pay the applicable annual registration fee for each watercraft 15354
registered under an amended certificate of livery registration 15355
that is in excess of the number of watercraft contained in the 15356
annual certificate of livery registration. 15357

In addition to the fees established in this section, 15358
watercraft that are not powercraft shall be charged a waterways 15359
conservation assessment fee. The fee shall be collected at the 15360
time of the issuance of an annual livery registration under this 15361
section and shall be one dollar and fifty cents for each 15362
watercraft included in the registration. The fee shall be 15363
deposited in the state treasury and credited to a distinct account 15364
in the waterways safety fund created in section 1547.75 of the 15365
Revised Code. 15366

The certificate of livery registration, rental receipts, and 15367
required safety equipment are subject to inspection at any time at 15368
the livery's place of business by any authorized representative of 15369
the division of watercraft or any law enforcement officer in 15370
accordance with section 1547.63 of the Revised Code. 15371

Except as provided in this section, all watercraft registered 15372
under this section are subject to this chapter and Chapter 1548. 15373
of the Revised Code. 15374

The chief may issue an order temporarily or permanently 15375
restricting or suspending a livery certificate of registration and 15376
the privileges associated with it without a hearing if the chief 15377
finds that the holder of the certificate has violated this 15378
chapter. 15379

Sec. 1547.73. There is hereby created in the division of 15380
watercraft, a waterways safety council composed of five members 15381
appointed by the governor with the advice and consent of the 15382
senate. Not more than three of such appointees shall belong to the 15383
same political party. Terms of office shall be for five years, 15384
commencing on the first day of February and ending on the 15385
thirty-first day of January, ~~except that upon expiration of the~~ 15386
~~term ending February 4, 1973, the new term which succeeds it shall~~ 15387
~~commence on February 5, 1973 and end on January 31, 1978; upon~~ 15388
~~expiration of the term ending February 3, 1974, the new term which~~ 15389
~~succeeds it shall commence on February 4, 1974 and end on January~~ 15390
~~31, 1979; upon expiration of the term ending February 2, 1975, the~~ 15391
~~new term which succeeds it shall commence on February 3, 1975 and~~ 15392
~~end on January 31, 1980; and upon expiration of the term ending~~ 15393
~~February 6, 1977, the new term which succeeds it shall commence on~~ 15394
~~February 7, 1977 and end on January 31, 1982.~~ Each member shall 15395
hold office from the date of ~~his~~ appointment until the end of the 15396
term for which ~~he~~ the member was appointed. The chief of the 15397
division of watercraft shall act as secretary of the council. In 15398
the event of the death, removal, resignation, or incapacity of a 15399
member of the council, the governor, with the advice and consent 15400
of the senate, shall appoint a successor to fill the unexpired 15401
term who shall hold office for the remainder of the term for which 15402
~~his~~ the member's predecessor was appointed. Any member shall 15403
continue in office subsequent to the expiration date of ~~his~~ the 15404
member's term until ~~his~~ the member's successor takes office, or 15405
until a period of sixty days has elapsed, whichever occurs first. 15406

The governor may remove any appointed member of the council for 15407
misfeasance, nonfeasance, or malfeasance in office. 15408

The council may: 15409

(A) Advise with and recommend to the chief as to plans and 15410
~~program~~ programs for the construction, maintenance, repair, and 15411
operation of refuge harbors and other projects for the harboring, 15412
mooring, docking, and storing of light draft vessels as provided 15413
in sections 1547.71, 1547.72, and 1547.78 of the Revised Code; 15414

(B) Advise with and recommend to the chief as to the methods 15415
of coordinating the shore erosion projects of the department of 15416
natural resources with the refuge of light draft vessel harbor 15417
projects; 15418

(C) Advise with and recommend to the chief as to plans and 15419
programs for the acquisition, protection, construction, 15420
maintenance, and administration of wild river areas, scenic river 15421
areas, and recreational river areas; 15422

(D) Consider and make recommendations upon any matter which 15423
is brought to its attention by any person or ~~which~~ that the chief 15424
may submit to it; 15425

~~(D)~~ (E) Submit to the governor biennially recommendations for 15426
amendments to the laws of the state relative to refuge and light 15427
draft vessel harbor projects. 15428

Before entering upon the discharge of ~~his~~ official duties, 15429
each member of the council shall take and subscribe to an oath of 15430
office, which oath, in writing, shall be filed in the office of 15431
the secretary of state. 15432

The members of the council shall serve without compensation, 15433
but shall be entitled to receive their actual and necessary 15434
expenses incurred in the performance of their official duties from 15435
the waterways safety fund as provided in section 1547.75 of the 15436

Revised Code. 15437

The council shall, by a majority vote of all its members, 15438
adopt and amend bylaws. 15439

To be eligible for appointment as a member of the council, a 15440
person shall be a citizen of the United States, and an elector of 15441
the state, and possess a knowledge of and have an interest in 15442
small boat operations. 15443

The council shall hold at least four regular quarterly 15444
meetings each year. Special meetings shall be held at such times 15445
as the bylaws of the council provide, or at the behest of a 15446
majority of its members. Notices of all meetings shall be given in 15447
such manner as the bylaws provide. The council shall choose 15448
annually from among its members a ~~chairman~~ chairperson to preside 15449
over its meetings. A majority of the members of the council shall 15450
constitute a quorum. No advice shall be given or recommendation 15451
made without a majority of the members of the council concurring 15452
therein. 15453

Sec. ~~1517.14~~ 1547.81. ~~As used in sections 1517.14 to 1517.18~~ 15454
~~of the Revised Code, "watercourse" means a substantially natural~~ 15455
~~channel with recognized banks and bottom, in which a flow of water~~ 15456
~~occurs, with an average of at least ten feet mean surface water~~ 15457
~~width and at least five miles of length.~~ The director of natural 15458
resources or the director's representative may create, supervise, 15459
operate, protect, and maintain wild, scenic, and recreational 15460
river areas ~~under the classifications established in section~~ 15461
~~1517.15 of the Revised Code.~~ In creating wild, scenic, and 15462
recreational river areas, the director shall classify each such 15463
area as either a wild river area, a scenic river area, or a 15464
recreational river area. The director or the director's 15465
representative may prepare and maintain a plan for the 15466
establishment, development, use, and administration of those areas 15467

as a part of the comprehensive state plans for water management 15468
and outdoor recreation. The director or the director's 15469
representative may cooperate with federal agencies administering 15470
any federal program concerning wild, scenic, or recreational river 15471
areas. 15472

The director may propose for establishment as a wild, scenic, 15473
or recreational river area a part or parts of any watercourse in 15474
this state, with adjacent lands, that in the director's judgment 15475
possesses water conservation, scenic, fish, wildlife, historic, or 15476
outdoor recreation values that should be preserved, ~~using the~~ 15477
~~classifications established in section 1517.15 of the Revised~~ 15478
~~Code.~~ The area shall include lands adjacent to the watercourse in 15479
sufficient width to preserve, protect, and develop the natural 15480
character of the watercourse, but shall not include any lands more 15481
than one thousand feet from the normal waterlines of the 15482
watercourse unless an additional width is necessary to preserve 15483
water conservation, scenic, fish, wildlife, historic, or outdoor 15484
recreation values. 15485

The director shall publish the intention to declare an area a 15486
wild, scenic, or recreational river area at least once in a 15487
newspaper of general circulation in each county, any part of which 15488
is within the area, and shall send written notice of the intention 15489
to the legislative authority of each county, township, and 15490
municipal corporation and to each conservancy district established 15491
under Chapter 6101. of the Revised Code, any part of which is 15492
within the area, and to the director of transportation, the 15493
director of development, the director of administrative services, 15494
and the director of environmental protection. The notices shall 15495
include a copy of a map and description of the area. 15496

After thirty days from the last date of publication or 15497
dispatch of written notice as required in this section, the 15498
director shall enter a declaration in the director's journal that 15499

the area is a wild river area, scenic river area, or recreational 15500
river area. When so entered, the area is a wild, scenic, or 15501
recreational river area, as applicable. The director, after thirty 15502
days' notice as prescribed in this section and upon the approval 15503
of the recreation and resources commission created in section 15504
1501.04 of the Revised Code, may terminate the status of an area 15505
as a wild river area, scenic river area, or recreational river 15506
area by an entry in the director's journal. 15507

Declaration by the director that an area is a wild, scenic, 15508
or recreational river area does not authorize the director or any 15509
governmental agency or political subdivision to restrict the use 15510
of land by the owner thereof or any person acting under the 15511
landowner's authority or to enter upon the land and does not 15512
expand or abridge the regulatory authority of any governmental 15513
agency or political subdivision over the area. 15514

The director may enter into a lease or other agreement with a 15515
political subdivision to administer all or part of a wild, scenic, 15516
or recreational river area and may acquire real property or any 15517
estate, right, or interest therein in order to provide for the 15518
protection and public recreational use of a wild, scenic, or 15519
recreational river area. 15520

The chief of the division of ~~natural areas and preserves~~ 15521
watercraft or the chief's representative may participate in 15522
watershed-wide planning with federal, state, and local agencies in 15523
order to protect the values of wild, scenic, and recreational 15524
river areas. 15525

Sec. ~~1517.16~~ 1547.82. No state department, state agency, or 15526
political subdivision shall build or enlarge any highway, road, or 15527
structure or modify or cause the modification of the channel of 15528
any watercourse within a wild, scenic, or recreational river area 15529
outside the limits of a municipal corporation without first having 15530

obtained approval of the plans for the highway, road, or structure 15531
or channel modification from the director of natural resources or 15532
~~his~~ the director's representative. The court of common pleas 15533
having jurisdiction, upon petition by the director, shall enjoin 15534
work on any highway, road, or structure or channel modification 15535
for which such approval has not been obtained. 15536

Sec. ~~1517.17~~ 1547.83. The chief of the division of ~~natural~~ 15537
~~areas and preserves~~ watercraft shall administer the state programs 15538
for wild river areas, scenic river areas, and recreational river 15539
areas. The chief may accept and administer state and federal 15540
financial assistance ~~programs~~ for the maintenance, protection, and 15541
administration of wild, scenic, and recreational river areas and 15542
for construction of facilities within those areas. The chief, with 15543
the approval of the director of natural resources, may expend for 15544
the purpose of administering the state programs for wild, scenic, 15545
and recreational river areas money that is appropriated by the 15546
general assembly for that purpose, money that is in the scenic 15547
rivers protection fund created in section 4501.24 of the Revised 15548
Code, and money that is in the waterways safety fund created in 15549
section 1547.75 of the Revised Code as determined to be necessary 15550
by the division of watercraft not to exceed four per cent of all 15551
money accruing to the fund. The chief may condition any 15552
expenditures, maintenance activities, or construction of 15553
facilities on the adoption and enforcement of adequate floodplain 15554
zoning or land use rules. 15555

~~The director of natural resources may make a lease or~~ 15556
~~agreement with a political subdivision to administer all or part~~ 15557
~~of a wild, scenic, or recreational river area.~~ 15558

~~The director may acquire real property or any estate, right,~~ 15559
~~or interest therein for protection and public recreational use as~~ 15560
~~a wild, scenic, or recreational river area.~~ 15561

~~The chief may expend funds for the acquisition, protection, 15562
construction, maintenance, and administration of real property and 15563
public use facilities in wild, scenic, or recreational river areas 15564
when the funds are so appropriated by the general assembly. The 15565
chief may condition such expenditures, acquisition of land or 15566
easements, or construction of facilities within a wild, scenic, or 15567
recreational river area upon adoption and enforcement of adequate 15568
floodplain zoning rules. 15569~~

Any instrument by which real property is acquired pursuant to 15570
this section shall identify the agency of the state that has the 15571
use and benefit of the real property as specified in section 15572
5301.012 of the Revised Code. 15573

The chief may cooperate with federal agencies administering 15574
any federal program concerning wild, scenic, or recreational river 15575
areas. 15576

Sec. ~~1517.18~~ 1547.84. The director of natural resources shall 15577
appoint an advisory council for each wild, scenic, or recreational 15578
river area, composed of not more than ten persons who are 15579
representative of local government and local organizations and 15580
interests in the vicinity of the wild, scenic, or recreational 15581
river area, who shall serve without compensation. The chief of the 15582
division of ~~natural areas and preserves~~ watercraft or ~~his~~ the 15583
chief's representative shall serve as an ex officio member of each 15584
council. 15585

~~The terms of all members serving on any advisory council 15586
under this section on the effective date of this amendment shall 15587
end on January 31, 1995. The director shall appoint new members to 15588
serve on each council for terms beginning on February 1, 1995, 15589
provided that a member serving on a council on the effective date 15590
of this amendment may be appointed to such a new term. The initial 15591
members appointed to each council shall serve for terms of not 15592~~

more than three years, with the terms of not more than four 15593
members of any council ending in the same year. Thereafter, terms 15594
of office shall be for three years commencing on the first day of 15595
February and ending on the last day of January. 15596

Each council shall advise the chief on the acquisition of 15597
land and easements and on the lands and waters that should be 15598
included in a wild, scenic, or recreational river area or a 15599
proposed wild, scenic, or recreational river area, facilities 15600
therein, and other aspects of establishment and administration of 15601
the area that may affect the local interest. 15602

Sec. 1547.85. The director of natural resources may 15603
participate in the federal program for the protection of certain 15604
selected rivers that are located within the boundaries of the 15605
state as provided in the "Wild and Scenic Rivers Act," 82 Stat. 15606
906 (1968), 16 U.S.C. 1271 et seq., as amended. The director may 15607
authorize the chief of the division of watercraft to participate 15608
in any other federal program established for the purpose of 15609
protecting, conserving, or developing recreational access to 15610
waters in this state that possess outstanding scenic, 15611
recreational, geologic, fish and wildlife, historic, cultural, or 15612
other similar values. 15613

Sec. 1547.86. Any action taken by the chief of the division 15614
of watercraft under sections 1547.81 to 1547.87 of the Revised 15615
Code shall not be deemed in conflict with certain powers and 15616
duties conferred on and delegated to federal agencies and to 15617
municipal corporations under Section 7 of Article XVIII, Ohio 15618
Constitution, or as provided by sections 721.04 to 721.11 of the 15619
Revised Code. 15620

Sec. 1547.87. The division of watercraft, in carrying out 15621
sections 1547.81 to 1547.87 of the Revised Code, may accept, 15622

receive, and expend gifts, devises, or bequests of money, lands, 15623
or other properties under the terms established in section 9.20 of 15624
the Revised Code. 15625

Sec. 1547.99. (A) Whoever violates section 1547.91 of the 15626
Revised Code is guilty of a felony of the fourth degree. 15627

(B) Whoever violates division (F) of section 1547.08, section 15628
1547.10, division (I) of section 1547.111, section 1547.13, or 15629
section 1547.66 of the Revised Code is guilty of a misdemeanor of 15630
the first degree. 15631

(C) Whoever violates a provision of this chapter or a rule 15632
adopted thereunder, for which no penalty is otherwise provided, is 15633
guilty of a minor misdemeanor. 15634

(D) Whoever violates section 1547.07, 1547.132, or 1547.12 of 15635
the Revised Code without causing injury to persons or damage to 15636
property is guilty of a misdemeanor of the fourth degree. 15637

(E) Whoever violates section 1547.07, 1547.132, or 1547.12 of 15638
the Revised Code causing injury to persons or damage to property 15639
is guilty of a misdemeanor of the third degree. 15640

(F) Whoever violates division ~~(M)~~(N) of section 1547.54, 15641
division (G) of section 1547.30, or section 1547.131, 1547.25, 15642
1547.33, 1547.38, 1547.39, 1547.40, 1547.65, 1547.69, or 1547.92 15643
of the Revised Code or a rule adopted under division (A)(2) of 15644
section 1547.52 of the Revised Code is guilty of a misdemeanor of 15645
the fourth degree. 15646

(G) Whoever violates section 1547.11 of the Revised Code is 15647
guilty of a misdemeanor of the first degree and shall be punished 15648
as provided in division (G)(1), (2), or (3) of this section. 15649

(1) Except as otherwise provided in division (G)(2) or (3) of 15650
this section, the court shall sentence the offender to a jail term 15651
of three consecutive days and may sentence the offender pursuant 15652

to section 2929.24 of the Revised Code to a longer jail term. In 15653
addition, the court shall impose upon the offender a fine of not 15654
less than one hundred fifty nor more than one thousand dollars. 15655

The court may suspend the execution of the mandatory jail 15656
term of three consecutive days that it is required to impose by 15657
division (G)(1) of this section if the court, in lieu of the 15658
suspended jail term, places the offender under a community control 15659
sanction pursuant to section 2929.25 of the Revised Code and 15660
requires the offender to attend, for three consecutive days, a 15661
drivers' intervention program that is certified pursuant to 15662
section 3793.10 of the Revised Code. The court also may suspend 15663
the execution of any part of the mandatory jail term of three 15664
consecutive days that it is required to impose by division (G)(1) 15665
of this section if the court places the offender under a community 15666
control sanction pursuant to section 2929.25 of the Revised Code 15667
for part of the three consecutive days; requires the offender to 15668
attend, for that part of the three consecutive days, a drivers' 15669
intervention program that is certified pursuant to section 3793.10 15670
of the Revised Code; and sentences the offender to a jail term 15671
equal to the remainder of the three consecutive days that the 15672
offender does not spend attending the drivers' intervention 15673
program. The court may require the offender, as a condition of 15674
community control, to attend and satisfactorily complete any 15675
treatment or education programs, in addition to the required 15676
attendance at a drivers' intervention program, that the operators 15677
of the drivers' intervention program determine that the offender 15678
should attend and to report periodically to the court on the 15679
offender's progress in the programs. The court also may impose any 15680
other conditions of community control on the offender that it 15681
considers necessary. 15682

(2) If, within six years of the offense, the offender has 15683
been convicted of or pleaded guilty to one violation of section 15684

1547.11 of the Revised Code or one other equivalent offense, the 15685
court shall sentence the offender to a jail term of ten 15686
consecutive days and may sentence the offender pursuant to section 15687
2929.24 of the Revised Code to a longer jail term. In addition, 15688
the court shall impose upon the offender a fine of not less than 15689
one hundred fifty nor more than one thousand dollars. 15690

In addition to any other sentence that it imposes upon the 15691
offender, the court may require the offender to attend a drivers' 15692
intervention program that is certified pursuant to section 3793.10 15693
of the Revised Code. 15694

(3) If, within six years of the offense, the offender has 15695
been convicted of or pleaded guilty to more than one violation or 15696
offense identified in division (G)(2) of this section, the court 15697
shall sentence the offender to a jail term of thirty consecutive 15698
days and may sentence the offender to a longer jail term of not 15699
more than one year. In addition, the court shall impose upon the 15700
offender a fine of not less than one hundred fifty nor more than 15701
one thousand dollars. 15702

In addition to any other sentence that it imposes upon the 15703
offender, the court may require the offender to attend a drivers' 15704
intervention program that is certified pursuant to section 3793.10 15705
of the Revised Code. 15706

(4) Upon a showing that serving a jail term would seriously 15707
affect the ability of an offender sentenced pursuant to division 15708
(G)(1), (2), or (3) of this section to continue the offender's 15709
employment, the court may authorize that the offender be granted 15710
work release after the offender has served the mandatory jail term 15711
of three, ten, or thirty consecutive days that the court is 15712
required by division (G)(1), (2), or (3) of this section to 15713
impose. No court shall authorize work release during the mandatory 15714
jail term of three, ten, or thirty consecutive days that the court 15715
is required by division (G)(1), (2), or (3) of this section to 15716

impose. The duration of the work release shall not exceed the time 15717
necessary each day for the offender to commute to and from the 15718
place of employment and the place in which the jail term is served 15719
and the time actually spent under employment. 15720

(5) Notwithstanding any section of the Revised Code that 15721
authorizes the suspension of the imposition or execution of a 15722
sentence or the placement of an offender in any treatment program 15723
in lieu of being imprisoned or serving a jail term, no court shall 15724
suspend the mandatory jail term of ten or thirty consecutive days 15725
required to be imposed by division (G)(2) or (3) of this section 15726
or place an offender who is sentenced pursuant to division (G)(2) 15727
or (3) of this section in any treatment program in lieu of being 15728
imprisoned or serving a jail term until after the offender has 15729
served the mandatory jail term of ten or thirty consecutive days 15730
required to be imposed pursuant to division (G)(2) or (3) of this 15731
section. Notwithstanding any section of the Revised Code that 15732
authorizes the suspension of the imposition or execution of a 15733
sentence or the placement of an offender in any treatment program 15734
in lieu of being imprisoned or serving a jail term, no court, 15735
except as specifically authorized by division (G)(1) of this 15736
section, shall suspend the mandatory jail term of three 15737
consecutive days required to be imposed by division (G)(1) of this 15738
section or place an offender who is sentenced pursuant to division 15739
(G)(1) of this section in any treatment program in lieu of 15740
imprisonment until after the offender has served the mandatory 15741
jail term of three consecutive days required to be imposed 15742
pursuant to division (G)(1) of this section. 15743

(6) As used in division (G) of this section: 15744

(a) "Equivalent offense" has the same meaning as in section 15745
4511.181 of the Revised Code. 15746

(b) "Jail term" and "mandatory jail term" have the same 15747
meanings as in section 2929.01 of the Revised Code. 15748

(H) Whoever violates section 1547.304 of the Revised Code is 15749
guilty of a misdemeanor of the fourth degree and also shall be 15750
assessed any costs incurred by the state or a county, township, 15751
municipal corporation, or other political subdivision in disposing 15752
of an abandoned junk vessel or outboard motor, less any money 15753
accruing to the state, county, township, municipal corporation, or 15754
other political subdivision from that disposal. 15755

(I) Whoever violates division (B) or (C) of section 1547.49 15756
of the Revised Code is guilty of a minor misdemeanor. 15757

(J) Whoever violates section 1547.31 of the Revised Code is 15758
guilty of a misdemeanor of the fourth degree on a first offense. 15759
On each subsequent offense, the person is guilty of a misdemeanor 15760
of the third degree. 15761

(K) Whoever violates section 1547.05 or 1547.051 of the 15762
Revised Code is guilty of a misdemeanor of the fourth degree if 15763
the violation is not related to a collision, injury to a person, 15764
or damage to property and a misdemeanor of the third degree if the 15765
violation is related to a collision, injury to a person, or damage 15766
to property. 15767

(L) The sentencing court, in addition to the penalty provided 15768
under this section for a violation of this chapter or a rule 15769
adopted under it that involves a powercraft powered by more than 15770
ten horsepower and that, in the opinion of the court, involves a 15771
threat to the safety of persons or property, shall order the 15772
offender to complete successfully a boating course approved by the 15773
national association of state boating law administrators before 15774
the offender is allowed to operate a powercraft powered by more 15775
than ten horsepower on the waters in this state. Violation of a 15776
court order entered under this division is punishable as contempt 15777
under Chapter 2705. of the Revised Code. 15778

Sec. 1548.06. (A)(1) Application for a certificate of title 15779

for a watercraft or outboard motor shall be made upon a form 15780
prescribed by the chief of the division of watercraft and shall be 15781
sworn to before a notary public or other officer empowered to 15782
administer oaths. The application shall be filed with the clerk of 15783
any court of common pleas. An application for a certificate of 15784
title may be filed electronically by any electronic means approved 15785
by the chief in any county with the clerk of the court of common 15786
pleas of that county. The application shall be accompanied by the 15787
fee prescribed in section 1548.10 of the Revised Code. The fee 15788
shall be retained by the clerk who issues the certificate of title 15789
and shall be distributed in accordance with that section. If a 15790
clerk of a court of common pleas, other than the clerk of the 15791
court of common pleas of an applicant's county of residence, 15792
issues a certificate of title to the applicant, the clerk shall 15793
transmit data related to the transaction to the automated title 15794
processing system. 15795

(2) If a certificate of title previously has been issued for 15796
the watercraft or outboard motor, the application for a 15797
certificate of title also shall be accompanied by the certificate 15798
of title duly assigned unless otherwise provided in this chapter. 15799
If a certificate of title previously has not been issued for the 15800
watercraft or outboard motor in this state, the application, 15801
unless otherwise provided in this chapter, shall be accompanied by 15802
a manufacturer's or importer's certificate; by a sworn statement 15803
of ownership if the watercraft or outboard motor was purchased by 15804
the applicant on or before October 9, 1963, or if the watercraft 15805
is less than fourteen feet long with a permanently affixed 15806
mechanical means of propulsion and was purchased by the applicant 15807
on or before January 1, 2000; or by a certificate of title, bill 15808
of sale, or other evidence of ownership required by the law of 15809
another state from which the watercraft or outboard motor was 15810
brought into this state. Evidence of ownership of a watercraft or 15811
outboard motor for which an Ohio certificate of title previously 15812

has not been issued and which watercraft or outboard motor does 15813
not have permanently affixed to it a manufacturer's serial number 15814
shall be accompanied by the certificate of assignment of a hull 15815
identification number assigned by the chief as provided in section 15816
1548.07 of the Revised Code. 15817

(3) The clerk shall retain the evidence of title presented by 15818
the applicant and on which the certificate of title is issued, 15819
except that, if an application for a certificate of title is filed 15820
electronically, by a vendor on behalf of a purchaser of a 15821
watercraft or outboard motor, the clerk shall retain the completed 15822
electronic record to which the vendor converted the certificate of 15823
title application and other required documents. The chief, after 15824
consultation with the attorney general, shall adopt rules that 15825
govern the location at which, and the manner in which, are stored 15826
the actual application and all other documents relating to the 15827
sale of a watercraft or outboard motor when a vendor files the 15828
application for a certificate of title electronically on behalf of 15829
a purchaser. 15830

(B) The clerk shall use reasonable diligence in ascertaining 15831
whether the facts in the application are true by checking the 15832
application and documents accompanying it or the electronic record 15833
to which a vendor converted the application and accompanying 15834
documents with the records of watercraft and outboard motors in 15835
the clerk's office. If the clerk is satisfied that the applicant 15836
is the owner of the watercraft or outboard motor and that the 15837
application is in the proper form, the clerk shall issue a 15838
physical certificate of title over the clerk's signature and 15839
sealed with the clerk's seal unless the applicant specifically 15840
requests the clerk not to issue a physical certificate of title 15841
and instead to issue an electronic certificate of title. However, 15842
if the evidence indicates and an investigation shows that one or 15843
more Ohio titles already exist for the watercraft or outboard 15844

motor, the chief may cause the redundant title or titles to be 15845
canceled. 15846

(C) In the case of the sale of a watercraft or outboard motor 15847
by a vendor to a general purchaser or user, the certificate of 15848
title shall be obtained in the name of the purchaser by the vendor 15849
upon application signed by the purchaser. In all other cases, the 15850
certificate shall be obtained by the purchaser. In all cases of 15851
transfer of watercraft or outboard motors, the application for 15852
certificate of title shall be filed within thirty days after the 15853
later of the date of purchase or assignment of ownership of the 15854
watercraft or outboard motor. If the application for certificate 15855
of title is not filed within thirty days after the later of the 15856
date of purchase or assignment of ownership of the watercraft or 15857
outboard motor, the clerk shall charge a late penalty fee of five 15858
dollars in addition to the fee prescribed by section 1548.10 of 15859
the Revised Code. The clerk shall retain the entire amount of each 15860
late penalty fee. 15861

(D) The clerk shall refuse to accept an application for 15862
certificate of title unless the applicant either tenders with the 15863
application payment of all taxes levied by or pursuant to Chapter 15864
5739. or 5741. of the Revised Code based on the applicant's county 15865
of residence ~~less, in the case of a sale by a vendor, any discount~~ 15866
~~to which the vendor is entitled under section 5739.12 of the~~ 15867
~~Revised Code,~~ or submits any of the following: 15868

(1) A receipt issued by the tax commissioner or a clerk of 15869
courts showing payment of the tax; 15870

(2) A copy of the unit certificate of exemption completed by 15871
the purchaser at the time of sale as provided in section 5739.03 15872
of the Revised Code; 15873

(3) An exemption certificate, in a form prescribed by the tax 15874
commissioner, that specifies why the purchase is not subject to 15875

the tax imposed by Chapter 5739. or 5741. of the Revised Code. 15876

Payment of the tax shall be in accordance with rules issued 15877
by the tax commissioner, and the clerk shall issue a receipt in 15878
the form prescribed by the tax commissioner to any applicant who 15879
tenders payment of the tax with the application for the 15880
certificate of title. 15881

(E)(1) For receiving and disbursing the taxes paid to the 15882
clerk by a resident of the clerk's county, the clerk may retain a 15883
poundage fee of one and one one-hundredth per cent of the taxes 15884
collected, which shall be paid into the certificate of title 15885
administration fund created by section 325.33 of the Revised Code. 15886
The clerk shall not retain a poundage fee from payments of taxes 15887
by persons who do not reside in the clerk's county. 15888

(2) A clerk, however, may retain from the taxes paid to the 15889
clerk an amount equal to the poundage fees associated with 15890
certificates of title issued by other clerks of courts of common 15891
pleas to applicants who reside in the first clerk's county. The 15892
chief of the division of watercraft, in consultation with the tax 15893
commissioner and the clerks of the courts of common pleas, shall 15894
develop a report from the automated title processing system that 15895
informs each clerk of the amount of the poundage fees that the 15896
clerk is permitted to retain from those taxes because of 15897
certificates of title issued by the clerks of other counties to 15898
applicants who reside in the first clerk's county. 15899

(F) In the case of casual sales of watercraft or outboard 15900
motors that are subject to the tax imposed by Chapter 5739. or 15901
5741. of the Revised Code, the purchase price for the purpose of 15902
determining the tax shall be the purchase price on an affidavit 15903
executed and filed with the clerk by the vendor on a form to be 15904
prescribed by the chief, which shall be prima-facie evidence of 15905
the price for the determination of the tax. In addition to the 15906
information required by section 1548.08 of the Revised Code, each 15907

certificate of title shall contain in bold lettering the following 15908
notification and statements: "WARNING TO TRANSFEROR AND TRANSFEREE 15909
(SELLER AND BUYER). You are required by law to state the true 15910
selling price. A false statement is a violation of section 2921.13 15911
of the Revised Code and is punishable by six months imprisonment 15912
or a fine of up to one thousand dollars, or both. All transfers 15913
are audited by the department of taxation. The seller and buyer 15914
must provide any information requested by the department of 15915
taxation. The buyer may be assessed any additional tax found to be 15916
due." 15917

(G) Each county clerk of courts shall forward to the 15918
treasurer of state all sales and use tax collections resulting 15919
from sales of titled watercraft and outboard motors during a 15920
calendar week on or before the Friday following the close of that 15921
week. If, on any Friday, the offices of the clerk of courts or the 15922
state are not open for business, the tax shall be forwarded to the 15923
treasurer of state on or before the next day on which the offices 15924
are open. Every remittance of tax under this division shall be 15925
accompanied by a remittance report in such form as the tax 15926
commissioner prescribes. Upon receipt of a tax remittance and 15927
remittance report, the treasurer of state shall date stamp the 15928
report and forward it to the tax commissioner. If the tax due for 15929
any week is not remitted by a clerk of courts as required under 15930
this division, the clerk shall forfeit the poundage fees for the 15931
sales made during that week. The treasurer of state may require 15932
the clerks of courts to transmit tax collections and remittance 15933
reports electronically. 15934

(H) For purposes of a transfer of a certificate of title, if 15935
the clerk is satisfied that a secured party has discharged a lien 15936
but has not canceled the lien notation with a clerk, the clerk may 15937
cancel the lien notation on the automated title processing system 15938
and notify the clerk of the county of origin. 15939

(I) Every clerk shall have the capability to transact by 15940
electronic means all procedures and transactions relating to the 15941
issuance of watercraft or outboard motor certificates of title 15942
that are described in the Revised Code as being accomplished by 15943
electronic means. 15944

Sec. 1707.17. (A)(1) The license of every dealer in and 15945
salesperson of securities shall expire on the thirty-first day of 15946
December of each year, and may be renewed upon the filing with the 15947
division of securities of an application for renewal, and the 15948
payment of the fee prescribed in this section. The division shall 15949
give notice, without unreasonable delay, of its action on any 15950
application for renewal of a dealer's or salesperson's license. 15951

(2) The license of every investment adviser and investment 15952
adviser representative licensed under section 1707.141 or 1707.161 15953
of the Revised Code shall expire on the thirty-first day of 15954
December of each year. The licenses may be renewed upon the filing 15955
with the division of an application for renewal, and the payment 15956
of the fee prescribed in division (B) of this section. The 15957
division shall give notice, without unreasonable delay, of its 15958
action on any application for renewal. 15959

(3) An investment adviser required to make a notice filing 15960
under division (B) of section 1707.141 of the Revised Code 15961
annually shall file with the division the notice filing and the 15962
fee prescribed in division (B) of this section, no later than the 15963
thirty-first day of December of each year. 15964

(4) The license of every state retirement system investment 15965
officer licensed under section 1707.163 of the Revised Code and 15966
the license of a bureau of workers' compensation chief investment 15967
officer issued under section 1707.165 of the Revised Code shall 15968
expire on the thirtieth day of June of each year. The licenses may 15969
be renewed on the filing with the division of an application for 15970

renewal, and the payment of the fee prescribed in division (B) of 15971
this section. The division shall give notice, without unreasonable 15972
delay, of its action on any application for renewal. 15973

(B)(1) The fee for each dealer's license, and for each annual 15974
renewal thereof, shall be ~~one~~ two hundred dollars. 15975

(2) The fee for each salesperson's license, and for each 15976
annual renewal thereof, shall be ~~fifty~~ sixty dollars. 15977

(3) The fee for each investment adviser's license, and for 15978
each annual renewal thereof, shall be ~~fifty~~ one hundred dollars. 15979

(4) The fee for each investment adviser notice filing 15980
required by division (B) of section 1707.141 of the Revised Code 15981
shall be ~~fifty~~ one hundred dollars. 15982

(5) The fee for each investment adviser representative's 15983
license, and for each annual renewal thereof, shall be ~~thirty-five~~ 15984
fifty dollars. 15985

(6) The fee for each state retirement system investment 15986
officer's license, and for each annual renewal thereof, shall be 15987
fifty dollars. 15988

(7) The fee for a bureau of workers' compensation chief 15989
investment officer's license, and for each annual renewal thereof, 15990
shall be fifty dollars. 15991

(C) A dealer's, salesperson's, investment adviser's, 15992
investment adviser representative's, bureau of workers' 15993
compensation chief investment officer's, or state retirement 15994
system investment officer's license may be issued at any time for 15995
the remainder of the calendar year. In that event, the annual fee 15996
shall not be reduced. 15997

Sec. 1707.18. (A)(1) If a partnership licensed as a dealer is 15998
terminated under the laws of the state where the partnership is 15999
organized, or by death, resignation, withdrawal, or addition of a 16000

general partner, the license of the partnership shall be 16001
automatically extended for a period of thirty days after the 16002
termination. The license of the partnership and the licenses of 16003
its salespersons may be transferred to the successor partnership 16004
within that period if the division of securities finds that the 16005
successor partnership is substantially similar to its predecessor 16006
partnership, and if an application for transfer of license has 16007
been filed. The fee for such a transfer shall be fifty dollars, 16008
plus ~~ten~~ fifteen dollars for every salesperson's license that is 16009
transferred. 16010

(2) If a partnership licensed as an investment adviser is 16011
terminated under the laws of the state where the partnership is 16012
organized, or by death, resignation, withdrawal, or addition of a 16013
general partner, the license of the partnership shall be 16014
automatically extended for a period of thirty days after the 16015
termination. The license of the partnership shall, and the 16016
licenses of its investment adviser representatives may, be 16017
transferred to the successor partnership within that period if the 16018
division finds that the successor partnership is substantially 16019
similar to its predecessor partnership, and if an application for 16020
transfer of license has been filed. The fee for such transfer 16021
shall be fifty dollars, plus ~~ten~~ fifteen dollars for every 16022
investment adviser representative's license that is transferred. 16023

(B)(1) If a licensed dealer changes its business form, 16024
reincorporates, or by merger or otherwise becomes a different 16025
person, as person is defined in section 1707.01 of the Revised 16026
Code, upon application the division may transfer the dealer's 16027
license and the licenses of its salespersons to the successor 16028
entity, if the division finds that the successor entity is 16029
substantially similar to the predecessor entity. The fee for such 16030
a transfer shall be fifty dollars plus ~~ten~~ fifteen dollars for 16031
every salesperson's license transferred. 16032

(2) If a licensed investment adviser changes its business form, reincorporates, or by merger or otherwise becomes a different person, as person is defined in section 1707.01 of the Revised Code, upon application, the division may transfer the investment adviser license and the licenses of its investment adviser representatives to the successor entity, if the division finds that the successor entity is substantially similar to the predecessor entity. The fee for the transfer shall be fifty dollars plus ~~ten~~ fifteen dollars for every investment adviser representative's license transferred.

Sec. 1707.99. Whoever commits any act described in division (A) of section 1707.042 or section 1707.44 of the Revised Code is guilty of a violation of sections 1707.01 to 1707.45 of the Revised Code and the following apply to the offender:

(A) If the value of the funds or securities involved in the offense or the loss to the victim is less than ~~five~~ seven hundred fifty dollars, the offender is guilty of a felony of the fifth degree, and the court may impose upon the offender an additional fine of not more than two thousand five hundred dollars.

(B) If the value of the funds or securities involved in the offense or the loss to the victim is ~~five~~ seven hundred fifty dollars or more but less than five thousand dollars, the offender is guilty of a felony of the fourth degree, and the court may impose upon the offender an additional fine of not more than five thousand dollars.

(C) If the value of the funds or securities involved in the offense or the loss to the victim is five thousand dollars or more but less than twenty-five thousand dollars, the offender is guilty of a felony of the third degree, and the court may impose upon the offender an additional fine of not more than ten thousand dollars.

(D) If the value of the funds or securities involved in the

offense or the loss to the victim is twenty-five thousand dollars 16064
or more but less than one hundred thousand dollars, the offender 16065
is guilty of a felony of the second degree, and the court may 16066
impose upon the offender an additional fine of not more than 16067
fifteen thousand dollars. 16068

(E) If the value of the funds or securities involved in the 16069
offense or the loss to the victim is one hundred thousand dollars 16070
or more, the offender is guilty of a felony of the first degree, 16071
and the court may impose upon the offender an additional fine of 16072
not more than twenty thousand dollars. 16073

Sec. 1716.99. (A) Whoever violates any provision of sections 16074
1716.02 to 1716.17 of the Revised Code, other than division (A)(1) 16075
of section 1716.14 of the Revised Code, is guilty of a misdemeanor 16076
of the first degree. 16077

Each occurrence of a solicitation of a contribution from any 16078
person in violation of any provision of sections 1716.02 to 16079
1716.17 of the Revised Code, other than division (A)(1) of section 16080
1716.14 of the Revised Code, is considered a separate offense. 16081

(B)(1) Whoever violates division (A)(1) of section 1716.14 of 16082
the Revised Code is guilty of solicitation fraud and shall be 16083
punished as provided in divisions (B)(2) to (4) of this section. 16084

(2) Except as otherwise provided in division (B)(4) of this 16085
section, division (B)(3) of this section applies to solicitation 16086
fraud, and solicitation fraud is one of the following: 16087

(a) Except as otherwise provided in divisions (B)(2)(b) to 16088
(d) of this section, a misdemeanor of the first degree or, if the 16089
offender previously has been convicted of or pleaded guilty to a 16090
theft offense or a violation of division (A)(1) of section 1716.14 16091
of the Revised Code, a felony of the fifth degree. 16092

(b) If the value of the contribution or contributions made in 16093

the violation is ~~five~~ seven hundred fifty dollars or more but less 16094
than five thousand dollars, a felony of the fifth degree or, if 16095
the offender previously has been convicted of or pleaded guilty to 16096
a theft offense or a violation of division (A)(1) of section 16097
1716.14 of the Revised Code, a felony of the fourth degree. 16098
16099

(c) If the value of the contribution or contributions made in 16100
the violation is five thousand dollars or more but less than one 16101
hundred thousand dollars, a felony of the fourth degree or, if the 16102
offender previously has been convicted of or pleaded guilty to a 16103
theft offense or a violation of division (A)(1) of section 1716.14 16104
of the Revised Code, a felony of the third degree. 16105

(d) If the value of the contribution or contributions made in 16106
the violation is one hundred thousand dollars or more, a felony of 16107
the third degree. 16108

(3) When an offender commits a series of offenses in 16109
violation of division (A)(1) of section 1716.14 of the Revised 16110
Code as part of a common scheme or plan to defraud multiple 16111
victims, all of the offenses may be tried as a single offense. If 16112
the offenses are tried as a single offense, the value of the 16113
contributions for purposes of determining the value as required by 16114
division (B)(2) of this section is the aggregate value of all 16115
contributions involved in all offenses in the common scheme or 16116
plan to defraud multiple victims. In prosecuting a single offense 16117
under this division, it is not necessary to separately allege and 16118
prove each offense in the series. Rather, it is sufficient to 16119
allege and prove that the offender, within a given span of time, 16120
committed one or more offenses as part of a common scheme or plan 16121
to defraud multiple victims as described in this division. 16122

(4) If the victim of the offense is an elderly person or 16123
disabled adult, division (B)(4) of this section and section 16124
2913.61 of the Revised Code apply to solicitation fraud, and 16125

solicitation fraud is one of the following: 16126

(a) Except as otherwise provided in divisions (B)(4)(b) to 16127

(d) of this section, a felony of the fifth degree; 16128

(b) If the value of the contributions made in the violation 16129

is ~~five~~ seven hundred ~~fifty~~ dollars or more and is less than five 16130

thousand dollars, a felony of the fourth degree; 16131

(c) If the value of the contributions made in the violation 16132

is five thousand dollars or more and is less than twenty-five 16133

thousand dollars, a felony of the third degree; 16134

(d) If the value of the contributions made in the violation 16135

is twenty-five thousand dollars or more, a felony of the second 16136

degree. 16137

(C) Any person who is found guilty of any act or omission 16138

prohibited under this chapter shall forfeit the bond described in 16139

section 1716.05 or 1716.07 of the Revised Code to the state 16140

treasury to the credit of the charitable law fund established 16141

under section 109.32 of the Revised Code and shall be prohibited 16142

from registering with the attorney general or from serving as a 16143

fund-raising counsel or professional solicitor in this state for a 16144

period of five years after conviction. 16145

Sec. 1739.05. (A) A multiple employer welfare arrangement 16146

that is created pursuant to sections 1739.01 to 1739.22 of the 16147

Revised Code and that operates a group self-insurance program may 16148

be established only if any of the following applies: 16149

(1) The arrangement has and maintains a minimum enrollment of 16150

three hundred employees of two or more employers. 16151

(2) The arrangement has and maintains a minimum enrollment of 16152

three hundred self-employed individuals. 16153

(3) The arrangement has and maintains a minimum enrollment of 16154

three hundred employees or self-employed individuals in any 16155

combination of divisions (A)(1) and (2) of this section. 16156

(B) A multiple employer welfare arrangement that is created 16157
pursuant to sections 1739.01 to 1739.22 of the Revised Code and 16158
that operates a group self-insurance program shall comply with all 16159
laws applicable to self-funded programs in this state, including 16160
sections 3901.04, 3901.041, 3901.19 to 3901.26, 3901.38, 3901.381 16161
to 3901.3814, 3901.40, 3901.45, 3901.46, 3902.01 to 3902.14, 16162
3923.241, 3923.282, 3923.30, 3923.301, 3923.38, 3923.581, 3923.63, 16163
3923.80, 3924.031, 3924.032, and 3924.27 of the Revised Code. 16164

(C) A multiple employer welfare arrangement created pursuant 16165
to sections 1739.01 to 1739.22 of the Revised Code shall solicit 16166
enrollments only through agents or solicitors licensed pursuant to 16167
Chapter 3905. of the Revised Code to sell or solicit sickness and 16168
accident insurance. 16169

(D) A multiple employer welfare arrangement created pursuant 16170
to sections 1739.01 to 1739.22 of the Revised Code shall provide 16171
benefits only to individuals who are members, employees of 16172
members, or the dependents of members or employees, or are 16173
eligible for continuation of coverage under section 1751.53 or 16174
3923.38 of the Revised Code or under Title X of the "Consolidated 16175
Omnibus Budget Reconciliation Act of 1985," 100 Stat. 227, 29 16176
U.S.C.A. 1161, as amended. 16177

Sec. 1751.03. (A) Each application for a certificate of 16178
authority under this chapter shall be verified by an officer or 16179
authorized representative of the applicant, shall be in a format 16180
prescribed by the superintendent of insurance, and shall set forth 16181
or be accompanied by the following: 16182

(1) A certified copy of the applicant's articles of 16183
incorporation and all amendments to the articles of incorporation; 16184

(2) A copy of any regulations adopted for the government of 16185

the corporation, any bylaws, and any similar documents, and a copy 16186
of all amendments to these regulations, bylaws, and documents. The 16187
corporate secretary shall certify that these regulations, bylaws, 16188
documents, and amendments have been properly adopted or approved. 16189

(3) A list of the names, addresses, and official positions of 16190
the persons responsible for the conduct of the applicant, 16191
including all members of the board, the principal officers, and 16192
the person responsible for completing or filing financial 16193
statements with the department of insurance, accompanied by a 16194
completed original biographical affidavit and release of 16195
information for each of these persons on forms acceptable to the 16196
department; 16197

(4) A full and complete disclosure of the extent and nature 16198
of any contractual or other financial arrangement between the 16199
applicant and any provider or a person listed in division (A)(3) 16200
of this section, including, but not limited to, a full and 16201
complete disclosure of the financial interest held by any such 16202
provider or person in any health care facility, provider, or 16203
insurer that has entered into a financial relationship with the 16204
health insuring corporation; 16205

(5) A description of the applicant, its facilities, and its 16206
personnel, including, but not limited to, the location, hours of 16207
operation, and telephone numbers of all contracted facilities; 16208

(6) The applicant's projected annual enrollee population over 16209
a three-year period; 16210

(7) A clear and specific description of the health care plan 16211
or plans to be used by the applicant, including a description of 16212
the proposed providers, procedures for accessing care, and the 16213
form of all proposed and existing contracts relating to the 16214
administration, delivery, or financing of health care services; 16215

(8) A copy of each type of evidence of coverage and 16216

identification card or similar document to be issued to subscribers;	16217 16218
(9) A copy of each type of individual or group policy, contract, or agreement to be used;	16219 16220
(10) The schedule of the proposed contractual periodic prepayments or premium rates, or both, accompanied by appropriate supporting data;	16221 16222 16223
(11) A financial plan which provides a three-year projection of operating results, including the projected expenses, income, and sources of working capital;	16224 16225 16226
(12) The enrollee complaint procedure to be utilized as required under section 1751.19 of the Revised Code;	16227 16228
(13) A description of the procedures and programs to be implemented on an ongoing basis to assure the quality of health care services delivered to enrollees, including, if applicable, a description of a quality assurance program complying with the requirements of sections 1751.73 to 1751.75 of the Revised Code;	16229 16230 16231 16232 16233
(14) A statement describing the geographic area or areas to be served, by county;	16234 16235
(15) A copy of all solicitation documents;	16236
(16) A balance sheet and other financial statements showing the applicant's assets, liabilities, income, and other sources of financial support;	16237 16238 16239
(17) A description of the nature and extent of any reinsurance program to be implemented, and a demonstration that errors and omission insurance and, if appropriate, fidelity insurance, will be in place upon the applicant's receipt of a certificate of authority;	16240 16241 16242 16243 16244
(18) Copies of all proposed or in force related-party or intercompany agreements with an explanation of the financial	16245 16246

impact of these agreements on the applicant. If the applicant 16247
intends to enter into a contract for managerial or administrative 16248
services, with either an affiliated or an unaffiliated person, the 16249
applicant shall provide a copy of the contract and a detailed 16250
description of the person to provide these services. The 16251
description shall include that person's experience in managing or 16252
administering health care plans, a copy of that person's most 16253
recent audited financial statement, and a completed biographical 16254
affidavit on a form acceptable to the superintendent for each of 16255
that person's principal officers and board members and for any 16256
additional employee to be directly involved in providing 16257
managerial or administrative services to the health insuring 16258
corporation. If the person to provide managerial or administrative 16259
services is affiliated with the health insuring corporation, the 16260
contract must provide for payment for services based on actual 16261
costs. 16262

(19) A statement from the applicant's board that the admitted 16263
assets of the applicant have not been and will not be pledged or 16264
hypothecated; 16265

(20) A statement from the applicant's board that the 16266
applicant will submit monthly financial statements during the 16267
first year of operations; 16268

(21) The name and address of the applicant's Ohio statutory 16269
agent for service of process, notice, or demand; 16270

(22) Copies of all documents the applicant filed with the 16271
secretary of state; 16272

(23) The location of those books and records of the applicant 16273
that must be maintained, which books and records shall be 16274
maintained in Ohio if the applicant is a domestic corporation, and 16275
which may be maintained either in the applicant's state of 16276
domicile or in Ohio if the applicant is a foreign corporation; 16277

(24) The applicant's federal identification number, corporate address, and mailing address;	16278 16279
(25) An internal and external organizational chart;	16280
(26) A list of the assets representing the initial net worth of the applicant;	16281 16282
(27) If the applicant has a parent company, the parent company's guaranty, on a form acceptable to the superintendent, that the applicant will maintain Ohio's minimum net worth. If no parent company exists, a statement regarding the availability of future funds if needed.	16283 16284 16285 16286 16287
(28) The names and addresses of the applicant's actuary and external auditors;	16288 16289
(29) If the applicant is a foreign corporation, a copy of the most recent financial statements filed with the insurance regulatory agency in the applicant's state of domicile;	16290 16291 16292
(30) If the applicant is a foreign corporation, a statement from the insurance regulatory agency of the applicant's state of domicile stating that the regulatory agency has no objection to the applicant applying for an Ohio license and that the applicant is in good standing in the applicant's state of domicile;	16293 16294 16295 16296 16297
(31) Any other information that the superintendent may require;	16298 16299
(32) Documentation acceptable to the superintendent of the bond or securities required by section 1751.271 of the Revised Code.	16300 16301 16302
(B)(1) A health insuring corporation, unless otherwise provided for in this chapter or in section 3901.321 of the Revised Code, shall file a timely notice with the superintendent describing any change to the corporation's articles of incorporation or regulations, or any major modification to its	16303 16304 16305 16306 16307

operations as set out in the information required by division (A) 16308
of this section that affects any of the following: 16309

(a) The solvency of the health insuring corporation; 16310

(b) The health insuring corporation's continued provision of 16311
services that it has contracted to provide; 16312

(c) The manner in which the health insuring corporation 16313
conducts its business. 16314

(2) If the change or modification is to be the result of an 16315
action to be taken by the health insuring corporation, the notice 16316
shall be filed with the superintendent prior to the health 16317
insuring corporation taking the action. The action shall be deemed 16318
approved if the superintendent does not disapprove it within sixty 16319
days of filing. 16320

(3) The filing of a notice pursuant to division (B)(1) or (2) 16321
of this section shall also serve as the submission of a notice 16322
when required for the superintendent's review for purposes of 16323
section 3901.341 of the Revised Code, if the notice contains all 16324
of the information that section 3901.341 of the Revised Code 16325
requires for such submissions and a copy of any written agreement. 16326
The filing of such a notice, for the purpose of satisfying this 16327
division and section 3901.341 of the Revised Code, shall be 16328
subject to the sixty-day review period of division (B)(2) of this 16329
section. 16330

(C)(1) No health insuring corporation shall expand its 16331
approved service area until a copy of the request for expansion, 16332
accompanied by documentation of the network of providers, forms of 16333
all proposed or existing provider contracts relating to the 16334
delivery of health care services, a schedule of proposed 16335
contractual periodic prepayments and premium rates for group 16336
contracts accompanied by appropriate supporting data, enrollment 16337
projections, plan of operation, and any other changes have been 16338

filed with the superintendent. 16339

~~(2) Within ten calendar days after receipt of a complete 16340
filing under division (C)(1) of this section, the superintendent 16341
shall refer the appropriate jurisdictional issues to the director 16342
of health if required pursuant to section 1751.04 of the Revised 16343
Code. 16344~~

~~(3) Within seventy-five days after the superintendent's 16345
receipt of a complete filing under division (C)(1) of this 16346
section, the superintendent shall determine whether the plan for 16347
expansion is lawful, fair, and reasonable. If a referral is 16348
required pursuant to section 1751.04 of the Revised Code, the 16349
superintendent may not make a determination until the 16350
superintendent has received the director's certification of 16351
compliance, which the director shall furnish within forty five 16352
days after the referral under division (C)(2) of this section. The 16353
director shall not certify that the requirements of section 16354
1751.04 of the Revised Code are not met, unless the applicant has 16355
been given an opportunity for a hearing as provided in division 16356
(D) of section 1751.04 of the Revised Code. The forty five day and 16357
seventy five day review periods provided for in division (C)(3) of 16358
this section shall cease to run as of the date on which the notice 16359
of the applicant's right to request a hearing is mailed and shall 16360
remain suspended until the director issues a final certification. 16361~~

~~(4) If the superintendent has not approved or disapproved all 16362
or a portion of a service area expansion within the 16363
seventy-five-day period provided for in division (C)(3) of this 16364
section, the filing shall be deemed approved. 16365~~

~~(5)(3) Disapproval of all or a portion of the filing shall be 16366
effected by written notice, which shall state the grounds for the 16367
order of disapproval and shall be given in accordance with Chapter 16368
119. of the Revised Code. 16369~~

Sec. 1751.04. (A) Except as provided by division ~~(F)~~(D) of 16370
this section, upon the receipt by the superintendent of insurance 16371
of a complete application for a certificate of authority to 16372
establish or operate a health insuring corporation, which 16373
application sets forth or is accompanied by the information and 16374
documents required by division (A) of section 1751.03 of the 16375
Revised Code, the superintendent shall ~~transmit copies of the~~ 16376
~~application and accompanying documents to the director of health.~~ 16377

~~(B) The director shall~~ review the application and 16378
accompanying documents and make findings as to whether the 16379
applicant for a certificate of authority has done all of the 16380
following with respect to any basic health care services and 16381
supplemental health care services to be furnished: 16382

(1) Demonstrated the willingness and potential ability to 16383
ensure that all basic health care services and supplemental health 16384
care services described in the evidence of coverage will be 16385
provided to all its enrollees as promptly as is appropriate and in 16386
a manner that assures continuity; 16387

(2) Made effective arrangements to ensure that its enrollees 16388
have reliable access to qualified providers in those specialties 16389
that are generally available in the geographic area or areas to be 16390
served by the applicant and that are necessary to provide all 16391
basic health care services and supplemental health care services 16392
described in the evidence of coverage; 16393

(3) Made appropriate arrangements for the availability of 16394
short-term health care services in emergencies within the 16395
geographic area or areas to be served by the applicant, 16396
twenty-four hours per day, seven days per week, and for the 16397
provision of adequate coverage whenever an out-of-area emergency 16398
arises; 16399

(4) Made appropriate arrangements for an ongoing evaluation 16400

and assurance of the quality of health care services provided to 16401
enrollees, including, if applicable, the development of a quality 16402
assurance program complying with the requirements of sections 16403
1751.73 to 1751.75 of the Revised Code, and the adequacy of the 16404
personnel, facilities, and equipment by or through which the 16405
services are rendered; 16406

(5) Developed a procedure to gather and report statistics 16407
relating to the cost and effectiveness of its operations, the 16408
pattern of utilization of its services, and the quality, 16409
availability, and accessibility of its services. 16410

~~(C) Within ninety days of the director's receipt of (B) Based~~ 16411
~~upon the information provided in the application for issuance of a~~ 16412
~~certificate of authority, the director shall certify to the~~ 16413
~~superintendent shall determine~~ whether or not the applicant meets 16414
the requirements of division ~~(B)(A)~~ of this section ~~and sections~~ 16415
~~3702.51 to 3702.62 of the Revised Code. If the director certifies~~ 16416
~~superintendent determines~~ that the applicant does not meet these 16417
requirements, the ~~director~~ superintendent shall specify in what 16418
respects it is deficient. However, the ~~director~~ superintendent 16419
shall not ~~certify that~~ deny an application because the 16420
requirements of this section are not met unless the applicant has 16421
been given an opportunity for a hearing on that issue. 16422

~~(D)(C)~~ If the applicant requests a hearing, the ~~director~~ 16423
superintendent shall hold a hearing before ~~certifying that denying~~ 16424
an application because the applicant does not meet the 16425
requirements of this section. The hearing shall be held in 16426
accordance with Chapter 119. of the Revised Code. 16427

~~(E) The ninety day review period provided for under division~~ 16428
~~(C) of this section shall cease to run as of the date on which the~~ 16429
~~notice of the applicant's right to request a hearing is mailed and~~ 16430
~~shall remain suspended until the director issues a final~~ 16431
~~certification order.~~ 16432

~~(F)(D)~~ Nothing in this section requires the ~~director~~ 16433
superintendent to review or make findings with regard to an 16434
application and accompanying documents to establish or operate any 16435
of the following: 16436

(1) A health insuring corporation to cover solely medicaid 16437
recipients; 16438

(2) A health insuring corporation to cover solely medicare 16439
beneficiaries; 16440

(3) A health insuring corporation to cover solely medicaid 16441
recipients and medicare beneficiaries; 16442

(4) A health insuring corporation to cover solely 16443
participants of the children's buy-in program; 16444

(5) A health insuring corporation to cover solely medicaid 16445
recipients and participants of the children's buy-in program; 16446

(6) A health insuring corporation to cover solely medicaid 16447
recipients, medicare beneficiaries, and participants of the 16448
children's buy-in program. 16449

Sec. 1751.05. (A) The superintendent of insurance shall issue 16450
or deny a certificate of authority to ~~health insuring corporations~~ 16451
~~within the deadlines specified as follows:~~ 16452

~~(1) For~~ a health insuring corporation filing an application 16453
pursuant to section 1751.03 of the Revised Code, ~~forty five days~~ 16454
~~from the superintendent's receipt of the certification from the~~ 16455
~~director of health under division (C) of section 1751.04 of the~~ 16456
~~Revised Code;~~ 16457

~~(2) One~~ one hundred thirty-five days from the 16458
superintendent's receipt of a complete application and 16459
accompanying documents ~~if the health insuring corporation is to~~ 16460
~~cover solely the following:~~ 16461

(a) Medicaid recipients;	16462
(b) Medicare beneficiaries;	16463
(c) Medicaid recipients and medicare beneficiaries;	16464
(d) Participants of the children's buy-in program;	16465
(e) Medicaid recipients and participants of the children's buy-in program;	16466 16467
(f) Medicaid recipients, medicare beneficiaries, and participants of the children's buy-in program.	16468 16469
(B) A certificate of authority shall be issued upon payment of the application fee prescribed in section 1751.44 of the Revised Code if the superintendent is satisfied that the following conditions are met:	16470 16471 16472 16473
(1) The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy, and possess good reputations.	16474 16475 16476
(2) The director certifies <u>superintendent determines</u> , in accordance with division (C) <u>(B)</u> of section 1751.04 of the Revised Code, that the organization's proposed plan of operation meets the requirements of division (B) <u>(A)</u> of that section and sections 3702.51 to 3702.62 of the Revised Code. If, after the director has certified compliance, the application is amended in a manner that affects its approval under section 1751.04 of the Revised Code, the superintendent shall request the director to review and recertify the amended plan of operation. Within forty five days of receipt of the amended plan from the superintendent, the director shall certify to the superintendent, pursuant to section 1751.04 of the Revised Code, whether or not the amended plan meets the requirements of section 1751.04 of the Revised Code. The superintendent's forty five day review period shall cease to run as of the date on which the amended plan is transmitted to the	16477 16478 16479 16480 16481 16482 16483 16484 16485 16486 16487 16488 16489 16490 16491

~~director and shall remain suspended until the superintendent
receives a new certification from the director.~~ 16492
16493

(3) The applicant constitutes an appropriate mechanism to 16494
effectively provide or arrange for the provision of the basic 16495
health care services, supplemental health care services, or 16496
specialty health care services to be provided to enrollees. 16497

(4) The applicant is financially responsible, complies with 16498
section 1751.28 of the Revised Code, and may reasonably be 16499
expected to meet its obligations to enrollees and prospective 16500
enrollees. In making this determination, the superintendent may 16501
consider: 16502

(a) The financial soundness of the applicant's arrangements 16503
for health care services, including the applicant's proposed 16504
contractual periodic prepayments or premiums and the use of 16505
copayments and deductibles; 16506

(b) The adequacy of working capital; 16507

(c) Any agreement with an insurer, a government, or any other 16508
person for insuring the payment of the cost of health care 16509
services or providing for automatic applicability of an 16510
alternative coverage in the event of discontinuance of the health 16511
insuring corporation's operations; 16512

(d) Any agreement with providers or health care facilities 16513
for the provision of health care services; 16514

(e) Any deposit of securities submitted in accordance with 16515
section 1751.27 of the Revised Code as a guarantee that the 16516
obligations will be performed. 16517

(5) The applicant has submitted documentation of an 16518
arrangement to provide health care services to its enrollees until 16519
the expiration of the enrollees' contracts with the applicant if a 16520
health care plan or the operations of the health insuring 16521

corporation are discontinued prior to the expiration of the 16522
enrollees' contracts. An arrangement to provide health care 16523
services may be made by using any one, or any combination, of the 16524
following methods: 16525

(a) The maintenance of insolvency insurance; 16526

(b) A provision in contracts with providers and health care 16527
facilities, but no health insuring corporation shall rely solely 16528
on such a provision for more than thirty days; 16529

(c) An agreement with other health insuring corporations or 16530
insurers, providing enrollees with automatic conversion rights 16531
upon the discontinuation of a health care plan or the health 16532
insuring corporation's operations; 16533

(d) Such other methods as approved by the superintendent. 16534

(6) Nothing in the applicant's proposed method of operation, 16535
as shown by the information submitted pursuant to section 1751.03 16536
of the Revised Code or by independent investigation, will cause 16537
harm to an enrollee or to the public at large, as determined by 16538
the superintendent. 16539

(7) Any deficiencies ~~certified~~ identified by the ~~director~~ 16540
superintendent under section 1751.04 of the Revised Code have been 16541
corrected. 16542

(8) The applicant has deposited securities as set forth in 16543
section 1751.27 of the Revised Code. 16544

(C) If an applicant elects to fulfill the requirements of 16545
division ~~(A)~~(B)(5) of this section through an agreement with other 16546
health insuring corporations or insurers, the agreement shall 16547
require those health insuring corporations or insurers to give 16548
thirty days' notice to the superintendent prior to cancellation or 16549
discontinuation of the agreement for any reason. 16550

(D) A certificate of authority shall be denied only after 16551

compliance with the requirements of section 1751.36 of the Revised Code. 16552
16553

Sec. 1751.14. (A) Any Notwithstanding section 3901.71 of the 16554
Revised Code, any policy, contract, or agreement for health care 16555
services authorized by this chapter that is issued, delivered, or 16556
renewed in this state and that provides that coverage of an 16557
unmarried dependent child will terminate upon attainment of the 16558
limiting age for dependent children specified in the policy, 16559
contract, or agreement, shall also provide in substance ~~that~~ both 16560
of the following: 16561

(1) That the limiting age shall not be less than twenty-nine 16562
years of age if all of the following are true: 16563

(a) The child is a resident of this state or a full-time 16564
student at an accredited public or private institution of higher 16565
education. 16566

(b) Neither the child nor any spouse of the child is employed 16567
by an employer that offers any health benefit plan under which the 16568
child is eligible for coverage. 16569

(c) The child is not eligible for coverage under the medicaid 16570
program established under Chapter 5111. of the Revised Code or the 16571
medicare program established under Title XVIII of the "Social 16572
Security Act," 42 U.S.C. 1395. 16573

(2) That attainment of the limiting age shall not operate to 16574
terminate the coverage of the child if the child is and continues 16575
to be both of the following: 16576

~~(1)~~(a) Incapable of self-sustaining employment by reason of 16577
mental retardation or physical handicap; 16578

~~(2)~~(b) Primarily dependent upon the subscriber for support 16579
and maintenance. 16580

(B) Proof of incapacity and dependence for purposes of 16581

division (A) of this section shall be furnished to the health 16582
insuring corporation within thirty-one days of the child's 16583
attainment of the limiting age. Upon request, but not more 16584
frequently than annually, the health insuring corporation may 16585
require proof satisfactory to it of the continuance of such 16586
incapacity and dependency. 16587

(C) Nothing in this section shall require a health insuring 16588
corporation to cover a dependent child's spouse or children as 16589
dependents on the policy, contract, or agreement of the parent or 16590
legal guardian of the dependent. 16591

(D) This section does not apply to any health insuring 16592
corporation policy, contract, or agreement offering only 16593
supplemental health care services or specialty health care 16594
services. 16595

(E) A health insuring corporation that offers 16596
employer-sponsored policies, contracts, or agreements shall 16597
separately identify any additional premium costs for coverage of 16598
dependent children who are not described in division (A)(2) of 16599
this section and are either nineteen to twenty-three years of age 16600
and are not full-time students or are twenty-four years of age or 16601
older. Nothing in this section shall be construed to require an 16602
employer to offer coverage to the dependents of any employee. 16603

(F) As used in this section, "health benefit plan" has the 16604
same meaning as in section 3924.01 of the Revised Code and also 16605
includes both of the following: 16606

(1) A public employee benefit plan; 16607

(2) A health benefit plan as regulated under the "Employee 16608
Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 16609

Sec. 1751.15. (A) After a health insuring corporation has 16610
furnished, directly or indirectly, basic health care services for 16611

a period of twenty-four months, and if it currently meets the 16612
financial requirements set forth in section 1751.28 of the Revised 16613
Code and had net income as reported to the superintendent of 16614
insurance for at least one of the preceding four calendar 16615
quarters, it shall hold an annual open enrollment period of not 16616
less than thirty days during its month of licensure for 16617
individuals who are not federally eligible individuals at the time 16618
they apply for enrollment. 16619

(B) During the open enrollment period described in division 16620
(A) of this section, the health insuring corporation shall accept 16621
applicants and their dependents in the order in which they apply 16622
for enrollment and in accordance with any of the following: 16623

(1) Up to its capacity, as determined by the health insuring 16624
corporation subject to review by the superintendent; 16625

(2) If less than its capacity, ~~one~~ the health insuring 16626
corporation shall not be required to accept applicants under this 16627
section if the total number of subscribers covered by the health 16628
insuring corporation under this section and section 3923.581 of 16629
the Revised Code exceeds four and one-half per cent of the health 16630
insuring corporation's total number of subscribers residing in 16631
this state as of the immediately preceding thirty-first day of 16632
December. 16633

(C) Premiums charged to individuals for open enrollment 16634
coverage under this section shall not exceed an amount that is one 16635
and one-half times the base rate for coverage offered to any other 16636
individual to which the health insuring corporation is currently 16637
accepting new business, and for which similar copayments and 16638
deductibles are applied. 16639

(D) Where a health insuring corporation demonstrates to the 16640
satisfaction of the superintendent that such open enrollment would 16641
jeopardize its economic viability, the superintendent may do any 16642

of the following: 16643

(1) Waive the requirement for open enrollment; 16644

(2) Impose a limit on the number of applicants and their dependents that must be enrolled; 16645
16646

(3) Authorize such underwriting restrictions upon open enrollment as are necessary to do any of the following: 16647
16648

(a) Preserve its financial stability; 16649

(b) Prevent excessive adverse selection; 16650

(c) Avoid unreasonably high or unmarketable charges for coverage of health care services. 16651
16652

~~(D)~~(E)(1) A request to the superintendent under division ~~(C)~~(D) of this section for any restriction, limit, or waiver during an open enrollment period must be accompanied by supporting documentation, including financial data. In reviewing the request, the superintendent may consider various factors, including the size of the health insuring corporation, the health insuring corporation's net worth and profitability, the health insuring corporation's delivery system structure, and the effect on profitability of prior open enrollments. 16653
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(2) Any action taken by the superintendent under division ~~(C)~~(D) of this section shall be effective for a period of not more than one year. At the expiration of such time, a new demonstration of the health insuring corporation's need for the restriction, limit, or waiver shall be made before a new restriction, limit, or waiver is granted by the superintendent. 16662
16663
16664
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(3) Irrespective of the granting of any restriction, limit, or waiver by the superintendent, a health insuring corporation may reject an applicant or a dependent of the applicant during its open enrollment period if the applicant or dependent: 16668
16669
16670
16671

(a) Was eligible for and was covered under any 16672

employer-sponsored health care coverage, or if employer-sponsored 16673
health care coverage was available at the time of open enrollment; 16674

(b) Is eligible for continuation coverage under state or 16675
federal law; 16676

(c) Is eligible for medicare, and the health insuring 16677
corporation does not have an agreement on appropriate payment 16678
mechanisms with the governmental agency administering the medicare 16679
program. 16680

~~(E)~~(F) A health insuring corporation shall not be required 16681
either to enroll applicants or their dependents who are confined 16682
to a health care facility because of chronic illness, permanent 16683
injury, or other infirmity that would cause economic impairment to 16684
the health insuring corporation if such applicants or their 16685
dependents were enrolled or to make the effective date of benefits 16686
for applicants or their dependents enrolled under this section 16687
earlier than ninety days after the date of enrollment. 16688

~~(F)~~(G) A health insuring corporation shall not be required to 16689
cover the fees or costs, or both, for any basic health care 16690
service related to a transplant of a body organ if the transplant 16691
occurs within one year after the effective date of an enrollee's 16692
coverage under this section. This limitation on coverage does not 16693
apply to a newly born child who meets the requirements for 16694
coverage under section 1751.61 of the Revised Code. 16695

~~(G)~~(H) Each health insuring corporation required to hold an 16696
open enrollment pursuant to division (A) of this section shall 16697
file with the superintendent, not later than sixty days prior to 16698
the commencement of the proposed open enrollment period, the 16699
following documents: 16700

(1) The proposed public notice of open enrollment; 16701

(2) The evidence of coverage approved pursuant to section 16702
1751.11 of the Revised Code that will be used during open 16703

enrollment; 16704

(3) The contractual periodic prepayment and premium rate 16705
approved pursuant to this section and section 1751.12 of the 16706
Revised Code that will be applicable during open enrollment; 16707

(4) Any solicitation document approved pursuant to section 16708
1751.31 of the Revised Code to be sent to applicants, including 16709
the application form that will be used during open enrollment; 16710

(5) A list of the proposed dates of publication of the public 16711
notice, and the names of the newspapers in which the notice will 16712
appear; 16713

(6) Any request for a restriction, limit, or waiver with 16714
respect to the open enrollment period, along with any supporting 16715
documentation. 16716

~~(H)~~(I)(1) An open enrollment period shall not satisfy the 16717
requirements of this section unless the health insuring 16718
corporation provides adequate public notice in accordance with 16719
divisions ~~(H)~~(I)(2) and (3) of this section. No public notice 16720
shall be used until the form of the public notice has been filed 16721
by the health insuring corporation with the superintendent. If the 16722
superintendent does not disapprove the public notice within sixty 16723
days after it is filed, it shall be deemed approved, unless the 16724
superintendent sooner gives approval for the public notice. If the 16725
superintendent determines within this sixty-day period that the 16726
public notice fails to meet the requirements of this section, the 16727
superintendent shall so notify the health insuring corporation and 16728
it shall be unlawful for the health insuring corporation to use 16729
the public notice. Such disapproval shall be effected by a written 16730
order, which shall state the grounds for disapproval and shall be 16731
issued in accordance with Chapter 119. of the Revised Code. 16732
16733

(2) A public notice pursuant to division ~~(H)~~(I)(1) of this 16734

section shall be published in at least one newspaper of general 16735
circulation in each county in the health insuring corporation's 16736
service area, at least once in each of the two weeks immediately 16737
preceding the month in which the open enrollment is to occur and 16738
in each week of that month, or until the enrollment limitation is 16739
reached, whichever occurs first. The notice published during the 16740
last week of open enrollment shall appear not less than five days 16741
before the end of the open enrollment period. It shall be at least 16742
two newspaper columns wide or two and one-half inches wide, 16743
whichever is larger. The first two lines of the text shall be 16744
published in not less than twelve-point, boldface type. The 16745
remainder of the text of the notice shall be published in not less 16746
than eight-point type. The entire public notice shall be 16747
surrounded by a continuous black line not less than one-eighth of 16748
an inch wide. 16749

(3) The following information shall be included in the public 16750
notice provided under division ~~(H)~~(I)(2) of this section: 16751

(a) The dates that open enrollment will be held and the date 16752
coverage obtained under the open enrollment will become effective; 16753

(b) Notice that an applicant or the applicant's dependents 16754
will not be denied coverage during open enrollment because of a 16755
preexisting health condition, but that some limitations and 16756
restrictions may apply; 16757

(c) The address where a person may obtain an application; 16758

(d) The telephone number that a person may call to request an 16759
application or to ask questions; 16760

(e) The date the first payment will be due; 16761

(f) The actual rates or range of rates that will be 16762
applicable for applicants; 16763

(g) Any limitation granted by the superintendent on the 16764

number of applications that will be accepted by the health 16765
insuring corporation. 16766

(4) Within thirty days after the end of an open enrollment 16767
period, the health insuring corporation shall submit to the 16768
superintendent proof of publication for the public notices, and 16769
shall report the total number of applicants and their dependents 16770
enrolled during the open enrollment period. 16771

~~(I)~~(J)(1) No health insuring corporation may employ any 16772
scheme, plan, or device that restricts the ability of any person 16773
to enroll during open enrollment. 16774

(2) No health insuring corporation may require enrollment to 16775
be made in person. Every health insuring corporation shall permit 16776
application for coverage by mail. A representative of the health 16777
insuring corporation may visit an applicant who has submitted an 16778
application by mail, in order to explain the operations of the 16779
health insuring corporation and to answer any questions the 16780
applicant may have. Every health insuring corporation shall make 16781
open enrollment applications and solicitation documents readily 16782
available to any potential applicant who requests such material. 16783

~~(J)~~(K) An application postmarked on the last day of an open 16784
enrollment period shall qualify as a valid application, regardless 16785
of the date on which it is received by the health insuring 16786
corporation. 16787

~~(K)~~(L) This section does not apply to any of the following: 16788

(1) Any health insuring corporation that offers only 16789
supplemental health care services or specialty health care 16790
services; 16791

(2) Any health insuring corporation that offers plans only 16792
through medicare, medicaid, or the children's buy-in program and 16793
that has no other commercial enrollment; 16794

(3) Any health insuring corporation that offers plans only through other federal health care programs regulated by federal regulatory bodies and that has no other commercial enrollment;

(4) Any health insuring corporation that offers plans only through contracts covering officers or employees of the state that have been entered into by the department of administrative services and that has no other commercial enrollment.

~~(L)~~(M) Each health insuring corporation shall accept federally eligible individuals for open enrollment coverage as provided in section 3923.581 of the Revised Code. A health insuring corporation may reinsure coverage of any federally eligible individual acquired under that section with the open enrollment reinsurance program in accordance with division (G) of section 3924.11 of the Revised Code. Fixed periodic prepayment rates charged for coverage reinsured by the program shall be established in accordance with section 3924.12 of the Revised Code.

~~(M)~~(N) As used in this section, ~~"federally:~~

(1) "Base rate" means, as to any health benefit plan that is issued by a health insuring corporation in the individual market, the lowest premium rate for new or existing business prescribed by the health insuring corporation for the same or similar coverage under a plan or arrangement covering any individual with similar case characteristics.

(2) "Federally eligible individual" means an eligible individual as defined in 45 C.F.R. 148.103.

Sec. 1751.16. (A) Except as provided in division (F) of this section, every group contract issued by a health insuring corporation shall provide an option for conversion to an individual contract issued on a direct-payment basis to any

subscriber covered by the group contract who terminates employment 16825
or membership in the group, unless: 16826

(1) Termination of the conversion option or contract is based 16827
upon nonpayment of premium after reasonable notice in writing has 16828
been given by the health insuring corporation to the subscriber. 16829

(2) The subscriber is, or is eligible to be, covered for 16830
benefits at least comparable to the group contract under any of 16831
the following: 16832

(a) Medicare; 16833

(b) Any act of congress or law under this or any other state 16834
of the United States providing coverage at least comparable to the 16835
benefits under division (A)(2)(a) of this section; 16836

(c) Any policy of insurance or health care plan providing 16837
coverage at least comparable to the benefits under division 16838
(A)(2)(a) of this section. 16839

(B)(1) The direct-payment contract offered by the health 16840
insuring corporation pursuant to division (A) of this section 16841
shall provide the following: 16842

(a) In the case of an individual who is not a federally 16843
eligible individual, benefits comparable to benefits in any of the 16844
individual contracts then being issued to individual subscribers 16845
by the health insuring corporation; 16846

(b) In the case of a federally eligible individual, a basic 16847
and standard plan established ~~by the board of directors of the~~ 16848
~~Ohio health reinsurance program~~ under section 3924.10 of the 16849
Revised Code or plans substantially similar to the basic and 16850
standard plan in benefit design and scope of covered services. For 16851
purposes of division (B)(1)(b) of this section, the superintendent 16852
of insurance shall determine whether a plan is substantially 16853
similar to the basic or standard plan in benefit design and scope 16854

of covered services. The contractual periodic prepayments charged 16855
for such plans may not exceed an amount that is ~~two~~ one and 16856
one-half times the ~~midpoint of the standard~~ base rate charged any 16857
other individual of a group to which the organization is currently 16858
accepting new business and for which similar copayments and 16859
deductibles are applied. 16860

(2) The direct payment contract offered pursuant to division 16861
(A) of this section may include a coordination of benefits 16862
provision as approved by the superintendent. 16863

(3) For purposes of division (B) of this section ~~"federally:~~ 16864

(a) "Federally eligible individual" means an eligible 16865
individual as defined in 45 C.F.R. 148.103. 16866

(b) "Base rate" means, as to any health benefit plan that is 16867
issued by a health insuring corporation in the individual market, 16868
the lowest premium rate for new or existing business prescribed by 16869
the health insuring corporation for the same or similar coverage 16870
under a plan or arrangement covering any individual with similar 16871
case characteristics. 16872

(C) The option for conversion shall be available: 16873

(1) Upon the death of the subscriber, to the surviving spouse 16874
with respect to such of the spouse and dependents as are then 16875
covered by the group contract; 16876

(2) To a child solely with respect to the child upon the 16877
child's attaining the limiting age of coverage under the group 16878
contract while covered as a dependent under the contract; 16879

(3) Upon the divorce, dissolution, or annulment of the 16880
marriage of the subscriber, to the divorced spouse, or, in the 16881
event of annulment, to the former spouse of the subscriber. 16882

(D) No health insuring corporation shall use age or health 16883
status as the basis for refusing to renew a converted contract. 16884

(E) Written notice of the conversion option provided by this section shall be given to the subscriber by the health insuring corporation by mail. The notice shall be sent to the subscriber's address in the records of the employer upon receipt of notice from the employer of the event giving rise to the conversion option. If the subscriber has not received notice of the conversion privilege at least fifteen days prior to the expiration of the thirty-day conversion period, then the subscriber shall have an additional period within which to exercise the privilege. This additional period shall expire fifteen days after the subscriber receives notice, but in no event shall the period extend beyond sixty days after the expiration of the thirty-day conversion period.

(F) This section does not apply to any group contract offering only supplemental health care services or specialty health care services.

Sec. 1751.19. (A) A health insuring corporation shall establish and maintain a complaint system that has been approved by the superintendent of insurance to provide adequate and reasonable procedures for the expeditious resolution of written complaints initiated by subscribers or enrollees concerning any matter relating to services provided, directly or indirectly, by the health insuring corporation, including, but not limited to, complaints regarding cancellations or nonrenewals of coverage. Complaints regarding a health insuring corporation's decision to deny, reduce, or terminate coverage for health care services are subject to section 1751.83 of the Revised Code.

(B) A health insuring corporation shall provide a timely written response to each written complaint it receives.

(C)(1) Copies of complaints and responses, including medical records related to those complaints, shall be available to the superintendent ~~and the director of health~~ for inspection for three

years. Any document or information provided to the superintendent 16916
pursuant to this division that contains a medical record is 16917
confidential, and is not a public record subject to section 149.43 16918
of the Revised Code. 16919

(2) Notwithstanding division (C)(1) of this section, the 16920
superintendent may share documents and information that contain a 16921
medical record in connection with the investigation or prosecution 16922
of any illegal or criminal activity with the chief deputy 16923
rehabilitator, the chief deputy liquidator, other deputy 16924
rehabilitators and liquidators, and any other person employed by, 16925
or acting on behalf of, the superintendent pursuant to Chapter 16926
3901. or 3903. of the Revised Code, with other local, state, 16927
federal, and international regulatory and law enforcement 16928
agencies, with local, state, and federal prosecutors, and with the 16929
national association of insurance commissioners and its affiliates 16930
and subsidiaries, provided that the recipient agrees to maintain 16931
the confidential or privileged status of the confidential or 16932
privileged document or information and has authority to do so. 16933

(3) Nothing in this section shall prohibit the superintendent 16934
from receiving documents and information in accordance with 16935
section 3901.045 of the Revised Code. 16936

(4) The superintendent may enter into agreements governing 16937
the sharing and use of documents and information consistent with 16938
the requirements of this section. 16939

(5) No waiver of any applicable privilege or claim of 16940
confidentiality in the documents and information described in 16941
division (C)(1) of this section occurs as a result of sharing or 16942
receiving documents and information as authorized in divisions 16943
(C)(2) and (3) of this section. 16944

(D) A health insuring corporation shall establish and 16945
maintain a procedure to accept complaints over the telephone or in 16946

person. These complaints are not subject to the reporting 16947
requirement under division (C) of section 1751.32 of the Revised 16948
Code. 16949

(E) A health insuring corporation may comply with this 16950
section and section 1751.83 of the Revised Code by establishing 16951
one system for receiving and reviewing complaints and requests for 16952
internal review from enrollees and subscribers if the system meets 16953
the requirements of both sections. 16954

Sec. 1751.32. Each health insuring corporation, annually, on 16955
or before the first day of March, shall file a report with the 16956
superintendent of insurance ~~and the director of health~~, covering 16957
the preceding calendar year. 16958

The report shall be verified by an officer of the health 16959
insuring corporation, shall be in the form the superintendent 16960
prescribes, and shall include: 16961

(A) A financial statement of the health insuring corporation, 16962
including its balance sheet and receipts and disbursements for the 16963
preceding year, which reflect, at a minimum: 16964

(1) All premium rate and other payments received for health 16965
care services rendered; 16966

(2) Expenditures with respect to all categories of providers, 16967
facilities, insurance companies, and other persons engaged to 16968
fulfill obligations of the health insuring corporation arising out 16969
of its health care policies, contracts, certificates, and 16970
agreements; 16971

(3) Expenditures for capital improvements or additions 16972
thereto, including, but not limited to, construction, renovation, 16973
or purchase of facilities and equipment. 16974

(B) A description of the enrollee population and composition, 16975
group and nongroup; 16976

(C) A summary of enrollee written complaints and their disposition;	16977 16978
(D) A statement of the number of subscriber policies, contracts, certificates, and agreements that have been terminated by action of the health insuring corporation, including the number of enrollees affected;	16979 16980 16981 16982
(E) A summary of the information compiled pursuant to division (B)(5) of section 1751.04 of the Revised Code;	16983 16984
(F) A current report of the names and addresses of the persons responsible for the conduct of the affairs of the health insuring corporation as required by section 1751.03 of the Revised Code. Additionally, the report shall include the amount of wages, expense reimbursements, and other payments to these persons for services to the health insuring corporation, and shall include a full disclosure of the financial interests related to the operations of the health insuring corporation acquired by these persons during the preceding year.	16985 16986 16987 16988 16989 16990 16991 16992 16993
(G) An actuarial opinion in the form prescribed by the superintendent by rule;	16994 16995
(H) Any other information relating to the performance of the health insuring corporation that is necessary to enable the superintendent to carry out the superintendent's duties under this chapter.	16996 16997 16998 16999
Sec. 1751.321. Each health insuring corporation, annually, on or before the first day of June, shall file with the superintendent of insurance and the director of health an audit report certified by an independent certified public accountant covering the preceding calendar year. The report shall be verified by an officer of the health insuring corporation and shall be in the form prescribed by the superintendent by rule.	17000 17001 17002 17003 17004 17005 17006

Sec. 1751.34. (A) Each health insuring corporation and each 17007
applicant for a certificate of authority under this chapter shall 17008
be subject to examination by the superintendent of insurance in 17009
accordance with section 3901.07 of the Revised Code. Section 17010
3901.07 of the Revised Code shall govern every aspect of the 17011
examination, including the circumstances under and frequency with 17012
which it is conducted, the authority of the superintendent and any 17013
examiner or other person appointed by the superintendent, the 17014
liability for the assessment of expenses incurred in conducting 17015
the examination, and the remittance of the assessment to the 17016
superintendent's examination fund. 17017

(B) The ~~director of health~~ superintendent shall make an 17018
examination concerning the matters subject to the ~~director's~~ 17019
superintendent's consideration in section 1751.04 of the Revised 17020
Code as often as the ~~director~~ superintendent considers it 17021
necessary for the protection of the interests of the people of 17022
this state, ~~but not less frequently than once every three years.~~ 17023
The expenses of such examinations shall be assessed against the 17024
health insuring corporation being examined in the manner in which 17025
expenses of examinations are assessed against an insurance company 17026
under section 3901.07 of the Revised Code. Nothing in this 17027
division requires the ~~director~~ superintendent to make an 17028
examination of any of the following: 17029

(1) A health insuring corporation that covers solely medicaid 17030
recipients; 17031

(2) A health insuring corporation that covers solely medicare 17032
beneficiaries; 17033

(3) A health insuring corporation that covers solely medicaid 17034
recipients and medicare beneficiaries; 17035

(4) A health insuring corporation that covers solely 17036
participants of the children's buy-in program; 17037

(5) A health insuring corporation that covers solely medicaid recipients and participants of the children's buy-in program; 17038
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(6) A health insuring corporation that covers solely medicaid recipients, medicare beneficiaries, and participants of the children's buy-in program. 17040
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(C) An examination, pursuant to section 3901.07 of the Revised Code, of an insurance company holding a certificate of authority under this chapter to organize and operate a health insuring corporation shall include an examination of the health insuring corporation pursuant to this section and the examination shall satisfy the requirements of divisions (A) and (B) of this section. 17043
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(D) The superintendent may conduct market conduct examinations pursuant to section 3901.011 of the Revised Code of any health insuring corporation as often as the superintendent considers it necessary for the protection of the interests of subscribers and enrollees. The expenses of such market conduct examinations shall be assessed against the health insuring corporation being examined. All costs, assessments, or fines collected under this division shall be paid into the state treasury to the credit of the department of insurance operating fund. 17050
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Sec. 1751.35. (A) The superintendent of insurance may suspend or revoke any certificate of authority issued to a health insuring corporation under this chapter if the superintendent finds that: 17060
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(1) The health insuring corporation is operating in contravention of its articles of incorporation, its health care plan or plans, or in a manner contrary to that described in and reasonably inferred from any other information submitted under section 1751.03 of the Revised Code, unless amendments to such 17064
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submissions have been filed and have taken effect in compliance 17069
with this chapter. 17070

(2) The health insuring corporation fails to issue evidences 17071
of coverage in compliance with the requirements of section 1751.11 17072
of the Revised Code. 17073

(3) The contractual periodic prepayments or premium rates 17074
used do not comply with the requirements of section 1751.12 of the 17075
Revised Code. 17076

(4) The health insuring corporation enters into a contract, 17077
agreement, or other arrangement with any health care facility or 17078
provider, that does not comply with the requirements of section 17079
1751.13 of the Revised Code, or the corporation fails to provide 17080
an annual certificate as required by section 1751.13 of the 17081
Revised Code. 17082

(5) The ~~director of health has certified~~ superintendent 17083
determines, after a hearing conducted in accordance with Chapter 17084
119. of the Revised Code, that the health insuring corporation no 17085
longer meets the requirements of section 1751.04 of the Revised 17086
Code. 17087

(6) The health insuring corporation is no longer financially 17088
responsible and may reasonably be expected to be unable to meet 17089
its obligations to enrollees or prospective enrollees. 17090

(7) The health insuring corporation has failed to implement 17091
the complaint system that complies with the requirements of 17092
section 1751.19 of the Revised Code. 17093

(8) The health insuring corporation, or any agent or 17094
representative of the corporation, has advertised, merchandised, 17095
or solicited on its behalf in contravention of the requirements of 17096
section 1751.31 of the Revised Code. 17097

(9) The health insuring corporation has unlawfully 17098

discriminated against any enrollee or prospective enrollee with 17099
respect to enrollment, disenrollment, or price or quality of 17100
health care services. 17101

(10) The continued operation of the health insuring 17102
corporation would be hazardous or otherwise detrimental to its 17103
enrollees. 17104

(11) The health insuring corporation has submitted false 17105
information in any filing or submission required under this 17106
chapter or any rule adopted under this chapter. 17107

(12) The health insuring corporation has otherwise failed to 17108
substantially comply with this chapter or any rule adopted under 17109
this chapter. 17110

(13) The health insuring corporation is not operating a 17111
health care plan. 17112

(14) The health insuring corporation has failed to comply 17113
with any of the requirements of sections 1751.77 to 1751.88 of the 17114
Revised Code. 17115

(B) A certificate of authority shall be suspended or revoked 17116
only after compliance with the requirements of Chapter 119. of the 17117
Revised Code. 17118

(C) When the certificate of authority of a health insuring 17119
corporation is suspended, the health insuring corporation, during 17120
the period of suspension, shall not enroll any additional 17121
subscribers or enrollees except newborn children or other newly 17122
acquired dependents of existing subscribers or enrollees, and 17123
shall not engage in any advertising or solicitation whatsoever. 17124

(D) When the certificate of authority of a health insuring 17125
corporation is revoked, the health insuring corporation, following 17126
the effective date of the order of revocation, shall conduct no 17127
further business except as may be essential to the orderly 17128

conclusion of the affairs of the health insuring corporation. The 17129
health insuring corporation shall engage in no further advertising 17130
or solicitation whatsoever. The superintendent, by written order, 17131
may permit such further operation of the health insuring 17132
corporation as the superintendent may find to be in the best 17133
interest of enrollees, to the end that enrollees will be afforded 17134
the greatest practical opportunity to obtain continuing health 17135
care coverage. 17136

Sec. 1751.36. (A) When the superintendent of insurance has 17137
cause to believe that grounds for the denial of an application for 17138
a certificate of authority exist, or that grounds for the 17139
suspension or revocation of a certificate of authority exist, the 17140
superintendent shall notify the applicant or health insuring 17141
corporation ~~and the director of health~~ in writing, specifically 17142
stating the grounds for the denial, suspension, or revocation and 17143
setting a date of at least thirty days after the notification for 17144
a hearing on the matter. 17145

(B) ~~The recommendations and findings of the director of~~ 17146
~~health with respect to matters subject to the director's~~ 17147
~~consideration under section 1751.04 of the Revised Code, provided~~ 17148
~~in connection with any decision regarding the denial, suspension,~~ 17149
~~or revocation of a certificate of authority, shall be reviewed and~~ 17150
~~considered by the superintendent.~~ After the hearing authorized by 17151
division (A) of this section, or upon the failure of the applicant 17152
or health insuring corporation to appear at the hearing, the 17153
superintendent shall take such action as in accordance with law 17154
and the evidence. The action shall be set out in written findings 17155
which shall be mailed to the applicant or health insuring 17156
corporation ~~with a copy to the director of health.~~ The action of 17157
the superintendent is subject to review in accordance with Chapter 17158
119. of the Revised Code, ~~except that a certification by the~~ 17159
~~director under division (D) of section 1751.04 or division (A)(5)~~ 17160

~~of section 1751.35 of the Revised Code that was made in accordance 17161
with Chapter 119. of the Revised Code shall be final as to the 17162
matters certified. 17163~~

(C) Chapter 119. of the Revised Code applies to proceedings 17164
under this section to the extent that it is not in conflict with 17165
divisions (A) and (B) of this section. 17166

Sec. 1751.45. (A) In lieu of the suspension or revocation of 17167
a certificate of authority under section 1751.35 of the Revised 17168
Code, the superintendent of insurance, pursuant to an adjudication 17169
hearing initiated and conducted in accordance with Chapter 119. of 17170
the Revised Code, or by consent of the health insuring corporation 17171
without an adjudication hearing, may levy an administrative 17172
penalty. The administrative penalty shall be in an amount 17173
determined by the superintendent, but the administrative penalty 17174
shall not exceed one hundred thousand dollars per violation. 17175
Additionally, the superintendent may require the health insuring 17176
corporation to correct any deficiency that may be the basis for 17177
the suspension or revocation of the health insuring corporation's 17178
certificate of authority. All penalties collected shall be paid 17179
into the state treasury to the credit of the department of 17180
insurance operating fund. 17181

(B) If the superintendent ~~or the director of health~~ for any 17182
reason has cause to believe that any violation of this chapter has 17183
occurred or is threatened, the superintendent ~~or the director~~ may 17184
give notice to the health insuring corporation and to the 17185
representatives or other persons who appear to be involved in the 17186
suspected violation to arrange a conference with the suspected 17187
violators or their authorized representatives for the purpose of 17188
attempting to ascertain the facts relating to the suspected 17189
violation, and, if it appears that any violation has occurred or 17190
is threatened, to arrive at an adequate and effective means of 17191

correcting or preventing the violation. 17192

Proceedings under this division shall not be covered by any 17193
formal procedural requirements, and may be conducted in the manner 17194
the superintendent ~~or the director of health~~ may consider 17195
appropriate under the circumstances. 17196

(C)(1) The superintendent may issue an order directing a 17197
health insuring corporation or a representative of the health 17198
insuring corporation to cease and desist from engaging in any act 17199
or practice in violation of this chapter. Within thirty days after 17200
service of the order to cease and desist, the respondent may 17201
request a hearing on the question of whether acts or practices in 17202
violation of this chapter have occurred. Such hearings shall be 17203
conducted in accordance with Chapter 119. of the Revised Code and 17204
judicial review shall be available as provided by that chapter. 17205

(2) If the superintendent has reasonable cause to believe 17206
that an order issued pursuant to this division has been violated 17207
in whole or in part, the superintendent may request the attorney 17208
general to commence and prosecute any appropriate action or 17209
proceeding in the name of the state against the violators in the 17210
court of common pleas of Franklin county. The court in any such 17211
action or proceeding may levy civil penalties, not to exceed one 17212
hundred thousand dollars per violation, in addition to any other 17213
appropriate relief, including requiring a violator to pay the 17214
expenses reasonably incurred by the superintendent in enforcing 17215
the order. The penalties and fees collected under this division 17216
shall be paid into the state treasury to the credit of the 17217
department of insurance operating fund. 17218

Sec. 1751.46. (A) The superintendent of insurance ~~and the~~ 17219
~~director of health~~ may contract with qualified persons to make 17220
recommendations concerning the determinations required to be made 17221
by the superintendent ~~or the director~~ relative to an expansion of 17222

a service area pursuant to division (C) of section 1751.03 of the Revised Code, an application for a certificate of authority pursuant to sections 1751.04 and 1751.05 of the Revised Code, a contractual periodic prepayment or premium rate pursuant to section 1751.12 of the Revised Code, and an examination pursuant to division (B) of section 1751.34 of the Revised Code. The recommendations may be accepted in full or in part, or may be rejected, by the superintendent ~~or director~~.

The total cost of a contract with a qualified person pursuant to this division shall represent the fair market value of the services provided and shall be borne by the health insuring corporation that is the subject of the determination required to be made by the superintendent ~~or the director~~.

(B) No qualified person placed on contract by the superintendent ~~or the director~~ pursuant to division (A) of this section shall have a conflict of interest with the department of insurance, ~~the department of health~~, or the health insuring corporation.

Sec. 1751.48. ~~(A)~~ The superintendent of insurance may adopt rules as are necessary to carry out the provisions of this chapter. These rules shall be adopted in accordance with Chapter 119. of the Revised Code.

~~(B) The director of health may make recommendations to the superintendent for rules that are necessary to enable the director to carry out the director's responsibilities under this chapter, including rules that prescribe standards relating to the requirements set forth in division (B) of section 1751.04 of the Revised Code. In adopting any rules pertaining to the director's responsibilities, the superintendent shall consider the recommendations of the director.~~

Sec. 1751.53. (A) As used in this section: 17253

(1) "Group contract" means a group health insuring 17254
corporation contract covering employees that meets either of the 17255
following conditions: 17256

(a) The contract was issued by an entity that, on June 4, 17257
1997, holds a certificate of authority or license to operate under 17258
Chapter 1738. or 1742. of the Revised Code, and covers an employee 17259
at the time the employee's employment is terminated. 17260

(b) The contract is delivered, issued for delivery, or 17261
renewed in this state after June 4, 1997, and covers an employee 17262
at the time the employee's employment is terminated. 17263

(2) "Eligible employee" means an employee to whom all of the 17264
following apply: 17265

(a) The employee has been continuously covered under a group 17266
contract or under the contract and any prior similar group 17267
coverage replaced by the contract, during the entire three-month 17268
period preceding the termination of the employee's employment. 17269

(b) ~~The employee is entitled, at the time of the termination~~ 17270
~~of this employment, to unemployment compensation benefits under~~ 17271
~~Chapter 4141. of the Revised Code~~ The employee's termination of 17272
employment is not a result of any gross misconduct on the part of 17273
the employee. 17274

(c) The employee is not, and does not become, covered by or 17275
eligible for coverage by medicare. 17276

(d) The employee is not, and does not become, covered by or 17277
eligible for coverage by any other insured or uninsured 17278
arrangement that provides hospital, surgical, or medical coverage 17279
for individuals in a group and under which the employee was not 17280
covered immediately prior to the termination of employment. A 17281
person eligible for continuation of coverage under this section, 17282

who is also eligible for coverage under section 3923.123 of the Revised Code, may elect either coverage, but not both. A person who elects continuation of coverage may elect any coverage available under section 3923.123 of the Revised Code upon the termination of the continuation of coverage.

(3) "Termination of employment" includes both voluntary and involuntary termination of employment.

(B) A group contract shall provide that any eligible employee may continue the coverage under the contract, for the employee and the employee's eligible dependents, for a period of six months after the date that the group coverage would otherwise terminate by reason of the termination of the employee's employment. Each certificate of coverage issued to employees under the contract shall include a notice of the employee's privilege of continuation.

(C) All of the following apply to the continuation of group coverage required under division (B) of this section:

(1) Continuation need not include any supplemental health care services benefits or specialty health care services benefits provided by the group contract except for prescription drug services.

(2) The employer shall notify the employee of the right of continuation at the time the employer notifies the employee of the termination of employment. The notice shall inform the employee of the amount of contribution required by the employer under division (C)(4) of this section.

(3) The employee shall file a written election of continuation with the employer and pay the employer the first contribution required under division (C)(4) of this section. The request and payment must be received by the employer no later than the earlier of any of the following dates:

(a) Thirty-one days after the date on which the employee's coverage would otherwise terminate; 17314
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(b) Ten days after the date on which the employee's coverage would otherwise terminate, if the employer has notified the employee of the right of continuation prior to this date; 17316
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(c) Ten days after the employer notifies the employee of the right of continuation, if the notice is given after the date on which the employee's coverage would otherwise terminate. 17319
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(4) The employee must pay to the employer, on a monthly basis, in advance, the amount of contribution required by the employer. The amount required shall not exceed the group rate for the insurance being continued under the policy on the due date of each payment. 17322
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(5) The employee's privilege to continue coverage and the coverage under any continuation ceases if any of the following occurs: 17327
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(a) The employee ceases to be an eligible employee under division (A)(2)(c) or (d) of this section; 17330
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(b) A period of ~~six~~ twelve months expires after the date that the employee's coverage under the group contract would otherwise have terminated because of the termination of employment; 17332
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(c) The employee fails to make a timely payment of a required contribution, in which event the coverage shall cease at the end of the coverage for which contributions were made; 17335
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(d) The group contract is terminated, or the employer terminates participation under the contract, unless the employer replaces the coverage by similar coverage under another contract or other group health arrangement. If the employer replaces the contract with similar group health coverage, all of the following apply: 17338
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(i) The member shall be covered under the replacement 17344
coverage, for the balance of the period that the member would have 17345
remained covered under the terminated coverage if it had not been 17346
terminated. 17347

(ii) The minimum level of benefits under the replacement 17348
coverage shall be the applicable level of benefits of the contract 17349
replaced reduced by any benefits payable under the contract 17350
replaced. 17351

(iii) The contract replaced shall continue to provide 17352
benefits to the extent of its accrued liabilities and extensions 17353
of benefits as if the replacement had not occurred. 17354

(D) This section does not apply to any group contract 17355
offering only supplemental health care services or specialty 17356
health care services. 17357

Sec. 1751.831. The superintendent of insurance shall 17358
establish and maintain a system for receiving and reviewing 17359
requests for review from or on behalf of enrollees who, under 17360
section 1751.83 of the Revised Code, have been denied coverage of 17361
a health care service or had coverage reduced or terminated when 17362
the grounds for the denial, reduction, or termination is that the 17363
service is not a service covered under the terms of the enrollee's 17364
policy, contract, or agreement. 17365

On receipt of a written request from an enrollee or 17366
authorized person, the superintendent shall consider whether the 17367
health care service is a service covered under the terms of the 17368
enrollee's policy, contract, or agreement, except that the 17369
superintendent shall not conduct a review under this section 17370
unless the enrollee has exhausted the health insuring 17371
corporation's internal review process established pursuant to 17372
section 1751.83 of the Revised Code. The health insuring 17373
corporation and the enrollee or authorized person shall provide 17374

the superintendent with any information required by the 17375
superintendent that is in their possession and is germane to the 17376
review. 17377

Unless the superintendent is not able to do so because making 17378
the determination requires resolution of a medical issue, the 17379
superintendent shall determine whether the health care service at 17380
issue is a service covered under the terms of the enrollee's 17381
contract, policy, or agreement. The superintendent shall notify 17382
the enrollee, or authorized person, and the health insuring 17383
corporation of the superintendent's determination or that the 17384
superintendent is not able to make a determination. 17385

If the superintendent notifies the health insuring 17386
corporation that making the determination requires the resolution 17387
of a medical issue, the health insuring corporation shall ~~afford~~ 17388
~~the enrollee an opportunity for~~ initiate an external review under 17389
section 1751.84 or 1751.85 of the Revised Code. If the 17390
superintendent notifies the health insuring corporation that the 17391
health service is a covered service, the health insuring 17392
corporation shall ~~either~~ cover the service ~~or afford the enrollee~~ 17393
~~an opportunity for an external review under section 1751.84 or~~ 17394
~~1751.85 of the Revised Code~~. If the superintendent notifies the 17395
health insuring corporation that the health care service is not a 17396
covered service, the health insuring corporation is not required 17397
to cover the service or afford the enrollee an external review. 17398

Sec. 1751.84. (A) Except as provided in divisions (B) and (C) 17399
of this section, a health insuring corporation shall afford an 17400
enrollee an opportunity for an external review if both of the 17401
following are the case: 17402

(1) The health insuring corporation has denied, reduced, or 17403
terminated coverage for what would be a covered health care 17404
service except for the fact that the health insuring corporation 17405

has determined that the health care service is not medically 17406
necessary; 17407

(2) Except in the case of an expedited review, the service, 17408
plus any ancillary services and follow-up care, will cost the 17409
enrollee more than five hundred dollars if the proposed service is 17410
not covered by the health insuring corporation. 17411

External review shall be conducted in accordance with this 17412
section, except that if an enrollee with a terminal condition 17413
meets all of the criteria of division (A) of section 1751.85 of 17414
the Revised Code, an external review shall be conducted under that 17415
section. 17416

(B) An enrollee need not be afforded a review under this 17417
section in any of the following circumstances: 17418

(1) The superintendent of insurance has determined under 17419
section 1751.831 of the Revised Code that the health care service 17420
is not a service covered under the terms of the enrollee's policy, 17421
contract, or agreement. 17422

(2) Except as provided in section 1751.811 of the Revised 17423
Code, the enrollee has failed to exhaust the health insuring 17424
corporation's internal review process established pursuant to 17425
section 1751.83 of the Revised Code. 17426

(3) The enrollee has previously been afforded an external 17427
review for the same adverse determination and no new clinical 17428
information has been submitted to the health insuring corporation. 17429

~~(C)(1) A health insuring corporation may deny a request for 17430
an external review of an adverse determination if it is requested 17431
later than sixty days after the enrollee's receipt of notice of 17432
the result of an internal review brought under section 1751.83 of 17433
the Revised Code. An external review may be requested by the 17434
enrollee, an authorized person, the enrollee's provider, or a 17435
health care facility rendering health care service to the 17436~~

enrollee. The enrollee may request a review without the approval 17437
of the provider or the health care facility rendering the health 17438
care service. The provider or health care facility may not request 17439
a review without the prior consent of the enrollee. 17440

(2) An external review must be requested in writing, except 17441
that if the enrollee has a condition that requires expedited 17442
review, the review may be requested orally or by electronic means. 17443
When an oral or electronic request for review is made, written 17444
confirmation of the request shall be submitted to the health 17445
insuring corporation not later than five days after the oral or 17446
written request is submitted. 17447

Except in the case of an expedited review, a request for an 17448
external review must be accompanied by written certification from 17449
the enrollee's provider or the health care facility rendering the 17450
health care service to the enrollee that the proposed service, 17451
plus any ancillary services and follow-up care, will cost the 17452
enrollee more than five hundred dollars if the proposed service is 17453
not covered by the health insuring corporation. 17454

(3) For an expedited review, the enrollee's provider must 17455
certify that the enrollee's condition could, in the absence of 17456
immediate medical attention, result in any of the following: 17457

(a) Placing the health of the enrollee or, with respect to a 17458
pregnant woman, the health of the enrollee or the unborn child, in 17459
serious jeopardy; 17460

(b) Serious impairment to bodily functions; 17461

(c) Serious dysfunction of any bodily organ or part. 17462

(D) The procedures used in conducting an external review of 17463
an adverse determination shall include all of the following: 17464

(1) The review shall be conducted by an independent review 17465
organization assigned by the superintendent of insurance under 17466

section 3901.80 of the Revised Code. 17467

(2) Except as provided in division (D)(3) and (4) of this 17468
section, neither the clinical peer nor any health care facility 17469
with which the clinical peer is affiliated shall have any 17470
professional, familial, or financial affiliation with any of the 17471
following: 17472

(a) The health insuring corporation or any officer, director, 17473
or managerial employee of the health insuring corporation; 17474

(b) The enrollee, the enrollee's provider, or the practice 17475
group of the enrollee's provider; 17476

(c) The health care facility at which the health care service 17477
requested by the enrollee would be provided; 17478

(d) The development or manufacture of the principal drug, 17479
device, procedure, or therapy proposed for the enrollee. 17480

(3) Division (D)(2) of this section does not prohibit a 17481
clinical peer from conducting a review under any of the following 17482
circumstances: 17483

(a) The clinical peer is affiliated with an academic medical 17484
center that provides health care services to enrollees of the 17485
health insuring corporation. 17486

(b) The clinical peer has staff privileges at a health care 17487
facility that provides health care services to enrollees of the 17488
health insuring corporation. 17489

(c) The clinical peer is a participating provider but was not 17490
involved with the health insuring corporation's adverse 17491
determination. 17492

(4) Division (D)(2) of this section does not prohibit the 17493
health insuring corporation from paying the independent review 17494
organization for the conduct of the review. 17495

(5) An enrollee shall not be required to pay for any part of 17496

the cost of the review. The cost of the review shall be borne by 17497
the health insuring corporation. 17498

(6)(a) The health insuring corporation shall provide to the 17499
independent review organization conducting the review a copy of 17500
those records in its possession that are relevant to the 17501
enrollee's medical condition and the review. The records shall be 17502
used solely for the purpose of this division. 17503

At the request of the independent review organization, the 17504
health insuring corporation, enrollee, or the provider or health 17505
care facility rendering health care services to the enrollee shall 17506
provide any additional information the independent review 17507
organization requests to complete the review. A request for 17508
additional information may be made in writing, orally, or by 17509
electronic means. The independent review organization shall submit 17510
the request to the enrollee and health insuring corporation. If a 17511
request is submitted orally or by electronic means to an enrollee 17512
or health insuring corporation, not later than five days after the 17513
request is submitted, the independent review organization shall 17514
provide written confirmation of the request. If the review was 17515
initiated by a provider or health care facility, a copy of the 17516
request shall be submitted to the provider or health care 17517
facility. 17518

(b) An independent review organization is not required to 17519
make a decision if it has not received any requested information 17520
that it considers necessary to complete a review. An independent 17521
review organization that does not make a decision for this reason 17522
shall notify the enrollee and the health insuring corporation that 17523
a decision is not being made. The notice may be made in writing, 17524
orally, or by electronic means. An oral or electronic notice shall 17525
be confirmed in writing not later than five days after the oral or 17526
electronic notice is made. If the review was initiated by a 17527
provider or health care facility, a copy of the notice shall be 17528

submitted to the provider or health care facility. 17529

(7) The health insuring corporation may elect to cover the 17530
service requested and terminate the review. The health insuring 17531
corporation shall notify the enrollee and all other parties 17532
involved with the decision by mail or, with the consent or 17533
approval of the enrollee, by electronic means. 17534

(8) In making its decision, an independent review 17535
organization conducting the review shall take into account all of 17536
the following: 17537

(a) Information submitted by the health insuring corporation, 17538
the enrollee, the enrollee's provider, and the health care 17539
facility rendering the health care service, including the 17540
following: 17541

(i) The enrollee's medical records; 17542

(ii) The standards, criteria, and clinical rationale used by 17543
the health insuring corporation to make its decision. 17544

(b) Findings, studies, research, and other relevant documents 17545
of government agencies and nationally recognized organizations, 17546
including the national institutes of health or any board 17547
recognized by the national institutes of health, the national 17548
cancer institute, the national academy of sciences, the United 17549
States food and drug administration, the health care financing 17550
administration of the United States department of health and human 17551
services, and the agency for health care policy and research; 17552

(c) Relevant findings in peer-reviewed medical or scientific 17553
literature, published opinions of nationally recognized medical 17554
experts, and clinical guidelines adopted by relevant national 17555
medical societies. 17556

(9)(a) In the case of an expedited review, the independent 17557
review organization shall issue a written decision not later than 17558

seven days after the filing of the request for review. In all 17559
other cases, the independent review organization shall issue a 17560
written decision not later than thirty days after the filing of 17561
the request. The independent review organization shall send a copy 17562
of its decision to the health insuring corporation and the 17563
enrollee. If the enrollee's provider or the health care facility 17564
rendering health care services to the enrollee requested the 17565
review, the independent review organization shall also send a copy 17566
of its decision to the enrollee's provider or the health care 17567
facility. 17568

(b) The independent review organization's decision shall 17569
include a description of the enrollee's condition and the 17570
principal reasons for the decision and an explanation of the 17571
clinical rationale for the decision. 17572

(E) The independent review organization shall base its 17573
decision on the information submitted under division (D)(8) of 17574
this section. In making its decision, the independent review 17575
organization shall consider safety, efficacy, appropriateness, and 17576
cost effectiveness. 17577

(F) The health insuring corporation shall provide any 17578
coverage determined by the independent review organization's 17579
decision to be medically necessary, subject to the other terms, 17580
limitations, and conditions of the enrollee's contract. The 17581
decision shall apply only to the individual enrollee's external 17582
review. 17583

Sec. 1753.09. (A) Except as provided in division (D) of this 17584
section, prior to terminating the participation of a provider on 17585
the basis of the participating provider's failure to meet the 17586
health insuring corporation's standards for quality or utilization 17587
in the delivery of health care services, a health insuring 17588
corporation shall give the participating provider notice of the 17589

reason or reasons for its decision to terminate the provider's 17590
participation and an opportunity to take corrective action. The 17591
health insuring corporation shall develop a performance 17592
improvement plan in conjunction with the participating provider. 17593
If after being afforded the opportunity to comply with the 17594
performance improvement plan, the participating provider fails to 17595
do so, the health insuring corporation may terminate the 17596
participation of the provider. 17597

(B)(1) A participating provider whose participation has been 17598
terminated under division (A) of this section may appeal the 17599
termination to the appropriate medical director of the health 17600
insuring corporation. The medical director shall give the 17601
participating provider an opportunity to discuss with the medical 17602
director the reason or reasons for the termination. 17603

(2) If a satisfactory resolution of a participating 17604
provider's appeal cannot be reached under division (B)(1) of this 17605
section, the participating provider may appeal the termination to 17606
a panel composed of participating providers who have comparable or 17607
higher levels of education and training than the participating 17608
provider making the appeal. A representative of the participating 17609
provider's specialty shall be a member of the panel, if possible. 17610
This panel shall hold a hearing, and shall render its 17611
recommendation in the appeal within thirty days after holding the 17612
hearing. The recommendation shall be presented to the medical 17613
director and to the participating provider. 17614

(3) The medical director shall review and consider the 17615
panel's recommendation before making a decision. The decision 17616
rendered by the medical director shall be final. 17617

(C) A provider's status as a participating provider shall 17618
remain in effect during the appeal process set forth in division 17619
(B) of this section unless the termination was based on any of the 17620
reasons listed in division (D) of this section. 17621

(D) Notwithstanding division (A) of this section, a provider's participation may be immediately terminated if the participating provider's conduct presents an imminent risk of harm to an enrollee or enrollees; or if there has occurred unacceptable quality of care, fraud, patient abuse, loss of clinical privileges, loss of professional liability coverage, incompetence, or loss of authority to practice in the participating provider's field; or if a governmental action has impaired the participating provider's ability to practice.

(E) Divisions (A) to (D) of this section apply only to providers who are natural persons.

(F)(1) Nothing in this section prohibits a health insuring corporation from rejecting a provider's application for participation, or from terminating a participating provider's contract, if the health insuring corporation determines that the health care needs of its enrollees are being met and no need exists for the provider's or participating provider's services.

(2) Nothing in this section shall be construed as prohibiting a health insuring corporation from terminating a participating provider who does not meet the terms and conditions of the participating provider's contract.

(3) Nothing in this section shall be construed as prohibiting a health insuring corporation from terminating a participating provider's contract pursuant to any provision of the contract described in division (E)(2) of section 3963.02 of the Revised Code, except that, notwithstanding any provision of a contract described in that division, this section applies to the termination of a participating provider's contract for any of the causes described in divisions (A), (D), and (F)(1) and (2) of this section.

(G) The superintendent of insurance may adopt rules as

necessary to implement and enforce sections 1753.06, 1753.07, and 1753.09 of the Revised Code. Such rules shall be adopted in accordance with Chapter 119. of the Revised Code. ~~The director of health may make recommendations to the superintendent for rules necessary to implement and enforce sections 1753.06, 1753.07, and 1753.09 of the Revised Code. In adopting any rules pursuant to this division, the superintendent shall consider the recommendations of the director.~~

Sec. 2151.011. (A) As used in the Revised Code:

(1) "Juvenile court" means whichever of the following is applicable that has jurisdiction under this chapter and Chapter 2152. of the Revised Code:

(a) The division of the court of common pleas specified in section 2101.022 or 2301.03 of the Revised Code as having jurisdiction under this chapter and Chapter 2152. of the Revised Code or as being the juvenile division or the juvenile division combined with one or more other divisions;

(b) The juvenile court of Cuyahoga county or Hamilton county that is separately and independently created by section 2151.08 or Chapter 2153. of the Revised Code and that has jurisdiction under this chapter and Chapter 2152. of the Revised Code;

(c) If division (A)(1)(a) or (b) of this section does not apply, the probate division of the court of common pleas.

(2) "Juvenile judge" means a judge of a court having jurisdiction under this chapter.

(3) "Private child placing agency" means any association, as defined in section 5103.02 of the Revised Code, that is certified under section 5103.03 of the Revised Code to accept temporary, permanent, or legal custody of children and place the children for either foster care or adoption.

(4) "Private noncustodial agency" means any person,	17683
organization, association, or society certified by the department	17684
of job and family services that does not accept temporary or	17685
permanent legal custody of children, that is privately operated in	17686
this state, and that does one or more of the following:	17687
(a) Receives and cares for children for two or more	17688
consecutive weeks;	17689
(b) Participates in the placement of children in certified	17690
foster homes;	17691
(c) Provides adoption services in conjunction with a public	17692
children services agency or private child placing agency.	17693
(B) As used in this chapter:	17694
(1) "Adequate parental care" means the provision by a child's	17695
parent or parents, guardian, or custodian of adequate food,	17696
clothing, and shelter to ensure the child's health and physical	17697
safety and the provision by a child's parent or parents of	17698
specialized services warranted by the child's physical or mental	17699
needs.	17700
(2) "Adult" means an individual who is eighteen years of age	17701
or older.	17702
(3) "Agreement for temporary custody" means a voluntary	17703
agreement authorized by section 5103.15 of the Revised Code that	17704
transfers the temporary custody of a child to a public children	17705
services agency or a private child placing agency.	17706
(4) "Certified foster home" means a foster home, as defined	17707
in section 5103.02 of the Revised Code, certified under section	17708
5103.03 of the Revised Code.	17709
(5) "Child" means a person who is under eighteen years of	17710
age, except that the juvenile court has jurisdiction over any	17711
person who is adjudicated an unruly child prior to attaining	17712

eighteen years of age until the person attains twenty-one years of 17713
age, and, for purposes of that jurisdiction related to that 17714
adjudication, a person who is so adjudicated an unruly child shall 17715
be deemed a "child" until the person attains twenty-one years of 17716
age. 17717

(6) "Child day camp," "child care," "child day-care center," 17718
"part-time child day-care center," "type A family day-care home," 17719
"certified type B family day-care home," "type B home," 17720
"administrator of a child day-care center," "administrator of a 17721
type A family day-care home," "in-home aide," and "authorized 17722
provider" have the same meanings as in section 5104.01 of the 17723
Revised Code. 17724

(7) "Child care provider" means an individual who is a 17725
child-care staff member or administrator of a child day-care 17726
center, a type A family day-care home, or a type B family day-care 17727
home, or an in-home aide or an individual who is licensed, is 17728
regulated, is approved, operates under the direction of, or 17729
otherwise is certified by the department of job and family 17730
services, department of mental retardation and developmental 17731
disabilities, or the early childhood programs of the department of 17732
education. 17733

(8) "Chronic truant" has the same meaning as in section 17734
2152.02 of the Revised Code. 17735

(9) "Commit" means to vest custody as ordered by the court. 17736

(10) "Counseling" includes both of the following: 17737

(a) General counseling services performed by a public 17738
children services agency or shelter for victims of domestic 17739
violence to assist a child, a child's parents, and a child's 17740
siblings in alleviating identified problems that may cause or have 17741
caused the child to be an abused, neglected, or dependent child. 17742

(b) Psychiatric or psychological therapeutic counseling 17743

services provided to correct or alleviate any mental or emotional 17744
illness or disorder and performed by a licensed psychiatrist, 17745
licensed psychologist, or a person licensed under Chapter 4757. of 17746
the Revised Code to engage in social work or professional 17747
counseling. 17748

(11) "Custodian" means a person who has legal custody of a 17749
child or a public children services agency or private child 17750
placing agency that has permanent, temporary, or legal custody of 17751
a child. 17752

(12) "Delinquent child" has the same meaning as in section 17753
2152.02 of the Revised Code. 17754

(13) "Detention" means the temporary care of children pending 17755
court adjudication or disposition, or execution of a court order, 17756
in a public or private facility designed to physically restrict 17757
the movement and activities of children. 17758

(14) "Developmental disability" has the same meaning as in 17759
section 5123.01 of the Revised Code. 17760

(15) "Foster caregiver" has the same meaning as in section 17761
5103.02 of the Revised Code. 17762

(16) "Guardian" means a person, association, or corporation 17763
that is granted authority by a probate court pursuant to Chapter 17764
2111. of the Revised Code to exercise parental rights over a child 17765
to the extent provided in the court's order and subject to the 17766
residual parental rights of the child's parents. 17767

(17) "Habitual truant" means any child of compulsory school 17768
age who is absent without legitimate excuse for absence from the 17769
public school the child is supposed to attend for five or more 17770
consecutive school days, seven or more school days in one school 17771
month, or twelve or more school days in a school year. 17772

(18) "Juvenile traffic offender" has the same meaning as in 17773

section 2152.02 of the Revised Code. 17774

(19) "Legal custody" means a legal status that vests in the 17775
custodian the right to have physical care and control of the child 17776
and to determine where and with whom the child shall live, and the 17777
right and duty to protect, train, and discipline the child and to 17778
provide the child with food, shelter, education, and medical care, 17779
all subject to any residual parental rights, privileges, and 17780
responsibilities. An individual granted legal custody shall 17781
exercise the rights and responsibilities personally unless 17782
otherwise authorized by any section of the Revised Code or by the 17783
court. 17784

(20) A "legitimate excuse for absence from the public school 17785
the child is supposed to attend" includes, but is not limited to, 17786
any of the following: 17787

(a) The fact that the child in question has enrolled in and 17788
is attending another public or nonpublic school in this or another 17789
state; 17790

(b) The fact that the child in question is excused from 17791
attendance at school for any of the reasons specified in section 17792
3321.04 of the Revised Code; 17793

(c) The fact that the child in question has received an age 17794
and schooling certificate in accordance with section 3331.01 of 17795
the Revised Code. 17796

(21) "Mental illness" and "mentally ill person subject to 17797
hospitalization by court order" have the same meanings as in 17798
section 5122.01 of the Revised Code. 17799

(22) "Mental injury" means any behavioral, cognitive, 17800
emotional, or mental disorder in a child caused by an act or 17801
omission that is described in section 2919.22 of the Revised Code 17802
and is committed by the parent or other person responsible for the 17803
child's care. 17804

(23) "Mentally retarded person" has the same meaning as in section 5123.01 of the Revised Code. 17805
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(24) "Nonsecure care, supervision, or training" means care, supervision, or training of a child in a facility that does not confine or prevent movement of the child within the facility or from the facility. 17807
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(25) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code. 17811
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(26) "Organization" means any institution, public, semipublic, or private, and any private association, society, or agency located or operating in the state, incorporated or unincorporated, having among its functions the furnishing of protective services or care for children, or the placement of children in certified foster homes or elsewhere. 17813
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(27) "Out-of-home care" means detention facilities, shelter facilities, certified children's crisis care facilities, certified foster homes, placement in a prospective adoptive home prior to the issuance of a final decree of adoption, organizations, certified organizations, child day-care centers, type A family day-care homes, child care provided by type B family day-care home providers and by in-home aides, group home providers, group homes, institutions, state institutions, residential facilities, residential care facilities, residential camps, day camps, public schools, chartered nonpublic schools, educational service centers, hospitals, and medical clinics that are responsible for the care, physical custody, or control of children. 17819
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(28) "Out-of-home care child abuse" means any of the following when committed by a person responsible for the care of a child in out-of-home care: 17831
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(a) Engaging in sexual activity with a child in the person's care; 17834
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(b) Denial to a child, as a means of punishment, of proper or necessary subsistence, education, medical care, or other care necessary for a child's health;	17836 17837 17838
(c) Use of restraint procedures on a child that cause injury or pain;	17839 17840
(d) Administration of prescription drugs or psychotropic medication to the child without the written approval and ongoing supervision of a licensed physician;	17841 17842 17843
(e) Commission of any act, other than by accidental means, that results in any injury to or death of the child in out-of-home care or commission of any act by accidental means that results in an injury to or death of a child in out-of-home care and that is at variance with the history given of the injury or death.	17844 17845 17846 17847 17848
(29) "Out-of-home care child neglect" means any of the following when committed by a person responsible for the care of a child in out-of-home care:	17849 17850 17851
(a) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child;	17852 17853 17854
(b) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person;	17855 17856 17857 17858
(c) Failure to develop a process for all of the following:	17859
(i) Administration of prescription drugs or psychotropic drugs for the child;	17860 17861
(ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;	17862 17863
(iii) Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use of the	17864 17865

drug.	17866
(d) Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child;	17867 17868 17869
(e) Confinement of the child to a locked room without monitoring by staff;	17870 17871
(f) Failure to provide ongoing security for all prescription and nonprescription medication;	17872 17873
(g) Isolation of a child for a period of time when there is substantial risk that the isolation, if continued, will impair or retard the mental health or physical well-being of the child.	17874 17875 17876
(30) "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations.	17877 17878 17879 17880 17881 17882
(31) "Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised Code, to transfer the permanent custody of the child to a public children services agency or a private child placing agency.	17883 17884 17885 17886 17887
(32) "Person" means an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies.	17888 17889 17890
(33) "Person responsible for a child's care in out-of-home care" means any of the following:	17891 17892
(a) Any foster caregiver, in-home aide, or provider;	17893
(b) Any administrator, employee, or agent of any of the following: a public or private detention facility; shelter	17894 17895

facility; certified children's crisis care facility; organization; 17896
certified organization; child day-care center; type A family 17897
day-care home; certified type B family day-care home; group home; 17898
institution; state institution; residential facility; residential 17899
care facility; residential camp; day camp; school district; 17900
community school; chartered nonpublic school; educational service 17901
center; hospital; or medical clinic; 17902

(c) Any person who supervises or coaches children as part of 17903
an extracurricular activity sponsored by a school district, public 17904
school, or chartered nonpublic school; 17905

(d) Any other person who performs a similar function with 17906
respect to, or has a similar relationship to, children. 17907

(34) "Physically impaired" means having one or more of the 17908
following conditions that substantially limit one or more of an 17909
individual's major life activities, including self-care, receptive 17910
and expressive language, learning, mobility, and self-direction: 17911

(a) A substantial impairment of vision, speech, or hearing; 17912

(b) A congenital orthopedic impairment; 17913

(c) An orthopedic impairment caused by disease, rheumatic 17914
fever or any other similar chronic or acute health problem, or 17915
amputation or another similar cause. 17916

(35) "Placement for adoption" means the arrangement by a 17917
public children services agency or a private child placing agency 17918
with a person for the care and adoption by that person of a child 17919
of whom the agency has permanent custody. 17920

(36) "Placement in foster care" means the arrangement by a 17921
public children services agency or a private child placing agency 17922
for the out-of-home care of a child of whom the agency has 17923
temporary custody or permanent custody. 17924

(37) "Planned permanent living arrangement" means an order of 17925

a juvenile court pursuant to which both of the following apply:	17926
(a) The court gives legal custody of a child to a public children services agency or a private child placing agency without the termination of parental rights.	17927 17928 17929
(b) The order permits the agency to make an appropriate placement of the child and to enter into a written agreement with a foster care provider or with another person or agency with whom the child is placed.	17930 17931 17932 17933
(38) "Practice of social work" and "practice of professional counseling" have the same meanings as in section 4757.01 of the Revised Code.	17934 17935 17936
(39) "Sanction, service, or condition" means a sanction, service, or condition created by court order following an adjudication that a child is an unruly child that is described in division (A)(4) of section 2152.19 of the Revised Code.	17937 17938 17939 17940
(40) "Protective supervision" means an order of disposition pursuant to which the court permits an abused, neglected, dependent, or unruly child to remain in the custody of the child's parents, guardian, or custodian and stay in the child's home, subject to any conditions and limitations upon the child, the child's parents, guardian, or custodian, or any other person that the court prescribes, including supervision as directed by the court for the protection of the child.	17941 17942 17943 17944 17945 17946 17947 17948
(41) "Psychiatrist" has the same meaning as in section 5122.01 of the Revised Code.	17949 17950
(42) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code.	17951 17952
(43) "Residential camp" means a program in which the care, physical custody, or control of children is accepted overnight for recreational or recreational and educational purposes.	17953 17954 17955

(44) "Residential care facility" means an institution, residence, or facility that is licensed by the department of mental health under section 5119.22 of the Revised Code and that provides care for a child.

(45) "Residential facility" means a home or facility that is licensed by the department of mental retardation and developmental disabilities under section 5123.19 of the Revised Code and in which a child with a developmental disability resides.

(46) "Residual parental rights, privileges, and responsibilities" means those rights, privileges, and responsibilities remaining with the natural parent after the transfer of legal custody of the child, including, but not necessarily limited to, the privilege of reasonable visitation, consent to adoption, the privilege to determine the child's religious affiliation, and the responsibility for support.

~~(47) "School day" means the school day established by the state board of education pursuant to section 3313.48 of the Revised Code.~~

~~(48) "School," "school month," and "school year" have the same meanings as in section 3313.62 of the Revised Code.~~

~~(49)~~(48) "Secure correctional facility" means a facility under the direction of the department of youth services that is designed to physically restrict the movement and activities of children and used for the placement of children after adjudication and disposition.

~~(50)~~(49) "Sexual activity" has the same meaning as in section 2907.01 of the Revised Code.

~~(51)~~(50) "Shelter" means the temporary care of children in physically unrestricted facilities pending court adjudication or disposition.

~~(52)~~(51) "Shelter for victims of domestic violence" has the same meaning as in section 3113.33 of the Revised Code.

~~(53)~~(52) "Temporary custody" means legal custody of a child who is removed from the child's home, which custody may be terminated at any time at the discretion of the court or, if the legal custody is granted in an agreement for temporary custody, by the person who executed the agreement.

(C) For the purposes of this chapter, a child shall be presumed abandoned when the parents of the child have failed to visit or maintain contact with the child for more than ninety days, regardless of whether the parents resume contact with the child after that period of ninety days.

Sec. 2315.50. (A) This section applies to an action maintained as a class action in which the settlement agreement or judgment includes a monetary award, including compensatory or punitive and exemplary damages, restitution, or any other payment of money due from each defendant to the members of the class.

(B) It is the policy of this state, insofar as it is not inconsistent with federal law, that all unpaid moneys remaining after the distribution to the members of the class of monetary awards in class actions described in division (A) of this section shall be used for the charitable public purpose of providing financial assistance to legal aid societies that operate within this state. Not later than the twentieth day of the month immediately following the month during which the amount of unpaid moneys, if any, remaining after that distribution of the monetary award in the class action is identified, each defendant from whom the unpaid moneys are due, in a manner and form prescribed in the rules established by the Ohio legal assistance foundation under section 120.52 of the Revised Code, shall do both of the following:

(1) Remit the sum of the unpaid moneys to the treasurer of 18017
state for deposit in the legal aid fund established under section 18018
120.52 of the Revised Code; 18019

(2) Notify the Ohio legal assistance foundation of all of the 18020
following: 18021

(a) The amount of the sum of unpaid moneys remitted under 18022
division (B)(1) of this section; 18023

(b) The case name and case number of the class action and the 18024
court that approved the settlement agreement or rendered the 18025
judgment in the class action. 18026

Sec. 2317.422. (A) Notwithstanding sections 2317.40 and 18027
2317.41 of the Revised Code but subject to division (B) of this 18028
section, the records, or copies or photographs of the records, of 18029
a hospital, homes required to be licensed pursuant to section 18030
3721.01 of the Revised Code, ~~and of adult care facilities required~~ 18031
to be licensed pursuant to Chapter 3722. of the Revised Code, ~~and~~ 18032
~~community alternative homes licensed pursuant to section 3724.03~~ 18033
~~of the Revised Code,~~ in lieu of the testimony in open court of 18034
their custodian, person who made them, or person under whose 18035
supervision they were made, may be qualified as authentic evidence 18036
if any such person endorses thereon the person's verified 18037
certification identifying such records, giving the mode and time 18038
of their preparation, and stating that they were prepared in the 18039
usual course of the business of the institution. Such records, 18040
copies, or photographs may not be qualified by certification as 18041
provided in this section unless the party intending to offer them 18042
delivers a copy of them, or of their relevant portions, to the 18043
attorney of record for each adverse party not less than five days 18044
before trial. Nothing in this section shall be construed to limit 18045
the right of any party to call the custodian, person who made such 18046
records, or person under whose supervision they were made, as a 18047

witness. 18048

(B) Division (A) of this section does not apply to any 18049
certified copy of the results of any test given to determine the 18050
presence or concentration of alcohol, a drug of abuse, a 18051
combination of them, a controlled substance, or a metabolite of a 18052
controlled substance in a patient's whole blood, blood serum or 18053
plasma, breath, or urine at any time relevant to a criminal 18054
offense that is submitted in a criminal action or proceeding in 18055
accordance with division (B)(2)(b) or (B)(3)(b) of section 2317.02 18056
of the Revised Code. 18057

Sec. 2503.17. ~~(A) Except as provided in division (B) and~~ 18058
~~subject to division (C) of this section, the~~ The clerk of the 18059
supreme court shall charge and collect ~~forty~~ one hundred dollars, 18060
as a filing fee, for each case entered upon the ~~minute book,~~ 18061
~~including, but not limited to, original actions in the court,~~ 18062
~~appeals filed as of right, and cases certified by the courts of~~ 18063
~~appeals for review on the ground of conflict of decisions; and for~~ 18064
~~each motion to certify the record of a court of appeals or for~~ 18065
~~leave to file a notice of appeal in criminal cases~~ docket. The 18066
filing fees so charged and collected shall be in full for 18067
~~docketing the cases or motions, making dockets from term to term,~~ 18068
~~indexing and entering appearances, issuing process, filing papers,~~ 18069
~~entering rules, motions, orders, continuances, decrees, and~~ 18070
~~judgments, making lists of causes on the regular docket for~~ 18071
~~publication each year, making and certifying orders, decrees, and~~ 18072
~~judgments of the court to other tribunals, and the issuing of~~ 18073
~~mandates. Except as provided in division (B) of this section, the~~ 18074
each case filed in the supreme court under the Rules of Practice 18075
of the Supreme Court. The party invoking the action of the court 18076
shall pay the filing fee to the clerk before the case ~~or motion~~ is 18077
docketed, and it shall be taxed as costs and recovered from the 18078
other party if the party invoking the action of the court 18079

succeeds, unless the court otherwise directs. 18080

~~(B)(1) As used in this division, "prosecutor" has the same 18081
meaning as in section 2935.01 of the Revised Code. 18082~~

~~(2) The clerk of the supreme court shall not charge to and 18083
collect from a prosecutor the forty dollar filing fee prescribed 18084
by division (A) of this section when all of the following 18085
circumstances apply: 18086~~

~~(a) In accordance with the Rules of Practice of the Supreme 18087
Court of Ohio, an indigent defendant in a criminal action or 18088
proceeding files in the appropriate court of appeals a notice of 18089
appeal within thirty days from the date of the entry of the 18090
judgment or final order that is the subject of the appeal. 18091~~

~~(b) The indigent defendant fails to file or offer for filing 18092
in the supreme court within thirty days from the date of the 18093
filing of the notice of appeal in the court of appeals, a copy of 18094
the notice of appeal supported by a memorandum in support of 18095
jurisdiction and other documentation and information as required 18096
by the Rules of Practice of the Supreme Court of Ohio. 18097~~

~~(c) The prosecutor or a representative of the prosecutor 18098
associated with the criminal action or proceeding files a motion 18099
to docket and dismiss the appeal of the indigent defendant for 18100
lack of prosecution as authorized by the Rules of Practice of the 18101
Supreme Court of Ohio. 18102~~

~~(d) The prosecutor states in the motion that the forty dollar 18103
filing fee does not accompany the motion because of the 18104
applicability of this division, and the clerk of the supreme court 18105
determines that this division applies. No filing fee or security 18106
deposit shall be charged to an indigent party upon determination 18107
of indigency by the supreme court pursuant to the Rules of 18108
Practice of the Supreme Court. 18109~~

Sec. 2743.191. (A)(1) There is hereby created in the state 18110
treasury the reparations fund, which shall be used only for the 18111
following purposes: 18112

(a) The payment of awards of reparations that are granted by 18113
the attorney general; 18114

(b) The compensation of any personnel needed by the attorney 18115
general to administer sections 2743.51 to 2743.72 of the Revised 18116
Code; 18117

(c) The compensation of witnesses as provided in division (J) 18118
of section 2743.65 of the Revised Code; 18119

(d) Other administrative costs of hearing and determining 18120
claims for an award of reparations by the attorney general; 18121

(e) The costs of administering sections 2907.28 and 2969.01 18122
to 2969.06 of the Revised Code; 18123

(f) The costs of investigation and decision-making as 18124
certified by the attorney general; 18125

(g) The provision of state financial assistance to victim 18126
assistance programs in accordance with sections 109.91 and 109.92 18127
of the Revised Code; 18128

(h) The costs of paying the expenses of sex offense-related 18129
examinations and antibiotics pursuant to section 2907.28 of the 18130
Revised Code; 18131

(i) The cost of printing and distributing the pamphlet 18132
prepared by the attorney general pursuant to section 109.42 of the 18133
Revised Code; 18134

(j) Subject to division (D) of section 2743.71 of the Revised 18135
Code, the costs associated with the printing and providing of 18136
information cards or other printed materials to law enforcement 18137
agencies and prosecuting authorities and with publicizing the 18138

availability of awards of reparations pursuant to section 2743.71 18139
of the Revised Code; 18140

(k) The payment of costs of administering a DNA specimen 18141
collection procedure pursuant to sections 2152.74 and 2901.07 of 18142
the Revised Code, of performing DNA analysis of those DNA 18143
specimens, and of entering the resulting DNA records regarding 18144
those analyses into the DNA database pursuant to section 109.573 18145
of the Revised Code; 18146

(l) The payment of actual costs associated with initiatives 18147
by the attorney general for the apprehension, prosecution, and 18148
accountability of offenders, and the enhancing of services to 18149
crime victims. The amount of payments made pursuant to division 18150
(A)(1)(l) of this section during any given fiscal year shall not 18151
exceed five per cent of the balance of the reparations fund at the 18152
close of the immediately previous fiscal year; 18153

(m) The costs of administering the adult parole authority's 18154
supervision pursuant to division (E) of section 2971.05 of the 18155
Revised Code of sexually violent predators who are sentenced to a 18156
prison term pursuant to division (A)(3) of section 2971.03 of the 18157
Revised Code and of offenders who are sentenced to a prison term 18158
pursuant to division (B)(1)(a), (b), or (c), (B)(2)(a), (b), or 18159
(c), or (B)(3)(a), (b), (c), or (d) of that section; 18160

(n) The costs of installation and monitoring of an electronic 18161
monitoring device used in the monitoring of a respondent pursuant 18162
to an electronic monitoring order issued by a court under division 18163
(E)(1)(b) of section 2903.214 of the Revised Code if the court 18164
determines that the respondent is indigent or in the monitoring of 18165
an offender pursuant to an electronic monitoring order issued 18166
under division (B)(5) of section 2919.27 of the Revised Code if 18167
the court determines that the offender is indigent; 18168

(o) To provide financial assistance to domestic violence 18169

shelters pursuant to section 3113.37 of the Revised Code. 18170

(2) All costs paid pursuant to section 2743.70 of the Revised Code, the portions of license reinstatement fees mandated by division (F)(2)(b) of section 4511.191 of the Revised Code to be credited to the fund, the portions of the proceeds of the sale of a forfeited vehicle specified in division (C)(2) of section 4503.234 of the Revised Code, payments collected by the department of rehabilitation and correction from prisoners who voluntarily participate in an approved work and training program pursuant to division (C)(8)(b)(ii) of section 5145.16 of the Revised Code, and all moneys collected by the state pursuant to its right of subrogation provided in section 2743.72 of the Revised Code shall be deposited in the fund. 18171
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(B) In making an award of reparations, the attorney general shall render the award against the state. The award shall be accomplished only through the following procedure, and the following procedure may be enforced by writ of mandamus directed to the appropriate official: 18183
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(1) The attorney general shall provide for payment of the claimant or providers in the amount of the award only if the amount of the award is fifty dollars or more. 18188
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(2) The expense shall be charged against all available unencumbered moneys in the fund. 18191
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(3) If sufficient unencumbered moneys do not exist in the fund, the attorney general shall make application for payment of the award out of the emergency purposes account or any other appropriation for emergencies or contingencies, and payment out of this account or other appropriation shall be authorized if there are sufficient moneys greater than the sum total of then pending emergency purposes account requests or requests for releases from the other appropriations. 18193
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(4) If sufficient moneys do not exist in the account or any other appropriation for emergencies or contingencies to pay the award, the attorney general shall request the general assembly to make an appropriation sufficient to pay the award, and no payment shall be made until the appropriation has been made. The attorney general shall make this appropriation request during the current biennium and during each succeeding biennium until a sufficient appropriation is made. If, prior to the time that an appropriation is made by the general assembly pursuant to this division, the fund has sufficient unencumbered funds to pay the award or part of the award, the available funds shall be used to pay the award or part of the award, and the appropriation request shall be amended to request only sufficient funds to pay that part of the award that is unpaid.

(C) The attorney general shall not make payment on a decision or order granting an award until all appeals have been determined and all rights to appeal exhausted, except as otherwise provided in this section. If any party to a claim for an award of reparations appeals from only a portion of an award, and a remaining portion provides for the payment of money by the state, that part of the award calling for the payment of money by the state and not a subject of the appeal shall be processed for payment as described in this section.

(D) The attorney general shall prepare itemized bills for the costs of printing and distributing the pamphlet the attorney general prepares pursuant to section 109.42 of the Revised Code. The itemized bills shall set forth the name and address of the persons owed the amounts set forth in them.

(E) As used in this section, "DNA analysis" and "DNA specimen" have the same meanings as in section 109.573 of the Revised Code.

Sec. 2903.33. As used in sections 2903.33 to 2903.36 of the Revised Code: 18232
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(A) "Care facility" means any of the following: 18234

(1) Any "home" as defined in section 3721.10 or 5111.20 of the Revised Code; 18235
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(2) Any "residential facility" as defined in section 5123.19 of the Revised Code; 18237
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(3) Any institution or facility operated or provided by the department of mental health or by the department of mental retardation and developmental disabilities pursuant to sections 5119.02 and 5123.03 of the Revised Code; 18239
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(4) Any "residential facility" as defined in section 5119.22 of the Revised Code; 18243
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(5) Any unit of any hospital, as defined in section 3701.01 of the Revised Code, that provides the same services as a nursing home, as defined in section 3721.01 of the Revised Code; 18245
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(6) Any institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to one individual or two unrelated individuals who are dependent upon the services of others; 18248
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(7) Any "adult care facility" as defined in section 3722.01 of the Revised Code; 18253
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(8) Any adult foster home certified by the department of aging or its designee under section 173.36 of the Revised Code; 18255
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~~(9) Any "community alternative home" as defined in section 3724.01 of the Revised Code. 18257
18258~~

(B) "Abuse" means knowingly causing physical harm or recklessly causing serious physical harm to a person by physical 18259
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contact with the person or by the inappropriate use of a physical 18261
or chemical restraint, medication, or isolation on the person. 18262

(C)(1) "Gross neglect" means knowingly failing to provide a 18263
person with any treatment, care, goods, or service that is 18264
necessary to maintain the health or safety of the person when the 18265
failure results in physical harm or serious physical harm to the 18266
person. 18267

(2) "Neglect" means recklessly failing to provide a person 18268
with any treatment, care, goods, or service that is necessary to 18269
maintain the health or safety of the person when the failure 18270
results in serious physical harm to the person. 18271

(D) "Inappropriate use of a physical or chemical restraint, 18272
medication, or isolation" means the use of physical or chemical 18273
restraint, medication, or isolation as punishment, for staff 18274
convenience, excessively, as a substitute for treatment, or in 18275
quantities that preclude habilitation and treatment. 18276

Sec. 2909.03. (A) No person, by means of fire or explosion, 18277
shall knowingly do any of the following: 18278

(1) Cause, or create a substantial risk of, physical harm to 18279
any property of another without the other person's consent; 18280

(2) Cause, or create a substantial risk of, physical harm to 18281
any property of the offender or another, with purpose to defraud; 18282

(3) Cause, or create a substantial risk of, physical harm to 18283
the statehouse or a courthouse, school building, or other building 18284
or structure that is owned or controlled by the state, any 18285
political subdivision, or any department, agency, or 18286
instrumentality of the state or a political subdivision, and that 18287
is used for public purposes; 18288

(4) Cause, or create a substantial risk of, physical harm, 18289
through the offer or the acceptance of an agreement for hire or 18290

other consideration, to any property of another without the other 18291
person's consent or to any property of the offender or another 18292
with purpose to defraud; 18293

(5) Cause, or create a substantial risk of, physical harm to 18294
any park, preserve, wildlands, brush-covered land, cut-over land, 18295
forest, timberland, greenlands, woods, or similar real property 18296
that is owned or controlled by another person, the state, or a 18297
political subdivision without the consent of the other person, the 18298
state, or the political subdivision; 18299

(6) With purpose to defraud, cause, or create a substantial 18300
risk of, physical harm to any park, preserve, wildlands, 18301
brush-covered land, cut-over land, forest, timberland, greenlands, 18302
woods, or similar real property that is owned or controlled by the 18303
offender, another person, the state, or a political subdivision. 18304

(B)(1) Whoever violates this section is guilty of arson. 18305

(2) A violation of division (A)(1) of this section is one of 18306
the following: 18307

(a) Except as otherwise provided in division (B)(2)(b) of 18308
this section, a misdemeanor of the first degree; 18309

(b) If the value of the property or the amount of the 18310
physical harm involved is ~~five~~ seven hundred fifty dollars or 18311
more, a felony of the fourth degree. 18312

(3) A violation of division (A)(2), (3), (5), or (6) of this 18313
section is a felony of the fourth degree. 18314

(4) A violation of division (A)(4) of this section is a 18315
felony of the third degree. 18316

Sec. 2909.05. (A) No person shall knowingly cause serious 18317
physical harm to an occupied structure or any of its contents. 18318

(B)(1) No person shall knowingly cause physical harm to 18319

property that is owned or possessed by another, when either of the 18320
following applies: 18321

(a) The property is used by its owner or possessor in the 18322
owner's or possessor's profession, business, trade, or occupation, 18323
and the value of the property or the amount of physical harm 18324
involved is ~~five~~ seven hundred fifty dollars or more; 18325

(b) Regardless of the value of the property or the amount of 18326
damage done, the property or its equivalent is necessary in order 18327
for its owner or possessor to engage in the owner's or possessor's 18328
profession, business, trade, or occupation. 18329

(2) No person shall knowingly cause serious physical harm to 18330
property that is owned, leased, or controlled by a governmental 18331
entity. A governmental entity includes, but is not limited to, the 18332
state or a political subdivision of the state, a school district, 18333
the board of trustees of a public library or public university, or 18334
any other body corporate and politic responsible for governmental 18335
activities only in geographical areas smaller than that of the 18336
state. 18337

(C) No person, without privilege to do so, shall knowingly 18338
cause serious physical harm to any tomb, monument, gravestone, or 18339
other similar structure that is used as a memorial for the dead; 18340
to any fence, railing, curb, or other property that is used to 18341
protect, enclose, or ornament any cemetery; or to a cemetery. 18342

(D) No person, without privilege to do so, shall knowingly 18343
cause physical harm to a place of burial by breaking and entering 18344
into a tomb, crypt, casket, or other structure that is used as a 18345
memorial for the dead or as an enclosure for the dead. 18346

(E) Whoever violates this section is guilty of vandalism. 18347
Except as otherwise provided in this division, vandalism is a 18348
felony of the fifth degree that is punishable by a fine of up to 18349
two thousand five hundred dollars in addition to the penalties 18350

specified for a felony of the fifth degree in sections 2929.11 to 18351
2929.18 of the Revised Code. If the value of the property or the 18352
amount of physical harm involved is five thousand dollars or more 18353
but less than one hundred thousand dollars, vandalism is a felony 18354
of the fourth degree. If the value of the property or the amount 18355
of physical harm involved is one hundred thousand dollars or more, 18356
vandalism is a felony of the third degree. 18357

(F) For purposes of this section: 18358

(1) "Cemetery" means any place of burial and includes burial 18359
sites that contain American Indian burial objects placed with or 18360
containing American Indian human remains. 18361

(2) "Serious physical harm" means physical harm to property 18362
that results in loss to the value of the property of ~~five~~ seven 18363
hundred fifty dollars or more. 18364

Sec. 2909.11. (A) When a person is charged with a violation 18365
of division (A)(1) of section 2909.03 of the Revised Code 18366
involving property value or an amount of physical harm of ~~five~~ 18367
seven hundred fifty dollars or more or with a violation of section 18368
2909.05 of the Revised Code involving property value or an amount 18369
of physical harm of ~~five~~ seven hundred fifty dollars or more, the 18370
jury or court trying the accused shall determine the value of the 18371
property or amount of physical harm and, if a guilty verdict is 18372
returned, shall return the finding as part of the verdict. In any 18373
such case, it is unnecessary to find or return the exact value or 18374
amount of physical harm, section 2945.75 of the Revised Code 18375
applies, and it is sufficient if either of the following applies, 18376
as appropriate, relative to the finding and return of the value or 18377
amount of physical harm: 18378

(1) If the finding and return relate to a violation of 18379
division (A)(1) of section 2909.03 of the Revised Code and are 18380
that the value or amount of the physical harm was ~~five~~ seven 18381

hundred fifty dollars or more, the finding and return shall 18382
include a statement that the value or amount was ~~five~~ seven 18383
hundred fifty dollars or more. 18384

(2) If the finding and return relate to a violation of 18385
division section 2909.05 of the Revised Code and are that the 18386
value or amount of the physical harm was in any of the following 18387
categories, the finding and return shall include one of the 18388
following statements, as appropriate: 18389

(a) If the finding and return are that the value or amount 18390
was one hundred thousand dollars or more, a statement that the 18391
value or amount was one hundred thousand dollars or more; 18392

(b) If the finding and return are that the value or amount 18393
was five thousand dollars or more but less than one hundred 18394
thousand dollars a statement that the value or amount was five 18395
thousand dollars or more but less than one hundred thousand 18396
dollars; 18397

(c) If the finding and return are that the value or amount 18398
was ~~five~~ seven hundred fifty dollars or more but less than five 18399
thousand dollars, a statement that the value or amount was ~~five~~ 18400
seven hundred fifty dollars or more but less than five thousand 18401
dollars. 18402

(B) The following criteria shall be used in determining the 18403
value of property or amount of physical harm involved in a 18404
violation of division (A)(1) of section 2909.03 or section 2909.05 18405
of the Revised Code: 18406

(1) If the property is an heirloom, memento, collector's 18407
item, antique, museum piece, manuscript, document, record, or 18408
other thing that is either irreplaceable or is replaceable only on 18409
the expenditure of substantial time, effort, or money, the value 18410
of the property or the amount of physical harm involved is the 18411
amount that would compensate the owner for its loss. 18412

(2) If the property is not covered under division (B)(1) of this section and the physical harm is such that the property can be restored substantially to its former condition, the amount of physical harm involved is the reasonable cost of restoring the property.

(3) If the property is not covered under division (B)(1) of this section and the physical harm is such that the property cannot be restored substantially to its former condition, the value of the property, in the case of personal property, is the cost of replacing the property with new property of like kind and quality, and, in the case of real property or real property fixtures, is the difference in the fair market value of the property immediately before and immediately after the offense.

(C) As used in this section, "fair market value" has the same meaning as in section 2913.61 of the Revised Code.

(D) Prima-facie evidence of the value of property, as provided in division (E) of section 2913.61 of the Revised Code, may be used to establish the value of property pursuant to this section.

Sec. 2913.02. (A) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:

(1) Without the consent of the owner or person authorized to give consent;

(2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;

(3) By deception;

(4) By threat;

(5) By intimidation.

(B)(1) Whoever violates this section is guilty of theft. 18443

(2) Except as otherwise provided in this division or division 18444
(B)(3), (4), (5), (6), (7), or (8) of this section, a violation of 18445
this section is petty theft, a misdemeanor of the first degree. If 18446
the value of the property or services stolen is ~~five~~ seven hundred 18447
fifty dollars or more and is less than five thousand dollars or if 18448
the property stolen is any of the property listed in section 18449
2913.71 of the Revised Code, a violation of this section is theft, 18450
a felony of the fifth degree. If the value of the property or 18451
services stolen is five thousand dollars or more and is less than 18452
one hundred thousand dollars, a violation of this section is grand 18453
theft, a felony of the fourth degree. If the value of the property 18454
or services stolen is one hundred thousand dollars or more and is 18455
less than five hundred thousand dollars, a violation of this 18456
section is aggravated theft, a felony of the third degree. If the 18457
value of the property or services is five hundred thousand dollars 18458
or more and is less than one million dollars, a violation of this 18459
section is aggravated theft, a felony of the second degree. If the 18460
value of the property or services stolen is one million dollars or 18461
more, a violation of this section is aggravated theft of one 18462
million dollars or more, a felony of the first degree. 18463
18464

(3) Except as otherwise provided in division (B)(4), (5), 18465
(6), (7), or (8) of this section, if the victim of the offense is 18466
an elderly person or disabled adult, a violation of this section 18467
is theft from an elderly person or disabled adult, and division 18468
(B)(3) of this section applies. Except as otherwise provided in 18469
this division, theft from an elderly person or disabled adult is a 18470
felony of the fifth degree. If the value of the property or 18471
services stolen is ~~five~~ seven hundred fifty dollars or more and is 18472
less than five thousand dollars, theft from an elderly person or 18473
disabled adult is a felony of the fourth degree. If the value of 18474

the property or services stolen is five thousand dollars or more 18475
and is less than twenty-five thousand dollars, theft from an 18476
elderly person or disabled adult is a felony of the third degree. 18477
If the value of the property or services stolen is twenty-five 18478
thousand dollars or more and is less than one hundred thousand 18479
dollars, theft from an elderly person or disabled adult is a 18480
felony of the second degree. If the value of the property or 18481
services stolen is one hundred thousand dollars or more, theft 18482
from an elderly person or disabled adult is a felony of the first 18483
degree. 18484

(4) If the property stolen is a firearm or dangerous 18485
ordnance, a violation of this section is grand theft. Except as 18486
otherwise provided in this division, grand theft when the property 18487
stolen is a firearm or dangerous ordnance is a felony of the third 18488
degree, and there is a presumption in favor of the court imposing 18489
a prison term for the offense. If the firearm or dangerous 18490
ordnance was stolen from a federally licensed firearms dealer, 18491
grand theft when the property stolen is a firearm or dangerous 18492
ordnance is a felony of the first degree. The offender shall serve 18493
a prison term imposed for grand theft when the property stolen is 18494
a firearm or dangerous ordnance consecutively to any other prison 18495
term or mandatory prison term previously or subsequently imposed 18496
upon the offender. 18497

(5) If the property stolen is a motor vehicle, a violation of 18498
this section is grand theft of a motor vehicle, a felony of the 18499
fourth degree. 18500

(6) If the property stolen is any dangerous drug, a violation 18501
of this section is theft of drugs, a felony of the fourth degree, 18502
or, if the offender previously has been convicted of a felony drug 18503
abuse offense, a felony of the third degree. 18504

(7) If the property stolen is a police dog or horse or an 18505
assistance dog and the offender knows or should know that the 18506

property stolen is a police dog or horse or an assistance dog, a 18507
violation of this section is theft of a police dog or horse or an 18508
assistance dog, a felony of the third degree. 18509

(8) If the property stolen is anhydrous ammonia, a violation 18510
of this section is theft of anhydrous ammonia, a felony of the 18511
third degree. 18512

(9) In addition to the penalties described in division (B)(2) 18513
of this section, if the offender committed the violation by 18514
causing a motor vehicle to leave the premises of an establishment 18515
at which gasoline is offered for retail sale without the offender 18516
making full payment for gasoline that was dispensed into the fuel 18517
tank of the motor vehicle or into another container, the court may 18518
do one of the following: 18519

(a) Unless division (B)(9)(b) of this section applies, 18520
suspend for not more than six months the offender's driver's 18521
license, probationary driver's license, commercial driver's 18522
license, temporary instruction permit, or nonresident operating 18523
privilege; 18524

(b) If the offender's driver's license, probationary driver's 18525
license, commercial driver's license, temporary instruction 18526
permit, or nonresident operating privilege has previously been 18527
suspended pursuant to division (B)(9)(a) of this section, impose a 18528
class seven suspension of the offender's license, permit, or 18529
privilege from the range specified in division (A)(7) of section 18530
4510.02 of the Revised Code, provided that the suspension shall be 18531
for at least six months. 18532

(10) In addition to the penalties described in division 18533
(B)(2) of this section, if the offender committed the violation by 18534
stealing rented property or rental services, the court may order 18535
that the offender make restitution pursuant to section 2929.18 or 18536
2929.28 of the Revised Code. Restitution may include, but is not 18537

limited to, the cost of repairing or replacing the stolen 18538
property, or the cost of repairing the stolen property and any 18539
loss of revenue resulting from deprivation of the property due to 18540
theft of rental services that is less than or equal to the actual 18541
value of the property at the time it was rented. Evidence of 18542
intent to commit theft of rented property or rental services shall 18543
be determined pursuant to the provisions of section 2913.72 of the 18544
Revised Code. 18545

(C) The sentencing court that suspends an offender's license, 18546
permit, or nonresident operating privilege under division (B)(9) 18547
of this section may grant the offender limited driving privileges 18548
during the period of the suspension in accordance with Chapter 18549
4510. of the Revised Code. 18550

Sec. 2913.03. (A) No person shall knowingly use or operate an 18551
aircraft, motor vehicle, motorcycle, motorboat, or other 18552
motor-propelled vehicle without the consent of the owner or person 18553
authorized to give consent. 18554

(B) No person shall knowingly use or operate an aircraft, 18555
motor vehicle, motorboat, or other motor-propelled vehicle without 18556
the consent of the owner or person authorized to give consent, and 18557
either remove it from this state or keep possession of it for more 18558
than forty-eight hours. 18559

(C) The following are affirmative defenses to a charge under 18560
this section: 18561

(1) At the time of the alleged offense, the actor, though 18562
mistaken, reasonably believed that the actor was authorized to use 18563
or operate the property. 18564

(2) At the time of the alleged offense, the actor reasonably 18565
believed that the owner or person empowered to give consent would 18566
authorize the actor to use or operate the property. 18567

(D)(1) Whoever violates this section is guilty of 18568
unauthorized use of a vehicle. 18569

(2) Except as otherwise provided in division (D)(4) of this 18570
section, a violation of division (A) of this section is a 18571
misdemeanor of the first degree. 18572

(3) Except as otherwise provided in division (D)(4) of this 18573
section, a violation of division (B) of this section is a felony 18574
of the fifth degree. 18575

(4) If the victim of the offense is an elderly person or 18576
disabled adult and if the victim incurs a loss as a result of the 18577
violation, a violation of division (A) or (B) of this section is 18578
whichever of the following is applicable: 18579

(a) Except as otherwise provided in division (D)(4)(b), (c), 18580
or (d), ~~or (e)~~ of this section, a felony of the fifth degree; 18581

(b) If the loss to the victim is ~~five~~ seven hundred fifty 18582
dollars or more and is less than five thousand dollars, a felony 18583
of the fourth degree; 18584

(c) If the loss to the victim is five thousand dollars or 18585
more and is less than twenty-five thousand dollars, a felony of 18586
the third degree; 18587

(d) If the loss to the victim is twenty-five thousand dollars 18588
or more, a felony of the second degree. 18589

Sec. 2913.04. (A) No person shall knowingly use or operate 18590
the property of another without the consent of the owner or person 18591
authorized to give consent. 18592

(B) No person, in any manner and by any means, including, but 18593
not limited to, computer hacking, shall knowingly gain access to, 18594
attempt to gain access to, or cause access to be gained to any 18595
computer, computer system, computer network, cable service, cable 18596
system, telecommunications device, telecommunications service, or 18597

information service without the consent of, or beyond the scope of 18598
the express or implied consent of, the owner of the computer, 18599
computer system, computer network, cable service, cable system, 18600
telecommunications device, telecommunications service, or 18601
information service or other person authorized to give consent. 18602

(C) No person shall knowingly gain access to, attempt to gain 18603
access to, cause access to be granted to, or disseminate 18604
information gained from access to the law enforcement automated 18605
database system created pursuant to section 5503.10 of the Revised 18606
Code without the consent of, or beyond the scope of the express or 18607
implied consent of, the chair of the law enforcement automated 18608
data system steering committee. 18609

(D) The affirmative defenses contained in division (C) of 18610
section 2913.03 of the Revised Code are affirmative defenses to a 18611
charge under this section. 18612

(E)(1) Whoever violates division (A) of this section is 18613
guilty of unauthorized use of property. 18614

(2) Except as otherwise provided in division (E)(3) or (4) of 18615
this section, unauthorized use of property is a misdemeanor of the 18616
fourth degree. 18617

(3) Except as otherwise provided in division (E)(4) of this 18618
section, if unauthorized use of property is committed for the 18619
purpose of devising or executing a scheme to defraud or to obtain 18620
property or services, unauthorized use of property is whichever of 18621
the following is applicable: 18622

(a) Except as otherwise provided in division (E)(3)(b), (c), 18623
or (d) of this section, a misdemeanor of the first degree. 18624

(b) If the value of the property or services or the loss to 18625
the victim is ~~five~~ seven hundred fifty dollars or more and is less 18626
than five thousand dollars, a felony of the fifth degree. 18627

(c) If the value of the property or services or the loss to the victim is five thousand dollars or more and is less than one hundred thousand dollars, a felony of the fourth degree.

(d) If the value of the property or services or the loss to the victim is one hundred thousand dollars or more, a felony of the third degree.

(4) If the victim of the offense is an elderly person or disabled adult, unauthorized use of property is whichever of the following is applicable:

(a) Except as otherwise provided in division (E)(4)(b), (c), or (d) of this section, a felony of the fifth degree;

(b) If the value of the property or services or loss to the victim is ~~five~~ seven hundred fifty dollars or more and is less than five thousand dollars, a felony of the fourth degree;

(c) If the value of the property or services or loss to the victim is five thousand dollars or more and is less than twenty-five thousand dollars, a felony of the third degree;

(d) If the value of the property or services or loss to the victim is twenty-five thousand dollars or more, a felony of the second degree.

(F)(1) Whoever violates division (B) of this section is guilty of unauthorized use of computer, cable, or telecommunication property, and shall be punished as provided in division (F)(2), (3), or (4) of this section.

(2) Except as otherwise provided in division (F)(3) or (4) of this section, unauthorized use of computer, cable, or telecommunication property is a felony of the fifth degree.

(3) Except as otherwise provided in division (F)(4) of this section, if unauthorized use of computer, cable, or telecommunication property is committed for the purpose of

devising or executing a scheme to defraud or to obtain property or 18658
services, for obtaining money, property, or services by false or 18659
fraudulent pretenses, or for committing any other criminal 18660
offense, unauthorized use of computer, cable, or telecommunication 18661
property is whichever of the following is applicable: 18662

(a) Except as otherwise provided in division (F)(3)(b) of 18663
this section, if the value of the property or services involved or 18664
the loss to the victim is five thousand dollars or more and less 18665
than one hundred thousand dollars, a felony of the fourth degree; 18666

(b) If the value of the property or services involved or the 18667
loss to the victim is one hundred thousand dollars or more, a 18668
felony of the third degree. 18669

(4) If the victim of the offense is an elderly person or 18670
disabled adult, unauthorized use of computer, cable, or 18671
telecommunication property is whichever of the following is 18672
applicable: 18673

(a) Except as otherwise provided in division (F)(4)(b), (c), 18674
or (d) of this section, a felony of the fifth degree; 18675

(b) If the value of the property or services or loss to the 18676
victim is ~~five~~ seven hundred fifty dollars or more and is less 18677
than five thousand dollars, a felony of the fourth degree; 18678

(c) If the value of the property or services or loss to the 18679
victim is five thousand dollars or more and is less than 18680
twenty-five thousand dollars, a felony of the third degree; 18681

(d) If the value of the property or services or loss to the 18682
victim is twenty-five thousand dollars or more, a felony of the 18683
second degree. 18684

(G) Whoever violates division (C) of this section is guilty 18685
of unauthorized use of the law enforcement automated database 18686
system, a felony of the fifth degree. 18687

(H) As used in this section:	18688
(1) "Cable operator" means any person or group of persons that does either of the following:	18689 18690
(a) Provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in that cable system;	18691 18692 18693
(b) Otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.	18694 18695
(2) "Cable service" means any of the following:	18696
(a) The one-way transmission to subscribers of video programming or of information that a cable operator makes available to all subscribers generally;	18697 18698 18699
(b) Subscriber interaction, if any, that is required for the selection or use of video programming or of information that a cable operator makes available to all subscribers generally, both as described in division (H)(2)(a) of this section;	18700 18701 18702 18703
(c) Any cable television service.	18704
(3) "Cable system" means any facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community. "Cable system" does not include any of the following:	18705 18706 18707 18708 18709 18710
(a) Any facility that serves only to retransmit the television signals of one or more television broadcast stations;	18711 18712
(b) Any facility that serves subscribers without using any public right-of-way;	18713 18714
(c) Any facility of a common carrier that, under 47 U.S.C.A. 522(7)(c), is excluded from the term "cable system" as defined in 47 U.S.C.A. 522(7);	18715 18716 18717

(d) Any open video system that complies with 47 U.S.C.A. 573;	18718
(e) Any facility of any electric utility used solely for operating its electric utility system.	18719 18720
Sec. 2913.11. (A) As used in this section:	18721
(1) "Check" includes any form of debit from a demand deposit account, including, but not limited to any of the following:	18722 18723
(a) A check, bill of exchange, draft, order of withdrawal, or similar negotiable or non-negotiable instrument;	18724 18725
(b) An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check, or any form of automated clearing house transaction.	18726 18727 18728
(2) "Issue a check" means causing any form of debit from a demand deposit account.	18729 18730
(B) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored or knowing that a person has ordered or will order stop payment on the check or other negotiable instrument.	18731 18732 18733 18734 18735
(C) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored if either of the following occurs:	18736 18737 18738
(1) The drawer had no account with the drawee at the time of issue or the stated date, whichever is later;	18739 18740
(2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within thirty days after issue or the stated date, whichever is later, and the liability of the drawer, indorser, or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.	18741 18742 18743 18744 18745 18746

(D) For purposes of this section, a person who issues or transfers a check, bill of exchange, or other draft is presumed to have the purpose to defraud if the drawer fails to comply with section 1349.16 of the Revised Code by doing any of the following when opening a checking account intended for personal, family, or household purposes at a financial institution:

(1) Falsely stating that the drawer has not been issued a valid driver's or commercial driver's license or identification card issued under section 4507.50 of the Revised Code;

(2) Furnishing such license or card, or another identification document that contains false information;

(3) Making a false statement with respect to the drawer's current address or any additional relevant information reasonably required by the financial institution.

(E) In determining the value of the payment for purposes of division (F) of this section, the court may aggregate all checks and other negotiable instruments that the offender issued or transferred or caused to be issued or transferred in violation of division (A) of this section within a period of one hundred eighty consecutive days.

(F) Whoever violates this section is guilty of passing bad checks. Except as otherwise provided in this division, passing bad checks is a misdemeanor of the first degree. If the check or checks or other negotiable instrument or instruments are issued or transferred to a single vendor or single other person for the payment of ~~five~~ seven hundred fifty dollars or more but less than five thousand dollars or if the check or checks or other negotiable instrument or instruments are issued or transferred to multiple vendors or persons for the payment of one thousand dollars or more but less than five thousand dollars, passing bad checks is a felony of the fifth degree. If the check or checks or

other negotiable instrument or instruments are for the payment of 18778
five thousand dollars or more but less than one hundred thousand 18779
dollars, passing bad checks is a felony of the fourth degree. If 18780
the check or checks or other negotiable instrument or instruments 18781
are for the payment of one hundred thousand dollars or more, 18782
passing bad checks is a felony of the third degree. 18783

Sec. 2913.21. (A) No person shall do any of the following: 18784

(1) Practice deception for the purpose of procuring the 18785
issuance of a credit card, when a credit card is issued in actual 18786
reliance thereon; 18787

(2) Knowingly buy or sell a credit card from or to a person 18788
other than the issuer. 18789

(B) No person, with purpose to defraud, shall do any of the 18790
following: 18791

(1) Obtain control over a credit card as security for a debt; 18792

(2) Obtain property or services by the use of a credit card, 18793
in one or more transactions, knowing or having reasonable cause to 18794
believe that the card has expired or been revoked, or was 18795
obtained, is retained, or is being used in violation of law; 18796

(3) Furnish property or services upon presentation of a 18797
credit card, knowing that the card is being used in violation of 18798
law; 18799

(4) Represent or cause to be represented to the issuer of a 18800
credit card that property or services have been furnished, knowing 18801
that the representation is false. 18802

(C) No person, with purpose to violate this section, shall 18803
receive, possess, control, or dispose of a credit card. 18804

(D)(1) Whoever violates this section is guilty of misuse of 18805
credit cards. 18806

(2) Except as otherwise provided in division (D)(4) of this section, a violation of division (A), (B)(1), or (C) of this section is a misdemeanor of the first degree.

(3) Except as otherwise provided in this division or division (D)(4) of this section, a violation of division (B)(2), (3), or (4) of this section is a misdemeanor of the first degree. If the cumulative retail value of the property and services involved in one or more violations of division (B)(2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is ~~five~~ seven hundred fifty dollars or more and is less than five thousand dollars, misuse of credit cards in violation of any of those divisions is a felony of the fifth degree. If the cumulative retail value of the property and services involved in one or more violations of division (B)(2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is five thousand dollars or more and is less than one hundred thousand dollars, misuse of credit cards in violation of any of those divisions is a felony of the fourth degree. If the cumulative retail value of the property and services involved in one or more violations of division (B)(2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is one hundred thousand dollars or more, misuse of credit cards in violation of any of those divisions is a felony of the third degree.

(4) If the victim of the offense is an elderly person or disabled adult, and if the offense involves a violation of division (B)(1) or (2) of this section, division (D)(4) of this section applies. Except as otherwise provided in division (D)(4)

of this section, a violation of division (B)(1) or (2) of this 18839
section is a felony of the fifth degree. If the debt for which the 18840
card is held as security or the cumulative retail value of the 18841
property or services involved in the violation is ~~five~~ seven 18842
hundred fifty dollars or more and is less than five thousand 18843
dollars, a violation of either of those divisions is a felony of 18844
the fourth degree. If the debt for which the card is held as 18845
security or the cumulative retail value of the property or 18846
services involved in the violation is five thousand dollars or 18847
more and is less than twenty-five thousand dollars, a violation of 18848
either of those divisions is a felony of the third degree. If the 18849
debt for which the card is held as security or the cumulative 18850
retail value of the property or services involved in the violation 18851
is twenty-five thousand dollars or more, a violation of either of 18852
those divisions is a felony of the second degree. 18853

18854

Sec. 2913.31. (A) No person, with purpose to defraud, or 18855
knowing that the person is facilitating a fraud, shall do any of 18856
the following: 18857

(1) Forge any writing of another without the other person's 18858
authority; 18859

(2) Forge any writing so that it purports to be genuine when 18860
it actually is spurious, or to be the act of another who did not 18861
authorize that act, or to have been executed at a time or place or 18862
with terms different from what in fact was the case, or to be a 18863
copy of an original when no such original existed; 18864

(3) Utter, or possess with purpose to utter, any writing that 18865
the person knows to have been forged. 18866

(B) No person shall knowingly do either of the following: 18867

(1) Forge an identification card; 18868

(2) Sell or otherwise distribute a card that purports to be 18869
an identification card, knowing it to have been forged. 18870

As used in this division, "identification card" means a card 18871
that includes personal information or characteristics of an 18872
individual, a purpose of which is to establish the identity of the 18873
bearer described on the card, whether the words "identity," 18874
"identification," "identification card," or other similar words 18875
appear on the card. 18876

(C)(1)(a) Whoever violates division (A) of this section is 18877
guilty of forgery. 18878

(b) Except as otherwise provided in this division or division 18879
(C)(1)(c) of this section, forgery is a felony of the fifth 18880
degree. If property or services are involved in the offense or the 18881
victim suffers a loss, forgery is one of the following: 18882

(i) If the value of the property or services or the loss to 18883
the victim is five thousand dollars or more and is less than one 18884
hundred thousand dollars, a felony of the fourth degree; 18885

(ii) If the value of the property or services or the loss to 18886
the victim is one hundred thousand dollars or more, a felony of 18887
the third degree. 18888

(c) If the victim of the offense is an elderly person or 18889
disabled adult, division (C)(1)(c) of this section applies to the 18890
forgery. Except as otherwise provided in division (C)(1)(c) of 18891
this section, forgery is a felony of the fifth degree. If property 18892
or services are involved in the offense or if the victim suffers a 18893
loss, forgery is one of the following: 18894

(i) If the value of the property or services or the loss to 18895
the victim is ~~five~~ seven hundred fifty dollars or more and is less 18896
than five thousand dollars, a felony of the fourth degree; 18897

(ii) If the value of the property or services or the loss to 18898

the victim is five thousand dollars or more and is less than 18899
twenty-five thousand dollars, a felony of the third degree; 18900

(iii) If the value of the property or services or the loss to 18901
the victim is twenty-five thousand dollars or more, a felony of 18902
the second degree. 18903

(2) Whoever violates division (B) of this section is guilty 18904
of forging identification cards or selling or distributing forged 18905
identification cards. Except as otherwise provided in this 18906
division, forging identification cards or selling or distributing 18907
forged identification cards is a misdemeanor of the first degree. 18908
If the offender previously has been convicted of a violation of 18909
division (B) of this section, forging identification cards or 18910
selling or distributing forged identification cards is a 18911
misdemeanor of the first degree and, in addition, the court shall 18912
impose upon the offender a fine of not less than two hundred fifty 18913
dollars. 18914

Sec. 2913.32. (A) No person, with purpose to defraud, or 18915
knowing that the person is facilitating a fraud, shall do any of 18916
the following: 18917

(1) Make or alter any object so that it appears to have value 18918
because of antiquity, rarity, curiosity, source, or authorship, 18919
which it does not in fact possess; 18920

(2) Practice deception in making, retouching, editing, or 18921
reproducing any photograph, movie film, video tape, phonograph 18922
record, or recording tape; 18923

(3) Falsely or fraudulently make, simulate, forge, alter, or 18924
counterfeit any wrapper, label, stamp, cork, or cap prescribed by 18925
the liquor control commission under Chapters 4301. and 4303. of 18926
the Revised Code, falsely or fraudulently cause to be made, 18927
simulated, forged, altered, or counterfeited any wrapper, label, 18928

stamp, cork, or cap prescribed by the liquor control commission 18929
under Chapters 4301. and 4303. of the Revised Code, or use more 18930
than once any wrapper, label, stamp, cork, or cap prescribed by 18931
the liquor control commission under Chapters 4301. and 4303. of 18932
the Revised Code. 18933

(4) Utter, or possess with purpose to utter, any object that 18934
the person knows to have been simulated as provided in division 18935
(A)(1), (2), or (3) of this section. 18936

(B) Whoever violates this section is guilty of criminal 18937
simulation. Except as otherwise provided in this division, 18938
criminal simulation is a misdemeanor of the first degree. If the 18939
loss to the victim is ~~five~~ seven hundred fifty dollars or more and 18940
is less than five thousand dollars, criminal simulation is a 18941
felony of the fifth degree. If the loss to the victim is five 18942
thousand dollars or more and is less than one hundred thousand 18943
dollars, criminal simulation is a felony of the fourth degree. If 18944
the loss to the victim is one hundred thousand dollars or more, 18945
criminal simulation is a felony of the third degree. 18946

Sec. 2913.34. (A) No person shall knowingly do any of the 18947
following: 18948

(1) Attach, affix, or otherwise use a counterfeit mark in 18949
connection with the manufacture of goods or services, whether or 18950
not the goods or services are intended for sale or resale; 18951

(2) Possess, sell, or offer for sale tools, machines, 18952
instruments, materials, articles, or other items of personal 18953
property with the knowledge that they are designed for the 18954
production or reproduction of counterfeit marks; 18955

(3) Purchase or otherwise acquire goods, and keep or 18956
otherwise have the goods in the person's possession, with the 18957
knowledge that a counterfeit mark is attached to, affixed to, or 18958

otherwise used in connection with the goods and with the intent to 18959
sell or otherwise dispose of the goods; 18960

(4) Sell, offer for sale, or otherwise dispose of goods with 18961
the knowledge that a counterfeit mark is attached to, affixed to, 18962
or otherwise used in connection with the goods; 18963

(5) Sell, offer for sale, or otherwise provide services with 18964
the knowledge that a counterfeit mark is used in connection with 18965
that sale, offer for sale, or other provision of the services. 18966

(B)(1) Whoever violates this section is guilty of trademark 18967
counterfeiting. 18968

(2) Except as otherwise provided in this division, a 18969
violation of division (A)(1) of this section is a felony of the 18970
fifth degree. Except as otherwise provided in this division, if 18971
the cumulative sales price of the goods or services to which or in 18972
connection with which the counterfeit mark is attached, affixed, 18973
or otherwise used in the offense is five thousand dollars or more 18974
but less than one hundred thousand dollars or if the number of 18975
units of goods to which or in connection with which the 18976
counterfeit mark is attached, affixed, or otherwise used in the 18977
offense is more than one hundred units but less than one thousand 18978
units, a violation of division (A)(1) of this section is a felony 18979
of the fourth degree. If the cumulative sales price of the goods 18980
or services to which or in connection with which the counterfeit 18981
mark is attached, affixed, or otherwise used in the offense is one 18982
hundred thousand dollars or more or if the number of units of 18983
goods to which or in connection with which the counterfeit mark is 18984
attached, affixed, or otherwise used in the offense is one 18985
thousand units or more, a violation of division (A)(1) of this 18986
section is a felony of the third degree. 18987

(3) Except as otherwise provided in this division, a 18988
violation of division (A)(2) of this section is a misdemeanor of 18989

the first degree. If the circumstances of the violation indicate 18990
that the tools, machines, instruments, materials, articles, or 18991
other items of personal property involved in the violation were 18992
intended for use in the commission of a felony, a violation of 18993
division (A)(2) of this section is a felony of the fifth degree. 18994

(4) Except as otherwise provided in this division, a 18995
violation of division (A)(3), (4), or (5) of this section is a 18996
misdemeanor of the first degree. Except as otherwise provided in 18997
this division, if the cumulative sales price of the goods or 18998
services to which or in connection with which the counterfeit mark 18999
is attached, affixed, or otherwise used in the offense is ~~five~~ 19000
seven hundred fifty dollars or more but less than five thousand 19001
dollars, a violation of division (A)(3), (4), or (5) of this 19002
section is a felony of the fifth degree. Except as otherwise 19003
provided in this division, if the cumulative sales price of the 19004
goods or services to which or in connection with which the 19005
counterfeit mark is attached, affixed, or otherwise used in the 19006
offense is five thousand dollars or more but less than one hundred 19007
thousand dollars or if the number of units of goods to which or in 19008
connection with which the counterfeit mark is attached, affixed, 19009
or otherwise used in the offense is more than one hundred units 19010
but less than one thousand units, a violation of division (A)(3), 19011
(4), or (5) of this section is a felony of the fourth degree. If 19012
the cumulative sales price of the goods or services to which or in 19013
connection with which the counterfeit mark is attached, affixed, 19014
or otherwise used in the offense is one hundred thousand dollars 19015
or more or if the number of units of goods to which or in 19016
connection with which the counterfeit mark is attached, affixed, 19017
or otherwise used in the offense is one thousand units or more, a 19018
violation of division (A)(3), (4), or (5) of this section is a 19019
felony of the third degree. 19020

(C) A defendant may assert as an affirmative defense to a 19021

charge of a violation of this section defenses, affirmative 19022
defenses, and limitations on remedies that would be available in a 19023
civil, criminal, or administrative action or proceeding under the 19024
"Lanham Act," 60 Stat. 427-443 (1946), 15 U.S.C. 1051-1127, as 19025
amended, "The Trademark Counterfeiting Act of 1984," 98 Stat. 19026
2178, 18 U.S.C. 2320, as amended, Chapter 1329. or another section 19027
of the Revised Code, or common law. 19028

(D)(1) Law enforcement officers may seize pursuant to 19029
Criminal Rule 41 or Chapter 2933. or 2981. of the Revised Code 19030
either of the following: 19031

(a) Goods to which or in connection with which a person 19032
attached, affixed, otherwise used, or intended to attach, affix, 19033
or otherwise use a counterfeit mark in violation of this section; 19034

(b) Tools, machines, instruments, materials, articles, 19035
vehicles, or other items of personal property that are possessed, 19036
sold, offered for sale, or used in a violation of this section or 19037
in an attempt to commit or complicity in the commission of a 19038
violation of this section. 19039

(2) Notwithstanding any contrary provision of Chapter 2981. 19040
of the Revised Code, if a person is convicted of or pleads guilty 19041
to a violation of this section, an attempt to violate this 19042
section, or complicity in a violation of this section, the court 19043
involved shall declare that the goods described in division 19044
(D)(1)(a) of this section and the personal property described in 19045
division (D)(1)(b) of this section are contraband and are 19046
forfeited. Prior to the court's entry of judgment under Criminal 19047
Rule 32, the owner of a registered trademark or service mark that 19048
is the subject of the counterfeit mark may recommend a manner in 19049
which the forfeited goods and forfeited personal property should 19050
be disposed of. If that owner makes a timely recommendation of a 19051
manner of disposition, the court is not bound by the 19052
recommendation. If that owner makes a timely recommendation of a 19053

manner of disposition, the court may include in its entry of judgment an order that requires appropriate persons to dispose of the forfeited goods and forfeited personal property in the recommended manner. If that owner fails to make a timely recommendation of a manner of disposition or if that owner makes a timely recommendation of the manner of disposition but the court determines to not follow the recommendation, the court shall include in its entry of judgment an order that requires the law enforcement agency that employs the law enforcement officer who seized the forfeited goods or the forfeited personal property to destroy them or cause their destruction.

(E) This section does not affect the rights of an owner of a trademark or a service mark, or the enforcement in a civil action or in administrative proceedings of the rights of an owner of a trademark or a service mark, under the "Lanham Act," 60 Stat. 427-443 (1946), 15 U.S.C. 1051-1127, as amended, "The Trademark Counterfeiting Act of 1984," 92 Stat. 2178, 18 U.S.C. 2320, as amended, Chapter 1329. or another section of the Revised Code, or common law.

(F) As used in this section:

(1)(a) Except as provided in division (F)(1)(b) of this section, "counterfeit mark" means a spurious trademark or a spurious service mark that satisfies both of the following:

(i) It is identical with or substantially indistinguishable from a mark that is registered on the principal register in the United States patent and trademark office for the same goods or services as the goods or services to which or in connection with which the spurious trademark or spurious service mark is attached, affixed, or otherwise used or from a mark that is registered with the secretary of state pursuant to sections 1329.54 to 1329.67 of the Revised Code for the same goods or services as the goods or services to which or in connection with which the spurious

trademark or spurious service mark is attached, affixed, or 19086
otherwise used, and the owner of the registration uses the 19087
registered mark, whether or not the offender knows that the mark 19088
is registered in a manner described in division (F)(1)(a)(i) of 19089
this section. 19090

(ii) Its use is likely to cause confusion or mistake or to 19091
deceive other persons. 19092

(b) "Counterfeit mark" does not include a mark or other 19093
designation that is attached to, affixed to, or otherwise used in 19094
connection with goods or services if the holder of the right to 19095
use the mark or other designation authorizes the manufacturer, 19096
producer, or vendor of those goods or services to attach, affix, 19097
or otherwise use the mark or other designation in connection with 19098
those goods or services at the time of their manufacture, 19099
production, or sale. 19100

(2) "Cumulative sales price" means the product of the lowest 19101
single unit sales price charged or sought to be charged by an 19102
offender for goods to which or in connection with which a 19103
counterfeit mark is attached, affixed, or otherwise used or of the 19104
lowest single service transaction price charged or sought to be 19105
charged by an offender for services in connection with which a 19106
counterfeit mark is used, multiplied by the total number of those 19107
goods or services, whether or not units of goods are sold or are 19108
in an offender's possession, custody, or control. 19109

(3) "Registered trademark or service mark" means a trademark 19110
or service mark that is registered in a manner described in 19111
division (F)(1) of this section. 19112

(4) "Trademark" and "service mark" have the same meanings as 19113
in section 1329.54 of the Revised Code. 19114

Sec. 2913.40. (A) As used in this section: 19115

(1) "Statement or representation" means any oral, written, 19116
electronic, electronic impulse, or magnetic communication that is 19117
used to identify an item of goods or a service for which 19118
reimbursement may be made under the medical assistance program or 19119
that states income and expense and is or may be used to determine 19120
a rate of reimbursement under the medical assistance program. 19121

(2) "Medical assistance program" means the program 19122
established by the department of job and family services to 19123
provide medical assistance under section 5111.01 of the Revised 19124
Code and the medicaid program of Title XIX of the "Social Security 19125
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. 19126

(3) "Provider" means any person who has signed a provider 19127
agreement with the department of job and family services to 19128
provide goods or services pursuant to the medical assistance 19129
program or any person who has signed an agreement with a party to 19130
such a provider agreement under which the person agrees to provide 19131
goods or services that are reimbursable under the medical 19132
assistance program. 19133

(4) "Provider agreement" means an oral or written agreement 19134
between the department of job and family services and a person in 19135
which the person agrees to provide goods or services under the 19136
medical assistance program. 19137

(5) "Recipient" means any individual who receives goods or 19138
services from a provider under the medical assistance program. 19139

(6) "Records" means any medical, professional, financial, or 19140
business records relating to the treatment or care of any 19141
recipient, to goods or services provided to any recipient, or to 19142
rates paid for goods or services provided to any recipient and any 19143
records that are required by the rules of the director of job and 19144
family services to be kept for the medical assistance program. 19145

(B) No person shall knowingly make or cause to be made a 19146

false or misleading statement or representation for use in 19147
obtaining reimbursement from the medical assistance program. 19148

(C) No person, with purpose to commit fraud or knowing that 19149
the person is facilitating a fraud, shall do either of the 19150
following: 19151

(1) Contrary to the terms of the person's provider agreement, 19152
charge, solicit, accept, or receive for goods or services that the 19153
person provides under the medical assistance program any property, 19154
money, or other consideration in addition to the amount of 19155
reimbursement under the medical assistance program and the 19156
person's provider agreement for the goods or services and any 19157
cost-sharing expenses authorized by section 5111.0112 of the 19158
Revised Code or rules adopted pursuant to section 5111.01, 19159
5111.011, or 5111.02 of the Revised Code. 19160

(2) Solicit, offer, or receive any remuneration, other than 19161
any cost-sharing expenses authorized by section 5111.0112 of the 19162
Revised Code or rules adopted under section 5111.01, 5111.011, or 19163
5111.02 of the Revised Code, in cash or in kind, including, but 19164
not limited to, a kickback or rebate, in connection with the 19165
furnishing of goods or services for which whole or partial 19166
reimbursement is or may be made under the medical assistance 19167
program. 19168

(D) No person, having submitted a claim for or provided goods 19169
or services under the medical assistance program, shall do either 19170
of the following for a period of at least six years after a 19171
reimbursement pursuant to that claim, or a reimbursement for those 19172
goods or services, is received under the medical assistance 19173
program: 19174

(1) Knowingly alter, falsify, destroy, conceal, or remove any 19175
records that are necessary to fully disclose the nature of all 19176
goods or services for which the claim was submitted, or for which 19177

reimbursement was received, by the person; 19178

(2) Knowingly alter, falsify, destroy, conceal, or remove any 19179
records that are necessary to disclose fully all income and 19180
expenditures upon which rates of reimbursements were based for the 19181
person. 19182

(E) Whoever violates this section is guilty of medicaid 19183
fraud. Except as otherwise provided in this division, medicaid 19184
fraud is a misdemeanor of the first degree. If the value of 19185
property, services, or funds obtained in violation of this section 19186
is ~~five~~ seven hundred fifty dollars or more and is less than five 19187
thousand dollars, medicaid fraud is a felony of the fifth degree. 19188
If the value of property, services, or funds obtained in violation 19189
of this section is five thousand dollars or more and is less than 19190
one hundred thousand dollars, medicaid fraud is a felony of the 19191
fourth degree. If the value of the property, services, or funds 19192
obtained in violation of this section is one hundred thousand 19193
dollars or more, medicaid fraud is a felony of the third degree. 19194

(F) Upon application of the governmental agency, office, or 19195
other entity that conducted the investigation and prosecution in a 19196
case under this section, the court shall order any person who is 19197
convicted of a violation of this section for receiving any 19198
reimbursement for furnishing goods or services under the medical 19199
assistance program to which the person is not entitled to pay to 19200
the applicant its cost of investigating and prosecuting the case. 19201
The costs of investigation and prosecution that a defendant is 19202
ordered to pay pursuant to this division shall be in addition to 19203
any other penalties for the receipt of that reimbursement that are 19204
provided in this section, section 5111.03 of the Revised Code, or 19205
any other provision of law. 19206

(G) The provisions of this section are not intended to be 19207
exclusive remedies and do not preclude the use of any other 19208
criminal or civil remedy for any act that is in violation of this 19209

section. 19210

Sec. 2913.401. (A) As used in this section: 19211

(1) "Medicaid benefits" means benefits under the medical 19212
assistance program established under Chapter 5111. of the Revised 19213
Code. 19214

(2) "Property" means any real or personal property or other 19215
asset in which a person has any legal title or interest. 19216

(B) No person shall knowingly do any of the following in an 19217
application for medicaid benefits or in a document that requires a 19218
disclosure of assets for the purpose of determining eligibility to 19219
receive medicaid benefits: 19220

(1) Make or cause to be made a false or misleading statement; 19221

(2) Conceal an interest in property; 19222

(3)(a) Except as provided in division (B)(3)(b) of this 19223
section, fail to disclose a transfer of property that occurred 19224
during the period beginning thirty-six months before submission of 19225
the application or document and ending on the date the application 19226
or document was submitted; 19227

(b) Fail to disclose a transfer of property that occurred 19228
during the period beginning sixty months before submission of the 19229
application or document and ending on the date the application or 19230
document was submitted and that was made to an irrevocable trust a 19231
portion of which is not distributable to the applicant for 19232
medicaid benefits or the recipient of medicaid benefits or to a 19233
revocable trust. 19234

(C)(1) Whoever violates this section is guilty of medicaid 19235
eligibility fraud. Except as otherwise provided in this division, 19236
a violation of this section is a misdemeanor of the first degree. 19237
If the value of the medicaid benefits paid as a result of the 19238
violation is ~~five~~ seven hundred fifty dollars or more and is less 19239

than five thousand dollars, a violation of this section is a 19240
felony of the fifth degree. If the value of the medicaid benefits 19241
paid as a result of the violation is five thousand dollars or more 19242
and is less than one hundred thousand dollars, a violation of this 19243
section is a felony of the fourth degree. If the value of the 19244
medicaid benefits paid as a result of the violation is one hundred 19245
thousand dollars or more, a violation of this section is a felony 19246
of the third degree. 19247

(2) In addition to imposing a sentence under division (C)(1) 19248
of this section, the court shall order that a person who is guilty 19249
of medicaid eligibility fraud make restitution in the full amount 19250
of any medicaid benefits paid on behalf of an applicant for or 19251
recipient of medicaid benefits for which the applicant or 19252
recipient was not eligible, plus interest at the rate applicable 19253
to judgments on unreimbursed amounts from the date on which the 19254
benefits were paid to the date on which restitution is made. 19255

(3) The remedies and penalties provided in this section are 19256
not exclusive and do not preclude the use of any other criminal or 19257
civil remedy for any act that is in violation of this section. 19258

(D) This section does not apply to a person who fully 19259
disclosed in an application for medicaid benefits or in a document 19260
that requires a disclosure of assets for the purpose of 19261
determining eligibility to receive medicaid benefits all of the 19262
interests in property of the applicant for or recipient of 19263
medicaid benefits, all transfers of property by the applicant for 19264
or recipient of medicaid benefits, and the circumstances of all 19265
those transfers. 19266

(E) Any amounts of medicaid benefits recovered as restitution 19267
under this section and any interest on those amounts shall be 19268
credited to the general revenue fund, and any applicable federal 19269
share shall be returned to the appropriate agency or department of 19270
the United States. 19271

Sec. 2913.42. (A) No person, knowing the person has no privilege to do so, and with purpose to defraud or knowing that the person is facilitating a fraud, shall do any of the following:

(1) Falsify, destroy, remove, conceal, alter, deface, or mutilate any writing, computer software, data, or record;

(2) Utter any writing or record, knowing it to have been tampered with as provided in division (A)(1) of this section.

(B)(1) Whoever violates this section is guilty of tampering with records.

(2) Except as provided in division (B)(4) of this section, if the offense does not involve data or computer software, tampering with records is whichever of the following is applicable:

(a) If division (B)(2)(b) of this section does not apply, a misdemeanor of the first degree;

(b) If the writing or record is a will unrevoked at the time of the offense, a felony of the fifth degree.

(3) Except as provided in division (B)(4) of this section, if the offense involves a violation of division (A) of this section involving data or computer software, tampering with records is whichever of the following is applicable:

(a) Except as otherwise provided in division (B)(3)(b), (c), or (d) of this section, a misdemeanor of the first degree;

(b) If the value of the data or computer software involved in the offense or the loss to the victim is ~~five~~ seven hundred fifty dollars or more and is less than five thousand dollars, a felony of the fifth degree;

(c) If the value of the data or computer software involved in the offense or the loss to the victim is five thousand dollars or more and is less than one hundred thousand dollars, a felony of

the fourth degree; 19301

(d) If the value of the data or computer software involved in 19302
the offense or the loss to the victim is one hundred thousand 19303
dollars or more or if the offense is committed for the purpose of 19304
devising or executing a scheme to defraud or to obtain property or 19305
services and the value of the property or services or the loss to 19306
the victim is five thousand dollars or more, a felony of the third 19307
degree. 19308

(4) If the writing, data, computer software, or record is 19309
kept by or belongs to a local, state, or federal governmental 19310
entity, a felony of the third degree. 19311

Sec. 2913.421. (A) As used in this section: 19312

(1) "Computer," "computer network," and "computer system" 19313
have the same meanings as in section 2913.01 of the Revised Code. 19314

(2) "Commercial electronic mail message" means any electronic 19315
mail message the primary purpose of which is the commercial 19316
advertisement or promotion of a commercial product or service, 19317
including content on an internet web site operated for a 19318
commercial purpose, but does not include a transactional or 19319
relationship message. The inclusion of a reference to a commercial 19320
entity or a link to the web site of a commercial entity does not, 19321
by itself, cause that message to be treated as a commercial 19322
electronic mail message for the purpose of this section, if the 19323
contents or circumstances of the message indicate a primary 19324
purpose other than commercial advertisement or promotion of a 19325
commercial product or service. 19326

(3) "Domain name" means any alphanumeric designation that is 19327
registered with or assigned by any domain name registrar, domain 19328
name registry, or other domain name registration authority as part 19329
of an electronic address on the internet. 19330

(4) "Electronic mail," "originating address," and "receiving address" have the same meanings as in section 2307.64 of the Revised Code. 19331
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(5) "Electronic mail message" means each electronic mail addressed to a discrete addressee. 19334
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(6) "Electronic mail service provider" means any person, including an internet service provider, that is an intermediary in sending and receiving electronic mail and that provides to the public electronic mail accounts or online user accounts from which electronic mail may be sent. 19336
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(7) "Header information" means the source, destination, and routing information attached to an electronic mail message, including the originating domain name, the originating address, and technical information that authenticates the sender of an electronic mail message for computer network security or computer network management purposes. 19341
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(8) "Initiate the transmission" or "initiated" means to originate or transmit a commercial electronic mail message or to procure the origination or transmission of that message, regardless of whether the message reaches its intended recipients, but does not include actions that constitute routine conveyance of such message. 19347
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(9) "Internet" has the same meaning as in section 341.42 of the Revised Code. 19353
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(10) "Internet protocol address" means the string of numbers by which locations on the internet are identified by routers or other computers connected to the internet. 19355
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(11) "Materially falsify" means to alter or conceal in a manner that would impair the ability of a recipient of an electronic mail message, an electronic mail service provider processing an electronic mail message on behalf of a recipient, a 19358
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person alleging a violation of this section, or a law enforcement 19362
agency to identify, locate, or respond to the person that 19363
initiated the electronic mail message or to investigate an alleged 19364
violation of this section. 19365

(12) "Multiple" means more than ten commercial electronic 19366
mail messages during a twenty-four-hour period, more than one 19367
hundred commercial electronic mail messages during a thirty-day 19368
period, or more than one thousand commercial electronic mail 19369
messages during a one-year period. 19370

(13) "Recipient" means a person who receives a commercial 19371
electronic mail message at any one of the following receiving 19372
addresses: 19373

(a) A receiving address furnished by an electronic mail 19374
service provider that bills for furnishing and maintaining that 19375
receiving address to a mailing address within this state; 19376

(b) A receiving address ordinarily accessed from a computer 19377
located within this state or by a person domiciled within this 19378
state; 19379

(c) Any other receiving address with respect to which this 19380
section can be imposed consistent with the United States 19381
Constitution. 19382

(14) "Routine conveyance" means the transmission, routing, 19383
relaying, handling, or storing, through an automated technical 19384
process, of an electronic mail message for which another person 19385
has identified the recipients or provided the recipient addresses. 19386

(15) "Transactional or relationship message" means an 19387
electronic mail message the primary purpose of which is to do any 19388
of the following: 19389

(a) Facilitate, complete, or confirm a commercial transaction 19390
that the recipient has previously agreed to enter into with the 19391

sender; 19392

(b) Provide warranty information, product recall information, 19393
or safety or security information with respect to a commercial 19394
product or service used or purchased by the recipient; 19395

(c) Provide notification concerning a change in the terms or 19396
features of; a change in the recipient's standing or status with 19397
respect to; or, at regular periodic intervals, account balance 19398
information or other type of account statement with respect to, a 19399
subscription, membership, account, loan, or comparable ongoing 19400
commercial relationship involving the ongoing purchase or use by 19401
the recipient of products or services offered by the sender; 19402

(d) Provide information directly related to an employment 19403
relationship or related benefit plan in which the recipient is 19404
currently involved, participating, or enrolled; 19405

(e) Deliver goods or services, including product updates or 19406
upgrades, that the recipient is entitled to receive under the 19407
terms of a transaction that the recipient has previously agreed to 19408
enter into with the sender. 19409

(B) No person, with regard to commercial electronic mail 19410
messages sent from or to a computer in this state, shall do any of 19411
the following: 19412

(1) Knowingly use a computer to relay or retransmit multiple 19413
commercial electronic mail messages, with the intent to deceive or 19414
mislead recipients or any electronic mail service provider, as to 19415
the origin of those messages; 19416

(2) Knowingly and materially falsify header information in 19417
multiple commercial electronic mail messages and purposely 19418
initiate the transmission of those messages; 19419

(3) Knowingly register, using information that materially 19420
falsifies the identity of the actual registrant, for five or more 19421

electronic mail accounts or online user accounts or two or more 19422
domain names and purposely initiate the transmission of multiple 19423
commercial electronic mail messages from one, or any combination, 19424
of those accounts or domain names; 19425

(4) Knowingly falsely represent the right to use five or more 19426
internet protocol addresses, and purposely initiate the 19427
transmission of multiple commercial electronic mail messages from 19428
those addresses. 19429

(C)(1) Whoever violates division (B) of this section is 19430
guilty of illegally transmitting multiple commercial electronic 19431
mail messages. Except as otherwise provided in division (C)(2) or 19432
(E) of this section, illegally transmitting multiple commercial 19433
electronic mail messages is a felony of the fifth degree. 19434

(2) Illegally transmitting multiple commercial electronic 19435
mail messages is a felony of the fourth degree if any of the 19436
following apply: 19437

(a) Regarding a violation of division (B)(3) of this section, 19438
the offender, using information that materially falsifies the 19439
identity of the actual registrant, knowingly registers for twenty 19440
or more electronic mail accounts or online user accounts or ten or 19441
more domain names, and purposely initiates, or conspires to 19442
initiate, the transmission of multiple commercial electronic mail 19443
messages from the accounts or domain names. 19444

(b) Regarding any violation of division (B) of this section, 19445
the volume of commercial electronic mail messages the offender 19446
transmitted in committing the violation exceeds two hundred and 19447
fifty during any twenty-four-hour period, two thousand five 19448
hundred during any thirty-day period, or twenty-five thousand 19449
during any one-year period. 19450

(c) Regarding any violation of division (B) of this section, 19451
during any one-year period the aggregate loss to the victim or 19452

victims of the violation is ~~five~~ seven hundred fifty dollars or 19453
more, or during any one-year period the aggregate value of the 19454
property or services obtained by any offender as a result of the 19455
violation is ~~five~~ seven hundred fifty dollars or more. 19456

(d) Regarding any violation of division (B) of this section, 19457
the offender committed the violation with three or more other 19458
persons with respect to whom the offender was the organizer or 19459
leader of the activity that resulted in the violation. 19460

(e) Regarding any violation of division (B) of this section, 19461
the offender knowingly assisted in the violation through the 19462
provision or selection of electronic mail addresses to which the 19463
commercial electronic mail message was transmitted, if that 19464
offender knew that the electronic mail addresses of the recipients 19465
were obtained using an automated means from an internet web site 19466
or proprietary online service operated by another person, and that 19467
web site or online service included, at the time the electronic 19468
mail addresses were obtained, a notice stating that the operator 19469
of that web site or online service will not transfer addresses 19470
maintained by that web site or online service to any other party 19471
for the purposes of initiating the transmission of, or enabling 19472
others to initiate the transmission of, electronic mail messages. 19473

(f) Regarding any violation of division (B) of this section, 19474
the offender knowingly assisted in the violation through the 19475
provision or selection of electronic mail addresses of the 19476
recipients obtained using an automated means that generates 19477
possible electronic mail addresses by combining names, letters, or 19478
numbers into numerous permutations. 19479

(D)(1) No person, with regard to commercial electronic mail 19480
messages sent from or to a computer in this state, shall knowingly 19481
access a computer without authorization and purposely initiate the 19482
transmission of multiple commercial electronic mail messages from 19483
or through the computer. 19484

(2) Except as otherwise provided in division (E) of this section, whoever violates division (D)(1) of this section is guilty of unauthorized access of a computer, a felony of the fourth degree.

(E) Illegally transmitting multiple commercial electronic mail messages and unauthorized access of a computer in violation of this section are felonies of the third degree if the offender previously has been convicted of a violation of this section, or a violation of a law of another state or the United States regarding the transmission of electronic mail messages or unauthorized access to a computer, or if the offender committed the violation of this section in the furtherance of a felony.

(F)(1) The attorney general or an electronic mail service provider that is injured by a violation of this section may bring a civil action in an appropriate court of common pleas of this state seeking relief from any person whose conduct violated this section. The civil action may be commenced at any time within one year of the date after the act that is the basis of the civil action.

(2) In a civil action brought by the attorney general pursuant to division (F)(1) of this section for a violation of this section, the court may award temporary, preliminary, or permanent injunctive relief. The court also may impose a civil penalty against the offender, as the court considers just, in an amount that is the lesser of: (a) twenty-five thousand dollars for each day a violation occurs, or (b) not less than two dollars but not more than eight dollars for each commercial electronic mail message initiated in violation of this section.

(3) In a civil action brought by an electronic mail service provider pursuant to division (F)(1) of this section for a violation of this section, the court may award temporary, preliminary, or permanent injunctive relief, and also may award

damages in an amount equal to the greater of the following: 19517

(a) The sum of the actual damages incurred by the electronic 19518
mail service provider as a result of a violation of this section, 19519
plus any receipts of the offender that are attributable to a 19520
violation of this section and that were not taken into account in 19521
computing actual damages; 19522

(b) Statutory damages, as the court considers just, in an 19523
amount that is the lesser of: (i) twenty-five thousand dollars for 19524
each day a violation occurs, or (ii) not less than two dollars but 19525
not more than eight dollars for each commercial electronic mail 19526
message initiated in violation of this section. 19527

(4) In assessing damages awarded under division (F)(3) of 19528
this section, the court may consider whether the offender has 19529
established and implemented, with due care, commercially 19530
reasonable practices and procedures designed to effectively 19531
prevent the violation, or the violation occurred despite 19532
commercially reasonable efforts to maintain the practices and 19533
procedures established. 19534

(G) Any equipment, software, or other technology of a person 19535
who violates this section that is used or intended to be used in 19536
the commission of a violation of this section, and any real or 19537
personal property that constitutes or is traceable to the gross 19538
proceeds obtained from the commission of a violation of this 19539
section, is contraband and is subject to seizure and forfeiture 19540
pursuant to Chapter 2981. of the Revised Code. 19541

(H) The attorney general may bring a civil action, pursuant 19542
to the "CAN-SPAM Act of 2003," Pub. L. No. 108-187, 117 Stat. 19543
2699, 15 U.S.C. 7701 et seq., on behalf of the residents of the 19544
state in a district court of the United States that has 19545
jurisdiction for a violation of the CAN-SPAM Act of 2003, but the 19546
attorney general shall not bring a civil action under both this 19547

division and division (F) of this section. If a federal court 19548
dismisses a civil action brought under this division for reasons 19549
other than upon the merits, a civil action may be brought under 19550
division (F) of this section in the appropriate court of common 19551
pleas of this state. 19552

(I) Nothing in this section shall be construed: 19553

(1) To require an electronic mail service provider to block, 19554
transmit, route, relay, handle, or store certain types of 19555
electronic mail messages; 19556

(2) To prevent or limit, in any way, an electronic mail 19557
service provider from adopting a policy regarding electronic mail, 19558
including a policy of declining to transmit certain types of 19559
electronic mail messages, or from enforcing such policy through 19560
technical means, through contract, or pursuant to any remedy 19561
available under any other federal, state, or local criminal or 19562
civil law; 19563

(3) To render lawful any policy adopted under division (I)(2) 19564
of this section that is unlawful under any other law. 19565

Sec. 2913.43. (A) No person, by deception, shall cause 19566
another to execute any writing that disposes of or encumbers 19567
property, or by which a pecuniary obligation is incurred. 19568

(B)(1) Whoever violates this section is guilty of securing 19569
writings by deception. 19570

(2) Except as otherwise provided in this division or division 19571
(B)(3) of this section, securing writings by deception is a 19572
misdemeanor of the first degree. If the value of the property or 19573
the obligation involved is ~~five~~ seven hundred fifty dollars or 19574
more and less than five thousand dollars, securing writings by 19575
deception is a felony of the fifth degree. If the value of the 19576
property or the obligation involved is five thousand dollars or 19577

more and is less than one hundred thousand dollars, securing 19578
writings by deception is a felony of the fourth degree. If the 19579
value of the property or the obligation involved is one hundred 19580
thousand dollars or more, securing writings by deception is a 19581
felony of the third degree. 19582

(3) If the victim of the offense is an elderly person or 19583
disabled adult, division (B)(3) of this section applies. Except as 19584
otherwise provided in division (B)(3) of this section, securing 19585
writings by deception is a felony of the fifth degree. If the 19586
value of the property or obligation involved is ~~five~~ seven hundred 19587
fifty dollars or more and is less than five thousand dollars, 19588
securing writings by deception is a felony of the fourth degree. 19589
If the value of the property or obligation involved is five 19590
thousand dollars or more and is less than twenty-five thousand 19591
dollars, securing writings by deception is a felony of the third 19592
degree. If the value of the property or obligation involved is 19593
twenty-five thousand dollars or more, securing writings by 19594
deception is a felony of the second degree. 19595

Sec. 2913.45. (A) No person, with purpose to defraud one or 19596
more of the person's creditors, shall do any of the following: 19597

(1) Remove, conceal, destroy, encumber, convey, or otherwise 19598
deal with any of the person's property; 19599

(2) Misrepresent or refuse to disclose to a fiduciary 19600
appointed to administer or manage the person's affairs or estate, 19601
the existence, amount, or location of any of the person's 19602
property, or any other information regarding such property that 19603
the person is legally required to furnish to the fiduciary. 19604

(B) Whoever violates this section is guilty of defrauding 19605
creditors. Except as otherwise provided in this division, 19606
defrauding creditors is a misdemeanor of the first degree. If the 19607
value of the property involved is ~~five~~ seven hundred fifty dollars 19608

or more and is less than five thousand dollars, defrauding 19609
creditors is a felony of the fifth degree. If the value of the 19610
property involved is five thousand dollars or more and is less 19611
than one hundred thousand dollars, defrauding creditors is a 19612
felony of the fourth degree. If the value of the property involved 19613
is one hundred thousand dollars or more, defrauding creditors is a 19614
felony of the third degree. 19615

Sec. 2913.46. (A)(1) As used in this section: 19616

(a) "Electronically transferred benefit" means the transfer 19617
of ~~food stamp~~ supplemental nutrition assistance program benefits 19618
or WIC program benefits through the use of an access device. 19619

(b) "WIC program benefits" includes money, coupons, delivery 19620
verification receipts, other documents, food, or other property 19621
received directly or indirectly pursuant to section 17 of the 19622
"Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C.A. 1786, as 19623
amended. 19624

(c) "Access device" means any card, plate, code, account 19625
number, or other means of access that can be used, alone or in 19626
conjunction with another access device, to obtain payments, 19627
allotments, benefits, money, goods, or other things of value or 19628
that can be used to initiate a transfer of funds pursuant to 19629
section 5101.33 of the Revised Code and the "~~Food Stamp and~~ 19630
Nutrition Act of 1977," ~~91 Stat. 958,~~ 2008 (7 U.S.C.A. 2011 et 19631
seq.), or any supplemental food program administered by any 19632
department of this state or any county or local agency pursuant to 19633
section 17 of the "Child Nutrition Act of 1966," 80 Stat. 885, 42 19634
U.S.C.A. 1786, as amended. An "access device" may include any 19635
electronic debit card or other means authorized by section 5101.33 19636
of the Revised Code. 19637

~~(e)~~(d) "Aggregate value of ~~the food stamp coupons~~ 19638
supplemental nutrition assistance program benefits, WIC program 19639

benefits, and electronically transferred benefits involved in the 19640
violation" means the total face value of any ~~food stamps~~ 19641
supplemental nutrition assistance program benefits, plus the total 19642
face value of WIC program coupons or delivery verification 19643
receipts, plus the total value of other WIC program benefits, plus 19644
the total value of any electronically transferred benefit or other 19645
access device, involved in the violation. 19646

(d)(e) "Total value of any electronically transferred benefit 19647
or other access device" means the total value of the payments, 19648
allotments, benefits, money, goods, or other things of value that 19649
may be obtained, or the total value of funds that may be 19650
transferred, by use of any electronically transferred benefit or 19651
other access device at the time of violation. 19652

(2) If ~~food stamp coupons~~ supplemental nutrition assistance 19653
program benefits, WIC program benefits, or electronically 19654
transferred benefits or other access devices of various values are 19655
used, transferred, bought, acquired, altered, purchased, 19656
possessed, presented for redemption, or transported in violation 19657
of this section over a period of twelve months, the course of 19658
conduct may be charged as one offense and the values of ~~food stamp~~ 19659
~~coupons~~ supplemental nutrition assistance program benefits, WIC 19660
program benefits, or any electronically transferred benefits or 19661
other access devices may be aggregated in determining the degree 19662
of the offense. 19663

(B) No individual shall knowingly possess, buy, sell, use, 19664
alter, accept, or transfer ~~food stamp coupons~~ supplemental 19665
nutrition assistance program benefits, WIC program benefits, or 19666
any electronically transferred benefit in any manner not 19667
authorized by the "Food Stamp and Nutrition Act of 1977," ~~91 Stat.~~ 19668
~~958~~, 2008 (7 U.S.C.A. 2011, as amended, et seq.) or section 17 of 19669
the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C.A. 1786, 19670
as amended. 19671

(C) No organization, as defined in division (D) of section 19672
2901.23 of the Revised Code, shall do either of the following: 19673

(1) Knowingly allow an employee or agent to sell, transfer, 19674
or trade items or services, the purchase of which is prohibited by 19675
the "~~Food Stamp and Nutrition Act of 1977,~~" ~~91 Stat. 958,~~ 2008 (7 19676
~~U.S.C.A. 2011,~~ ~~as amended,~~ et seq. or section 17 of the "Child 19677
Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C.A. 1786, as 19678
amended, in exchange for ~~food stamp coupons~~ supplemental nutrition 19679
assistance program benefits, WIC program benefits, or any 19680
electronically transferred benefit; 19681

(2) Negligently allow an employee or agent to sell, transfer, 19682
or exchange ~~food stamp coupons~~ supplemental nutrition assistance 19683
program benefits, WIC program benefits, or any electronically 19684
transferred benefit for anything of value. 19685

(D) Whoever violates this section is guilty of illegal use of 19686
~~food stamps~~ supplemental nutrition assistance program benefits or 19687
WIC program benefits. Except as otherwise provided in this 19688
division, illegal use of ~~food stamps~~ supplemental nutrition 19689
assistance program benefits or WIC program benefits is a felony of 19690
the fifth degree. If the aggregate value of the ~~food stamp coupons~~ 19691
supplemental nutrition assistance program benefits, WIC program 19692
benefits, and electronically transferred benefits involved in the 19693
violation is ~~five~~ seven hundred fifty dollars or more and is less 19694
than five thousand dollars, illegal use of ~~food stamps~~ 19695
supplemental nutrition assistance program benefits or WIC program 19696
benefits is a felony of the fourth degree. If the aggregate value 19697
of the ~~food stamp coupons~~ supplemental nutrition assistance 19698
program benefits, WIC program benefits, and electronically 19699
transferred benefits involved in the violation is ~~five~~ seven 19700
thousand fifty dollars or more and is less than one hundred 19701
thousand dollars, illegal use of ~~food stamps~~ supplemental 19702
nutrition assistance program benefits or WIC program benefits is a 19703

felony of the third degree. If the aggregate value of the ~~food~~ 19704
~~stamp coupons~~ supplemental nutrition assistance program benefits, 19705
WIC program benefits, and electronically transferred benefits 19706
involved in the violation is one hundred thousand dollars or more, 19707
illegal use of ~~food stamps~~ supplemental nutrition assistance 19708
program benefits or WIC program benefits is a felony of the second 19709
degree. 19710

Sec. 2913.47. (A) As used in this section: 19711

(1) "Data" has the same meaning as in section 2913.01 of the 19712
Revised Code and additionally includes any other representation of 19713
information, knowledge, facts, concepts, or instructions that are 19714
being or have been prepared in a formalized manner. 19715

(2) "Deceptive" means that a statement, in whole or in part, 19716
would cause another to be deceived because it contains a 19717
misleading representation, withholds information, prevents the 19718
acquisition of information, or by any other conduct, act, or 19719
omission creates, confirms, or perpetuates a false impression, 19720
including, but not limited to, a false impression as to law, 19721
value, state of mind, or other objective or subjective fact. 19722

(3) "Insurer" means any person that is authorized to engage 19723
in the business of insurance in this state under Title XXXIX of 19724
the Revised Code, the Ohio fair plan underwriting association 19725
created under section 3929.43 of the Revised Code, any health 19726
insuring corporation, and any legal entity that is self-insured 19727
and provides benefits to its employees or members. 19728

(4) "Policy" means a policy, certificate, contract, or plan 19729
that is issued by an insurer. 19730

(5) "Statement" includes, but is not limited to, any notice, 19731
letter, or memorandum; proof of loss; bill of lading; receipt for 19732
payment; invoice, account, or other financial statement; estimate 19733

of property damage; bill for services; diagnosis or prognosis; 19734
prescription; hospital, medical, or dental chart or other record; 19735
x-ray, photograph, videotape, or movie film; test result; other 19736
evidence of loss, injury, or expense; computer-generated document; 19737
and data in any form. 19738

(B) No person, with purpose to defraud or knowing that the 19739
person is facilitating a fraud, shall do either of the following: 19740

(1) Present to, or cause to be presented to, an insurer any 19741
written or oral statement that is part of, or in support of, an 19742
application for insurance, a claim for payment pursuant to a 19743
policy, or a claim for any other benefit pursuant to a policy, 19744
knowing that the statement, or any part of the statement, is false 19745
or deceptive; 19746

(2) Assist, aid, abet, solicit, procure, or conspire with 19747
another to prepare or make any written or oral statement that is 19748
intended to be presented to an insurer as part of, or in support 19749
of, an application for insurance, a claim for payment pursuant to 19750
a policy, or a claim for any other benefit pursuant to a policy, 19751
knowing that the statement, or any part of the statement, is false 19752
or deceptive. 19753

(C) Whoever violates this section is guilty of insurance 19754
fraud. Except as otherwise provided in this division, insurance 19755
fraud is a misdemeanor of the first degree. If the amount of the 19756
claim that is false or deceptive is ~~five~~ seven hundred fifty 19757
dollars or more and is less than five thousand dollars, insurance 19758
fraud is a felony of the fifth degree. If the amount of the claim 19759
that is false or deceptive is five thousand dollars or more and is 19760
less than one hundred thousand dollars, insurance fraud is a 19761
felony of the fourth degree. If the amount of the claim that is 19762
false or deceptive is one hundred thousand dollars or more, 19763
insurance fraud is a felony of the third degree. 19764

(D) This section shall not be construed to abrogate, waive, 19765
or modify division (A) of section 2317.02 of the Revised Code. 19766

Sec. 2913.48. (A) No person, with purpose to defraud or 19767
knowing that the person is facilitating a fraud, shall do any of 19768
the following: 19769

(1) Receive workers' compensation benefits to which the 19770
person is not entitled; 19771

(2) Make or present or cause to be made or presented a false 19772
or misleading statement with the purpose to secure payment for 19773
goods or services rendered under Chapter 4121., 4123., 4127., or 19774
4131. of the Revised Code or to secure workers' compensation 19775
benefits; 19776

(3) Alter, falsify, destroy, conceal, or remove any record or 19777
document that is necessary to fully establish the validity of any 19778
claim filed with, or necessary to establish the nature and 19779
validity of all goods and services for which reimbursement or 19780
payment was received or is requested from, the bureau of workers' 19781
compensation, or a self-insuring employer under Chapter 4121., 19782
4123., 4127., or 4131. of the Revised Code; 19783

(4) Enter into an agreement or conspiracy to defraud the 19784
bureau or a self-insuring employer by making or presenting or 19785
causing to be made or presented a false claim for workers' 19786
compensation benefits; 19787

(5) Make or present or cause to be made or presented a false 19788
statement concerning manual codes, classification of employees, 19789
payroll, paid compensation, or number of personnel, when 19790
information of that nature is necessary to determine the actual 19791
workers' compensation premium or assessment owed to the bureau by 19792
an employer; 19793

(6) Alter, forge, or create a workers' compensation 19794

certificate to falsely show current or correct workers' 19795
compensation coverage; 19796

(7) Fail to secure or maintain workers' compensation coverage 19797
as required by Chapter 4123. of the Revised Code with the intent 19798
to defraud the bureau of workers' compensation. 19799

(B) Whoever violates this section is guilty of workers' 19800
compensation fraud. Except as otherwise provided in this division, 19801
a violation of this section is a misdemeanor of the first degree. 19802
If the value of premiums and assessments unpaid pursuant to 19803
actions described in division (A)(5), (6), or (7) of this section, 19804
or of goods, services, property, or money stolen is five seven 19805
hundred fifty dollars or more and is less than five thousand 19806
dollars, a violation of this section is a felony of the fifth 19807
degree. If the value of premiums and assessments unpaid pursuant 19808
to actions described in division (A)(5), (6), or (7) of this 19809
section, or of goods, services, property, or money stolen is five 19810
thousand dollars or more and is less than one hundred thousand 19811
dollars, a violation of this section is a felony of the fourth 19812
degree. If the value of premiums and assessments unpaid pursuant 19813
to actions described in division (A)(5), (6), or (7) of this 19814
section, or of goods, services, property, or money stolen is one 19815
hundred thousand dollars or more, a violation of this section is a 19816
felony of the third degree. 19817

(C) Upon application of the governmental body that conducted 19818
the investigation and prosecution of a violation of this section, 19819
the court shall order the person who is convicted of the violation 19820
to pay the governmental body its costs of investigating and 19821
prosecuting the case. These costs are in addition to any other 19822
costs or penalty provided in the Revised Code or any other section 19823
of law. 19824

(D) The remedies and penalties provided in this section are 19825
not exclusive remedies and penalties and do not preclude the use 19826

of any other criminal or civil remedy or penalty for any act that 19827
is in violation of this section. 19828

(E) As used in this section: 19829

(1) "False" means wholly or partially untrue or deceptive. 19830

(2) "Goods" includes, but is not limited to, medical 19831
supplies, appliances, rehabilitative equipment, and any other 19832
apparatus or furnishing provided or used in the care, treatment, 19833
or rehabilitation of a claimant for workers' compensation 19834
benefits. 19835

(3) "Services" includes, but is not limited to, any service 19836
provided by any health care provider to a claimant for workers' 19837
compensation benefits and any and all services provided by the 19838
bureau as part of workers' compensation insurance coverage. 19839

(4) "Claim" means any attempt to cause the bureau, an 19840
independent third party with whom the administrator or an employer 19841
contracts under section 4121.44 of the Revised Code, or a 19842
self-insuring employer to make payment or reimbursement for 19843
workers' compensation benefits. 19844

(5) "Employment" means participating in any trade, 19845
occupation, business, service, or profession for substantial 19846
gainful remuneration. 19847

(6) "Employer," "employee," and "self-insuring employer" have 19848
the same meanings as in section 4123.01 of the Revised Code. 19849

(7) "Remuneration" includes, but is not limited to, wages, 19850
commissions, rebates, and any other reward or consideration. 19851

(8) "Statement" includes, but is not limited to, any oral, 19852
written, electronic, electronic impulse, or magnetic communication 19853
notice, letter, memorandum, receipt for payment, invoice, account, 19854
financial statement, or bill for services; a diagnosis, prognosis, 19855
prescription, hospital, medical, or dental chart or other record; 19856

and a computer generated document. 19857

(9) "Records" means any medical, professional, financial, or 19858
business record relating to the treatment or care of any person, 19859
to goods or services provided to any person, or to rates paid for 19860
goods or services provided to any person, or any record that the 19861
administrator of workers' compensation requires pursuant to rule. 19862

(10) "Workers' compensation benefits" means any compensation 19863
or benefits payable under Chapter 4121., 4123., 4127., or 4131. of 19864
the Revised Code. 19865

Sec. 2913.49. (A) As used in this section, "personal 19866
identifying information" includes, but is not limited to, the 19867
following: the name, address, telephone number, driver's license, 19868
driver's license number, commercial driver's license, commercial 19869
driver's license number, state identification card, state 19870
identification card number, social security card, social security 19871
number, birth certificate, place of employment, employee 19872
identification number, mother's maiden name, demand deposit 19873
account number, savings account number, money market account 19874
number, mutual fund account number, other financial account 19875
number, personal identification number, password, or credit card 19876
number of a living or dead individual. 19877

(B) No person, without the express or implied consent of the 19878
other person, shall use, obtain, or possess any personal 19879
identifying information of another person with intent to do either 19880
of the following: 19881

(1) Hold the person out to be the other person; 19882

(2) Represent the other person's personal identifying 19883
information as the person's own personal identifying information. 19884

(C) No person shall create, obtain, possess, or use the 19885
personal identifying information of any person with the intent to 19886

aid or abet another person in violating division (B) of this 19887
section. 19888

(D) No person, with intent to defraud, shall permit another 19889
person to use the person's own personal identifying information. 19890

(E) No person who is permitted to use another person's 19891
personal identifying information as described in division (D) of 19892
this section shall use, obtain, or possess the other person's 19893
personal identifying information with intent to defraud any person 19894
by doing any act identified in division (B)(1) or (2) of this 19895
section. 19896

(F)(1) It is an affirmative defense to a charge under 19897
division (B) of this section that the person using the personal 19898
identifying information is acting in accordance with a legally 19899
recognized guardianship or conservatorship or as a trustee or 19900
fiduciary. 19901

(2) It is an affirmative defense to a charge under division 19902
(B), (C), (D), or (E) of this section that either of the following 19903
applies: 19904

(a) The person or entity using, obtaining, possessing, or 19905
creating the personal identifying information or permitting it to 19906
be used is a law enforcement agency, authorized fraud personnel, 19907
or a representative of or attorney for a law enforcement agency or 19908
authorized fraud personnel and is using, obtaining, possessing, or 19909
creating the personal identifying information or permitting it to 19910
be used, with prior consent given as specified in this division, 19911
in a bona fide investigation, an information security evaluation, 19912
a pretext calling evaluation, or a similar matter. The prior 19913
consent required under this division shall be given by the person 19914
whose personal identifying information is being used, obtained, 19915
possessed, or created or is being permitted to be used or, if the 19916
person whose personal identifying information is being used, 19917

obtained, possessed, or created or is being permitted to be used 19918
is deceased, by that deceased person's executor, or a member of 19919
that deceased person's family, or that deceased person's attorney. 19920
The prior consent required under this division may be given orally 19921
or in writing by the person whose personal identifying information 19922
is being used, obtained, possessed, or created or is being 19923
permitted to be used or that person's executor, or family member, 19924
or attorney. 19925

(b) The personal identifying information was obtained, 19926
possessed, used, created, or permitted to be used for a lawful 19927
purpose, provided that division (F)(2)(b) of this section does not 19928
apply if the person or entity using, obtaining, possessing, or 19929
creating the personal identifying information or permitting it to 19930
be used is a law enforcement agency, authorized fraud personnel, 19931
or a representative of or attorney for a law enforcement agency or 19932
authorized fraud personnel that is using, obtaining, possessing, 19933
or creating the ~~personnel~~ personal identifying information or 19934
permitting it to be used in an investigation, an information 19935
security evaluation, a pretext calling evaluation, or similar 19936
matter. 19937

(G) It is not a defense to a charge under this section that 19938
the person whose personal identifying information was obtained, 19939
possessed, used, created, or permitted to be used was deceased at 19940
the time of the offense. 19941

(H)(1) If an offender commits a violation of division (B), 19942
(D), or (E) of this section and the violation occurs as part of a 19943
course of conduct involving other violations of division (B), (D), 19944
or (E) of this section or violations of, attempts to violate, 19945
conspiracies to violate, or complicity in violations of division 19946
(C) of this section or section 2913.02, 2913.04, 2913.11, 2913.21, 19947
2913.31, 2913.42, 2913.43, or 2921.13 of the Revised Code, the 19948
court, in determining the degree of the offense pursuant to 19949

division (I) of this section, may aggregate all credit, property, 19950
or services obtained or sought to be obtained by the offender and 19951
all debts or other legal obligations avoided or sought to be 19952
avoided by the offender in the violations involved in that course 19953
of conduct. The course of conduct may involve one victim or more 19954
than one victim. 19955

(2) If an offender commits a violation of division (C) of 19956
this section and the violation occurs as part of a course of 19957
conduct involving other violations of division (C) of this section 19958
or violations of, attempts to violate, conspiracies to violate, or 19959
complicity in violations of division (B), (D), or (E) of this 19960
section or section 2913.02, 2913.04, 2913.11, 2913.21, 2913.31, 19961
2913.42, 2913.43, or 2921.13 of the Revised Code, the court, in 19962
determining the degree of the offense pursuant to division (I) of 19963
this section, may aggregate all credit, property, or services 19964
obtained or sought to be obtained by the person aided or abetted 19965
and all debts or other legal obligations avoided or sought to be 19966
avoided by the person aided or abetted in the violations involved 19967
in that course of conduct. The course of conduct may involve one 19968
victim or more than one victim. 19969

(I)(1) Whoever violates this section is guilty of identity 19970
fraud. 19971

(2) Except as otherwise provided in this division or division 19972
(I)(3) of this section, identity fraud is a felony of the fifth 19973
degree. If the value of the credit, property, services, debt, or 19974
other legal obligation involved in the violation or course of 19975
conduct is ~~five~~ seven hundred fifty dollars or more and is less 19976
than five thousand dollars, except as otherwise provided in 19977
division (I)(3) of this section, identity fraud is a felony of the 19978
fourth degree. If the value of the credit, property, services, 19979
debt, or other legal obligation involved in the violation or 19980
course of conduct is five thousand dollars or more and is less 19981

than one hundred thousand dollars, except as otherwise provided in 19982
division (I)(3) of this section, identity fraud is a felony of the 19983
third degree. If the value of the credit, property, services, 19984
debt, or other legal obligation involved in the violation or 19985
course of conduct is one hundred thousand dollars or more, except 19986
as otherwise provided in division (I)(3) of this section, identity 19987
fraud is a felony of the second degree. 19988

19989

(3) If the victim of the offense is an elderly person or 19990
disabled adult, a violation of this section is identity fraud 19991
against an elderly person or disabled adult. Except as otherwise 19992
provided in this division, identity fraud against an elderly 19993
person or disabled adult is a felony of the fifth degree. If the 19994
value of the credit, property, services, debt, or other legal 19995
obligation involved in the violation or course of conduct is ~~five~~ 19996
seven hundred fifty dollars or more and is less than five thousand 19997
dollars, identity fraud against an elderly person or disabled 19998
adult is a felony of the third degree. If the value of the credit, 19999
property, services, debt, or other legal obligation involved in 20000
the violation or course of conduct is five thousand dollars or 20001
more and is less than one hundred thousand dollars, identity fraud 20002
against an elderly person or disabled adult is a felony of the 20003
second degree. If the value of the credit, property, services, 20004
debt, or other legal obligation involved in the violation or 20005
course of conduct is one hundred thousand dollars or more, 20006
identity fraud against an elderly person or disabled adult is a 20007
felony of the first degree. 20008

Sec. 2913.51. (A) No person shall receive, retain, or dispose 20009
of property of another knowing or having reasonable cause to 20010
believe that the property has been obtained through commission of 20011
a theft offense. 20012

(B) It is not a defense to a charge of receiving stolen property in violation of this section that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being obtained through the commission of a theft offense.

(C) Whoever violates this section is guilty of receiving stolen property. Except as otherwise provided in this division, receiving stolen property is a misdemeanor of the first degree. If the value of the property involved is ~~five~~ seven hundred fifty dollars or more and is less than five thousand dollars, if the property involved is any of the property listed in section 2913.71 of the Revised Code, receiving stolen property is a felony of the fifth degree. If the property involved is a motor vehicle, as defined in section 4501.01 of the Revised Code, if the property involved is a dangerous drug, as defined in section 4729.01 of the Revised Code, if the value of the property involved is five thousand dollars or more and is less than one hundred thousand dollars, or if the property involved is a firearm or dangerous ordnance, as defined in section 2923.11 of the Revised Code, receiving stolen property is a felony of the fourth degree. If the value of the property involved is one hundred thousand dollars or more, receiving stolen property is a felony of the third degree.

Sec. 2913.61. (A) When a person is charged with a theft offense, or with a violation of division (A)(1) of section 1716.14 of the Revised Code involving a victim who is an elderly person or disabled adult that involves property or services valued at ~~five~~ seven hundred fifty dollars or more, property or services valued at ~~five~~ seven hundred fifty dollars or more and less than five thousand dollars, property or services valued at five thousand dollars or more and less than twenty-five thousand dollars,

property or services valued at twenty-five thousand dollars or 20045
more and less than one hundred thousand dollars, or property or 20046
services valued at one hundred thousand dollars or more, the jury 20047
or court trying the accused shall determine the value of the 20048
property or services as of the time of the offense and, if a 20049
guilty verdict is returned, shall return the finding of value as 20050
part of the verdict. In any case in which the jury or court 20051
determines that the value of the property or services at the time 20052
of the offense was ~~five~~ seven hundred fifty dollars or more, it is 20053
unnecessary to find and return the exact value, and it is 20054
sufficient if the finding and return is to the effect that the 20055
value of the property or services involved was ~~five~~ seven hundred 20056
fifty dollars or more and less than five thousand dollars, was 20057
five thousand dollars or more and less than twenty-five thousand 20058
dollars, was twenty-five thousand dollars or more and less than 20059
one hundred thousand dollars, or was one hundred thousand dollars 20060
or more. 20061

(B) If more than one item of property or services is involved 20062
in a theft offense or in a violation of division (A)(1) of section 20063
1716.14 of the Revised Code involving a victim who is an elderly 20064
person or disabled adult, the value of the property or services 20065
involved for the purpose of determining the value as required by 20066
division (A) of this section is the aggregate value of all 20067
property or services involved in the offense. 20068

(C)(1) When a series of offenses under section 2913.02 of the 20069
Revised Code, or a series of violations of, attempts to commit a 20070
violation of, conspiracies to violate, or complicity in violations 20071
of division (A)(1) of section 1716.14, section 2913.02, 2913.03, 20072
or 2913.04, division (B)(1) or (2) of section 2913.21, or section 20073
2913.31 or 2913.43 of the Revised Code involving a victim who is 20074
an elderly person or disabled adult, is committed by the offender 20075
in the offender's same employment, capacity, or relationship to 20076

another, all of those offenses shall be tried as a single offense. 20077
The value of the property or services involved in the series of 20078
offenses for the purpose of determining the value as required by 20079
division (A) of this section is the aggregate value of all 20080
property and services involved in all offenses in the series. 20081

(2) If an offender commits a series of offenses under section 20082
2913.02 of the Revised Code that involves a common course of 20083
conduct to defraud multiple victims, all of the offenses may be 20084
tried as a single offense. If an offender is being tried for the 20085
commission of a series of violations of, attempts to commit a 20086
violation of, conspiracies to violate, or complicity in violations 20087
of division (A)(1) of section 1716.14, section 2913.02, 2913.03, 20088
or 2913.04, division (B)(1) or (2) of section 2913.21, or section 20089
2913.31 or 2913.43 of the Revised Code, whether committed against 20090
one victim or more than one victim, involving a victim who is an 20091
elderly person or disabled adult, pursuant to a scheme or course 20092
of conduct, all of those offenses may be tried as a single 20093
offense. If the offenses are tried as a single offense, the value 20094
of the property or services involved for the purpose of 20095
determining the value as required by division (A) of this section 20096
is the aggregate value of all property and services involved in 20097
all of the offenses in the course of conduct. 20098

(3) When a series of two or more offenses under section 20099
2921.41 of the Revised Code is committed by the offender in the 20100
offender's same employment, capacity, or relationship to another, 20101
all of those offenses may be tried as a single offense. If the 20102
offenses are tried as a single offense, the value of the property 20103
or services involved for the purpose of determining the value as 20104
required by division (A) of this section is the aggregate value of 20105
all property and services involved in all of the offenses in the 20106
series of two or more offenses. 20107

(4) In prosecuting a single offense under division (C)(1), 20108

(2), or (3) of this section, it is not necessary to separately 20109
allege and prove each offense in the series. Rather, it is 20110
sufficient to allege and prove that the offender, within a given 20111
span of time, committed one or more theft offenses or violations 20112
of section 2921.41 of the Revised Code in the offender's same 20113
employment, capacity, or relationship to another as described in 20114
division (C)(1) or (3) of this section, or committed one or more 20115
theft offenses that involve a common course of conduct to defraud 20116
multiple victims or a scheme or course of conduct as described in 20117
division (C)(2) of this section. 20118

(D) The following criteria shall be used in determining the 20119
value of property or services involved in a theft offense: 20120

(1) The value of an heirloom, memento, collector's item, 20121
antique, museum piece, manuscript, document, record, or other 20122
thing that has intrinsic worth to its owner and that either is 20123
irreplaceable or is replaceable only on the expenditure of 20124
substantial time, effort, or money, is the amount that would 20125
compensate the owner for its loss. 20126

(2) The value of personal effects and household goods, and of 20127
materials, supplies, equipment, and fixtures used in the 20128
profession, business, trade, occupation, or avocation of its 20129
owner, which property is not covered under division (D)(1) of this 20130
section and which retains substantial utility for its purpose 20131
regardless of its age or condition, is the cost of replacing the 20132
property with new property of like kind and quality. 20133

(3) The value of any real or personal property that is not 20134
covered under division (D)(1) or (2) of this section, and the 20135
value of services, is the fair market value of the property or 20136
services. As used in this section, "fair market value" is the 20137
money consideration that a buyer would give and a seller would 20138
accept for property or services, assuming that the buyer is 20139
willing to buy and the seller is willing to sell, that both are 20140

fully informed as to all facts material to the transaction, and 20141
that neither is under any compulsion to act. 20142

(E) Without limitation on the evidence that may be used to 20143
establish the value of property or services involved in a theft 20144
offense: 20145

(1) When the property involved is personal property held for 20146
sale at wholesale or retail, the price at which the property was 20147
held for sale is prima-facie evidence of its value. 20148

(2) When the property involved is a security or commodity 20149
traded on an exchange, the closing price or, if there is no 20150
closing price, the asked price, given in the latest market 20151
quotation prior to the offense is prima-facie evidence of the 20152
value of the security or commodity. 20153

(3) When the property involved is livestock, poultry, or raw 20154
agricultural products for which a local market price is available, 20155
the latest local market price prior to the offense is prima-facie 20156
evidence of the value of the livestock, poultry, or products. 20157

(4) When the property involved is a negotiable instrument, 20158
the face value is prima-facie evidence of the value of the 20159
instrument. 20160

(5) When the property involved is a warehouse receipt, bill 20161
of lading, pawn ticket, claim check, or other instrument entitling 20162
the holder or bearer to receive property, the face value or, if 20163
there is no face value, the value of the property covered by the 20164
instrument less any payment necessary to receive the property is 20165
prima-facie evidence of the value of the instrument. 20166

(6) When the property involved is a ticket of admission, 20167
ticket for transportation, coupon, token, or other instrument 20168
entitling the holder or bearer to receive property or services, 20169
the face value or, if there is no face value, the value of the 20170
property or services that may be received by the instrument is 20171

prima-facie evidence of the value of the instrument. 20172

(7) When the services involved are gas, electricity, water, 20173
telephone, transportation, shipping, or other services for which 20174
the rate is established by law, the duly established rate is 20175
prima-facie evidence of the value of the services. 20176

(8) When the services involved are services for which the 20177
rate is not established by law, and the offender has been notified 20178
prior to the offense of the rate for the services, either in 20179
writing, orally, or by posting in a manner reasonably calculated 20180
to come to the attention of potential offenders, the rate 20181
contained in the notice is prima-facie evidence of the value of 20182
the services. 20183

Sec. 2915.05. (A) No person, with purpose to defraud or 20184
knowing that the person is facilitating a fraud, shall engage in 20185
conduct designed to corrupt the outcome of any of the following: 20186

(1) The subject of a bet; 20187

(2) A contest of knowledge, skill, or endurance that is not 20188
an athletic or sporting event; 20189

(3) A scheme or game of chance; 20190

(4) Bingo. 20191

(B) No person shall knowingly do any of the following: 20192

(1) Offer, give, solicit, or accept anything of value to 20193
corrupt the outcome of an athletic or sporting event; 20194

(2) Engage in conduct designed to corrupt the outcome of an 20195
athletic or sporting event. 20196

(C)(1) Whoever violates division (A) of this section is 20197
guilty of cheating. Except as otherwise provided in this division, 20198
cheating is a misdemeanor of the first degree. If the potential 20199
gain from the cheating is ~~five~~ seven hundred fifty dollars or more 20200

or if the offender previously has been convicted of any gambling offense or of any theft offense, as defined in section 2913.01 of the Revised Code, cheating is a felony of the fifth degree.

(2) Whoever violates division (B) of this section is guilty of corrupting sports. Corrupting sports is a felony of the fifth degree on a first offense and a felony of the fourth degree on each subsequent offense.

Sec. 2917.21. (A) No person shall knowingly make or cause to be made a telecommunication, or knowingly permit a telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:

(1) Fails to identify the caller to the recipient of the telecommunication and makes the telecommunication with purpose to harass or abuse any person at the premises to which the telecommunication is made, whether or not actual communication takes place between the caller and a recipient;

(2) Describes, suggests, requests, or proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made;

(3) During the telecommunication, violates section 2903.21 of the Revised Code;

(4) Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or

destroy public or private property, and the recipient, any member 20231
of the recipient's family, or any other person who resides at the 20232
premises to which the telecommunication is made owns, leases, 20233
resides, or works in, will at the time of the destruction or 20234
damaging be near or in, has the responsibility of protecting, or 20235
insures the property that will be destroyed or damaged; 20236

(5) Knowingly makes the telecommunication to the recipient of 20237
the telecommunication, to another person at the premises to which 20238
the telecommunication is made, or to those premises, and the 20239
recipient or another person at those premises previously has told 20240
the caller not to make a telecommunication to those premises or to 20241
any persons at those premises. 20242

(B) No person shall make or cause to be made a 20243
telecommunication, or permit a telecommunication to be made from a 20244
telecommunications device under the person's control, with purpose 20245
to abuse, threaten, or harass another person. 20246

(C)(1) Whoever violates this section is guilty of 20247
telecommunications harassment. 20248

(2) A violation of division (A)(1), (2), (3), or (5) or (B) 20249
of this section is a misdemeanor of the first degree on a first 20250
offense and a felony of the fifth degree on each subsequent 20251
offense. 20252

(3) Except as otherwise provided in division (C)(3) of this 20253
section, a violation of division (A)(4) of this section is a 20254
misdemeanor of the first degree on a first offense and a felony of 20255
the fifth degree on each subsequent offense. If a violation of 20256
division (A)(4) of this section results in economic harm of ~~five~~ 20257
seven hundred fifty dollars or more but less than five thousand 20258
dollars, telecommunications harassment is a felony of the fifth 20259
degree. If a violation of division (A)(4) of this section results 20260
in economic harm of five thousand dollars or more but less than 20261

one hundred thousand dollars, telecommunications harassment is a 20262
felony of the fourth degree. If a violation of division (A)(4) of 20263
this section results in economic harm of one hundred thousand 20264
dollars or more, telecommunications harassment is a felony of the 20265
third degree. 20266

(D) No cause of action may be asserted in any court of this 20267
state against any provider of a telecommunications service or 20268
information service, or against any officer, employee, or agent of 20269
a telecommunication service or information service, for any 20270
injury, death, or loss to person or property that allegedly arises 20271
out of the provider's, officer's, employee's, or agent's provision 20272
of information, facilities, or assistance in accordance with the 20273
terms of a court order that is issued in relation to the 20274
investigation or prosecution of an alleged violation of this 20275
section or section 4931.31 of the Revised Code. A provider of a 20276
telecommunications service or information service, or an officer, 20277
employee, or agent of a telecommunications service or information 20278
service, is immune from any civil or criminal liability for 20279
injury, death, or loss to person or property that allegedly arises 20280
out of the provider's, officer's, employee's, or agent's provision 20281
of information, facilities, or assistance in accordance with the 20282
terms of a court order that is issued in relation to the 20283
investigation or prosecution of an alleged violation of this 20284
section or section 4931.31 of the Revised Code. 20285

(E) As used in this section: 20286

(1) "Economic harm" means all direct, incidental, and 20287
consequential pecuniary harm suffered by a victim as a result of 20288
criminal conduct. "Economic harm" includes, but is not limited to, 20289
all of the following: 20290

(a) All wages, salaries, or other compensation lost as a 20291
result of the criminal conduct; 20292

(b) The cost of all wages, salaries, or other compensation 20293
paid to employees for time those employees are prevented from 20294
working as a result of the criminal conduct; 20295

(c) The overhead costs incurred for the time that a business 20296
is shut down as a result of the criminal conduct; 20297

(d) The loss of value to tangible or intangible property that 20298
was damaged as a result of the criminal conduct. 20299

(2) "Caller" means the person described in division (A) of 20300
this section who makes or causes to be made a telecommunication or 20301
who permits a telecommunication to be made from a 20302
telecommunications device under that person's control. 20303

(3) "Telecommunication" and "telecommunications device" have 20304
the same meanings as in section 2913.01 of the Revised Code. 20305

(4) "Sexual activity" has the same meaning as in section 20306
2907.01 of the Revised Code. 20307

(F) Nothing in this section prohibits a person from making a 20308
telecommunication to a debtor that is in compliance with the "Fair 20309
Debt Collection Practices Act," 91 Stat. 874 (1977), 15 U.S.C. 20310
1692, as amended, or the "Telephone Consumer Protection Act," 105 20311
Stat. 2395 (1991), 47 U.S.C. 227, as amended. 20312

Sec. 2917.31. (A) No person shall cause the evacuation of any 20313
public place, or otherwise cause serious public inconvenience or 20314
alarm, by doing any of the following: 20315

(1) Initiating or circulating a report or warning of an 20316
alleged or impending fire, explosion, crime, or other catastrophe, 20317
knowing that such report or warning is false; 20318

(2) Threatening to commit any offense of violence; 20319

(3) Committing any offense, with reckless disregard of the 20320
likelihood that its commission will cause serious public 20321

inconvenience or alarm. 20322

(B) Division (A)(1) of this section does not apply to any 20323
person conducting an authorized fire or emergency drill. 20324

(C)(1) Whoever violates this section is guilty of inducing 20325
panic. 20326

(2) Except as otherwise provided in division (C)(3), (4), 20327
(5), (6), (7), or (8) of this section, inducing panic is a 20328
misdemeanor of the first degree. 20329

(3) Except as otherwise provided in division (C)(4), (5), 20330
(6), (7), or (8) of this section, if a violation of this section 20331
results in physical harm to any person, inducing panic is a felony 20332
of the fourth degree. 20333

(4) Except as otherwise provided in division (C)(5), (6), 20334
(7), or (8) of this section, if a violation of this section 20335
results in economic harm, the penalty shall be determined as 20336
follows: 20337

(a) If the violation results in economic harm of ~~five~~ seven 20338
hundred fifty dollars or more but less than five thousand dollars 20339
and if division (C)(3) of this section does not apply, inducing 20340
panic is a felony of the fifth degree. 20341

(b) If the violation results in economic harm of five 20342
thousand dollars or more but less than one hundred thousand 20343
dollars, inducing panic is a felony of the fourth degree. 20344

(c) If the violation results in economic harm of one hundred 20345
thousand dollars or more, inducing panic is a felony of the third 20346
degree. 20347

(5) If the public place involved in a violation of division 20348
(A)(1) of this section is a school or an institution of higher 20349
education, inducing panic is a felony of the second degree. 20350

(6) If the violation pertains to a purported, threatened, or 20351

actual use of a weapon of mass destruction, and except as 20352
otherwise provided in division (C)(5), (7), or (8) of this 20353
section, inducing panic is a felony of the fourth degree. 20354

(7) If the violation pertains to a purported, threatened, or 20355
actual use of a weapon of mass destruction, and except as 20356
otherwise provided in division (C)(5) of this section, if a 20357
violation of this section results in physical harm to any person, 20358
inducing panic is a felony of the third degree. 20359

(8) If the violation pertains to a purported, threatened, or 20360
actual use of a weapon of mass destruction, and except as 20361
otherwise provided in division (C)(5) of this section, if a 20362
violation of this section results in economic harm of one hundred 20363
thousand dollars or more, inducing panic is a felony of the third 20364
degree. 20365

(D)(1) It is not a defense to a charge under this section 20366
that pertains to a purported or threatened use of a weapon of mass 20367
destruction that the offender did not possess or have the ability 20368
to use a weapon of mass destruction or that what was represented 20369
to be a weapon of mass destruction was not a weapon of mass 20370
destruction. 20371

(2) Any act that is a violation of this section and any other 20372
section of the Revised Code may be prosecuted under this section, 20373
the other section, or both sections. 20374

(E) As used in this section: 20375

(1) "Economic harm" means any of the following: 20376

(a) All direct, incidental, and consequential pecuniary harm 20377
suffered by a victim as a result of criminal conduct. "Economic 20378
harm" as described in this division includes, but is not limited 20379
to, all of the following: 20380

(i) All wages, salaries, or other compensation lost as a 20381

result of the criminal conduct;	20382
(ii) The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;	20383 20384 20385
(iii) The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;	20386 20387
(iv) The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.	20388 20389
(b) All costs incurred by the state or any political subdivision as a result of, or in making any response to, the criminal conduct that constituted the violation of this section or section 2917.32 of the Revised Code, including, but not limited to, all costs so incurred by any law enforcement officers, firefighters, rescue personnel, or emergency medical services personnel of the state or the political subdivision.	20390 20391 20392 20393 20394 20395 20396
(2) "School" means any school operated by a board of education or any school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a violation of this section is committed.	20397 20398 20399 20400 20401 20402
(3) "Weapon of mass destruction" means any of the following:	20403
(a) Any weapon that is designed or intended to cause death or serious physical harm through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;	20404 20405 20406
(b) Any weapon involving a disease organism or biological agent;	20407 20408
(c) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life;	20409 20410
(d) Any of the following, except to the extent that the item	20411

or device in question is expressly excepted from the definition of 20412
"destructive device" pursuant to 18 U.S.C. 921(a)(4) and 20413
regulations issued under that section: 20414

(i) Any explosive, incendiary, or poison gas bomb, grenade, 20415
rocket having a propellant charge of more than four ounces, 20416
missile having an explosive or incendiary charge of more than 20417
one-quarter ounce, mine, or similar device; 20418

(ii) Any combination of parts either designed or intended for 20419
use in converting any item or device into any item or device 20420
described in division (E)(3)(d)(i) of this section and from which 20421
an item or device described in that division may be readily 20422
assembled. 20423

(4) "Biological agent" has the same meaning as in section 20424
2917.33 of the Revised Code. 20425

(5) "Emergency medical services personnel" has the same 20426
meaning as in section 2133.21 of the Revised Code. 20427

(6) "Institution of higher education" means any of the 20428
following: 20429

(a) A state university or college as defined in division 20430
(A)(1) of section 3345.12 of the Revised Code, community college, 20431
state community college, university branch, or technical college; 20432

(b) A private, nonprofit college, university or other 20433
post-secondary institution located in this state that possesses a 20434
certificate of authorization issued by the Ohio board of regents 20435
pursuant to Chapter 1713. of the Revised Code; 20436

(c) A post-secondary institution with a certificate of 20437
registration issued by the state board of career colleges and 20438
schools under Chapter 3332. of the Revised Code. 20439

Sec. 2917.32. (A) No person shall do any of the following: 20440

(1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm; 20441
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(2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property; 20445
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(3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur. 20449
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20451

(B) This section does not apply to any person conducting an authorized fire or emergency drill. 20452
20453

(C)(1) Whoever violates this section is guilty of making false alarms. 20454
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(2) Except as otherwise provided in division (C)(3), (4), (5), or (6) of this section, making false alarms is a misdemeanor of the first degree. 20456
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(3) Except as otherwise provided in division (C)(4) of this section, if a violation of this section results in economic harm of ~~five~~ seven hundred fifty dollars or more but less than five thousand dollars, making false alarms is a felony of the fifth degree. 20459
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(4) If a violation of this section pertains to a purported, threatened, or actual use of a weapon of mass destruction, making false alarms is a felony of the third degree. 20464
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(5) If a violation of this section results in economic harm of five thousand dollars or more but less than one hundred thousand dollars and if division (C)(4) of this section does not apply, making false alarms is a felony of the fourth degree. 20467
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(6) If a violation of this section results in economic harm 20471
of one hundred thousand dollars or more, making false alarms is a 20472
felony of the third degree. 20473

(D)(1) It is not a defense to a charge under this section 20474
that pertains to a purported or threatened use of a weapon of mass 20475
destruction that the offender did not possess or have the ability 20476
to use a weapon of mass destruction or that what was represented 20477
to be a weapon of mass destruction was not a weapon of mass 20478
destruction. 20479

(2) Any act that is a violation of this section and any other 20480
section of the Revised Code may be prosecuted under this section, 20481
the other section, or both sections. 20482

(E) As used in this section, "economic harm" and "weapon of 20483
mass destruction" have the same meanings as in section 2917.31 of 20484
the Revised Code. 20485

Sec. 2919.21. (A) No person shall abandon, or fail to provide 20486
adequate support to: 20487

(1) The person's spouse, as required by law; 20488

(2) The person's child who is under age eighteen, or mentally 20489
or physically handicapped child who is under age twenty-one; 20490

(3) The person's aged or infirm parent or adoptive parent, 20491
who from lack of ability and means is unable to provide adequately 20492
for the parent's own support. 20493

(B) No person shall abandon, or fail to provide support as 20494
established by a court order to, another person whom, by court 20495
order or decree, the person is legally obligated to support. 20496

(C) No person shall aid, abet, induce, cause, encourage, or 20497
contribute to a child or a ward of the juvenile court becoming a 20498
dependent child, as defined in section 2151.04 of the Revised 20499
Code, or a neglected child, as defined in section 2151.03 of the 20500

Revised Code. 20501

(D) It is an affirmative defense to a charge of failure to 20502
provide adequate support under division (A) of this section or a 20503
charge of failure to provide support established by a court order 20504
under division (B) of this section that the accused was unable to 20505
provide adequate support or the established support but did 20506
provide the support that was within the accused's ability and 20507
means. 20508

(E) It is an affirmative defense to a charge under division 20509
(A)(3) of this section that the parent abandoned the accused or 20510
failed to support the accused as required by law, while the 20511
accused was under age eighteen, or was mentally or physically 20512
handicapped and under age twenty-one. 20513

(F) It is not a defense to a charge under division (B) of 20514
this section that the person whom a court has ordered the accused 20515
to support is being adequately supported by someone other than the 20516
accused. 20517

(G)(1) Except as otherwise provided in this division, whoever 20518
violates division (A) or (B) of this section is guilty of 20519
nonsupport of dependents, a misdemeanor of the first degree. If 20520
the offender previously has been convicted of or pleaded guilty to 20521
a violation of division (A)(2) or (B) of this section or if the 20522
offender has failed to provide support under division (A)(2) or 20523
(B) of this section for a total accumulated period of twenty-six 20524
weeks out of one hundred four consecutive weeks, whether or not 20525
the twenty-six weeks were consecutive, then a violation of 20526
division (A)(2) or (B) of this section is a felony of the fifth 20527
degree. If the offender previously has been convicted of or 20528
pleaded guilty to a felony violation of this section, a violation 20529
of division (A)(2) or (B) of this section is a felony of the 20530
fourth degree. ~~If~~ 20531

If the violation of division (A)(2) or (B) of this section is a felony of the fourth or fifth degree, the court shall sentence the offender to one or more community control sanctions authorized under section 2929.16, 2929.17, or 2929.18 of the Revised Code. If the court imposes a nonresidential sanction under section 2929.17 of the Revised Code, the court shall include as a condition of the sanction that the offender participate in and complete a community corrections program, as established under sections 5149.30 to 5149.37 of the Revised Code, unless the offender has previously participated in a community corrections program within the past three years, if available in the county in which the court imposing the sentence is located.

(2) If the offender is guilty of nonsupport of dependents by reason of failing to provide support to the offender's child as required by a child support order issued on or after April 15, 1985, pursuant to section 2151.23, 2151.231, 2151.232, 2151.33, 3105.21, 3109.05, 3111.13, 3113.04, 3113.31, or 3115.31 of the Revised Code, the court, in addition to any other sentence imposed, shall assess all court costs arising out of the charge against the person and require the person to pay any reasonable attorney's fees of any adverse party other than the state, as determined by the court, that arose in relation to the charge.

~~(2)~~(3) Whoever violates division (C) of this section is guilty of contributing to the nonsupport of dependents, a misdemeanor of the first degree. Each day of violation of division (C) of this section is a separate offense.

Sec. 2921.01. As used in sections 2921.01 to 2921.45 of the Revised Code:

(A) "Public official" means any elected or appointed officer, or employee, or agent of the state or any political subdivision, whether in a temporary or permanent capacity, and includes, but is

not limited to, legislators, judges, and law enforcement officers. 20563

(B) "Public servant" means any of the following: 20564

(1) Any public official; 20565

(2) Any person performing ad hoc a governmental function, 20566
including, but not limited to, a juror, member of a temporary 20567
commission, master, arbitrator, advisor, or consultant; 20568

(3) A person who is a candidate for public office, whether or 20569
not the person is elected or appointed to the office for which the 20570
person is a candidate. A person is a candidate for purposes of 20571
this division if the person has been nominated according to law 20572
for election or appointment to public office, or if the person has 20573
filed a petition or petitions as required by law to have the 20574
person's name placed on the ballot in a primary, general, or 20575
special election, or if the person campaigns as a write-in 20576
candidate in any primary, general, or special election. 20577

(C) "Party official" means any person who holds an elective 20578
or appointive post in a political party in the United States or 20579
this state, by virtue of which the person directs, conducts, or 20580
participates in directing or conducting party affairs at any level 20581
of responsibility. 20582

(D) "Official proceeding" means any proceeding before a 20583
legislative, judicial, administrative, or other governmental 20584
agency or official authorized to take evidence under oath, and 20585
includes any proceeding before a referee, hearing examiner, 20586
commissioner, notary, or other person taking testimony or a 20587
deposition in connection with an official proceeding. 20588

(E) "Detention" means arrest; confinement in any vehicle 20589
subsequent to an arrest; confinement in any public or private 20590
facility for custody of persons charged with or convicted of crime 20591
in this state or another state or under the laws of the United 20592
States or alleged or found to be a delinquent child or unruly 20593

child in this state or another state or under the laws of the 20594
United States; hospitalization, institutionalization, or 20595
confinement in any public or private facility that is ordered 20596
pursuant to or under the authority of section 2945.37, 2945.371, 20597
2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 20598
Code; confinement in any vehicle for transportation to or from any 20599
facility of any of those natures; detention for extradition or 20600
deportation; except as provided in this division, supervision by 20601
any employee of any facility of any of those natures that is 20602
incidental to hospitalization, institutionalization, or 20603
confinement in the facility but that occurs outside the facility; 20604
~~supervision by an employee of the department of rehabilitation and~~ 20605
~~correction of a person on any type of release from a state~~ 20606
~~correctional institution;~~ or confinement in any vehicle, airplane, 20607
or place while being returned from outside of this state into this 20608
state by a private person or entity pursuant to a contract entered 20609
into under division (E) of section 311.29 of the Revised Code or 20610
division (B) of section 5149.03 of the Revised Code. For a person 20611
confined in a county jail who participates in a county jail 20612
industry program pursuant to section 5147.30 of the Revised Code, 20613
"detention" includes time spent at an assigned work site and going 20614
to and from the work site. 20615

(F) "Detention facility" means any public or private place 20616
used for the confinement of a person charged with or convicted of 20617
any crime in this state or another state or under the laws of the 20618
United States or alleged or found to be a delinquent child or 20619
unruly child in this state or another state or under the laws of 20620
the United States. 20621

(G) "Valuable thing or valuable benefit" includes, but is not 20622
limited to, a contribution. This inclusion does not indicate or 20623
imply that a contribution was not included in those terms before 20624
September 17, 1986. 20625

(H) "Campaign committee," "contribution," "political action committee," "legislative campaign fund," "political party," and "political contributing entity" have the same meanings as in section 3517.01 of the Revised Code.

(I) "Provider agreement" and "medical assistance program" have the same meanings as in section 2913.40 of the Revised Code.

Sec. 2921.13. (A) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:

(1) The statement is made in any official proceeding.

(2) The statement is made with purpose to incriminate another.

(3) The statement is made with purpose to mislead a public official in performing the public official's official function.

(4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention, and contingency benefits and services; disability financial assistance; retirement benefits; economic development assistance, as defined in section 9.66 of the Revised Code; or other benefits administered by a governmental agency or paid out of a public treasury.

(5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release, or provider agreement.

(6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.

(7) The statement is in writing on or in connection with a report or return that is required or authorized by law.

(8) The statement is in writing and is made with purpose to

induce another to extend credit to or employ the offender, to 20655
confer any degree, diploma, certificate of attainment, award of 20656
excellence, or honor on the offender, or to extend to or bestow 20657
upon the offender any other valuable benefit or distinction, when 20658
the person to whom the statement is directed relies upon it to 20659
that person's detriment. 20660

(9) The statement is made with purpose to commit or 20661
facilitate the commission of a theft offense. 20662

(10) The statement is knowingly made to a probate court in 20663
connection with any action, proceeding, or other matter within its 20664
jurisdiction, either orally or in a written document, including, 20665
but not limited to, an application, petition, complaint, or other 20666
pleading, or an inventory, account, or report. 20667

(11) The statement is made on an account, form, record, 20668
stamp, label, or other writing that is required by law. 20669

(12) The statement is made in connection with the purchase of 20670
a firearm, as defined in section 2923.11 of the Revised Code, and 20671
in conjunction with the furnishing to the seller of the firearm of 20672
a fictitious or altered driver's or commercial driver's license or 20673
permit, a fictitious or altered identification card, or any other 20674
document that contains false information about the purchaser's 20675
identity. 20676

(13) The statement is made in a document or instrument of 20677
writing that purports to be a judgment, lien, or claim of 20678
indebtedness and is filed or recorded with the secretary of state, 20679
a county recorder, or the clerk of a court of record. 20680

~~(14) The statement is made with purpose to obtain an Ohio's 20681
best Rx program enrollment card under section 173.773 of the 20682
Revised Code or a payment under section 173.801 of the Revised 20683
Code. 20684~~

~~(15) The statement is made in an application filed with a 20685~~

county sheriff pursuant to section 2923.125 of the Revised Code in 20686
order to obtain or renew a license to carry a concealed handgun or 20687
is made in an affidavit submitted to a county sheriff to obtain a 20688
temporary emergency license to carry a concealed handgun under 20689
section 2923.1213 of the Revised Code. 20690

~~(16)~~(15) The statement is required under section 5743.71 of 20691
the Revised Code in connection with the person's purchase of 20692
cigarettes or tobacco products in a delivery sale. 20693

(B) No person, in connection with the purchase of a firearm, 20694
as defined in section 2923.11 of the Revised Code, shall knowingly 20695
furnish to the seller of the firearm a fictitious or altered 20696
driver's or commercial driver's license or permit, a fictitious or 20697
altered identification card, or any other document that contains 20698
false information about the purchaser's identity. 20699

(C) No person, in an attempt to obtain a license to carry a 20700
concealed handgun under section 2923.125 of the Revised Code, 20701
shall knowingly present to a sheriff a fictitious or altered 20702
document that purports to be certification of the person's 20703
competence in handling a handgun as described in division (B)(3) 20704
of section 2923.125 of the Revised Code. 20705

(D) It is no defense to a charge under division (A)(6) of 20706
this section that the oath or affirmation was administered or 20707
taken in an irregular manner. 20708

(E) If contradictory statements relating to the same fact are 20709
made by the offender within the period of the statute of 20710
limitations for falsification, it is not necessary for the 20711
prosecution to prove which statement was false but only that one 20712
or the other was false. 20713

(F)(1) Whoever violates division (A)(1), (2), (3), (4), (5), 20714
(6), (7), (8), (10), (11), (13), ~~(14)~~, or ~~(16)~~(15) of this section 20715
is guilty of falsification, a misdemeanor of the first degree. 20716

(2) Whoever violates division (A)(9) of this section is 20717
guilty of falsification in a theft offense. Except as otherwise 20718
provided in this division, falsification in a theft offense is a 20719
misdemeanor of the first degree. If the value of the property or 20720
services stolen is ~~five~~ seven hundred fifty dollars or more and is 20721
less than five thousand dollars, falsification in a theft offense 20722
is a felony of the fifth degree. If the value of the property or 20723
services stolen is five thousand dollars or more and is less than 20724
one hundred thousand dollars, falsification in a theft offense is 20725
a felony of the fourth degree. If the value of the property or 20726
services stolen is one hundred thousand dollars or more, 20727
falsification in a theft offense is a felony of the third degree. 20728

(3) Whoever violates division (A)(12) or (B) of this section 20729
is guilty of falsification to purchase a firearm, a felony of the 20730
fifth degree. 20731

(4) Whoever violates division (A)~~(15)~~(14) or (C) of this 20732
section is guilty of falsification to obtain a concealed handgun 20733
license, a felony of the fourth degree. 20734

(G) A person who violates this section is liable in a civil 20735
action to any person harmed by the violation for injury, death, or 20736
loss to person or property incurred as a result of the commission 20737
of the offense and for reasonable attorney's fees, court costs, 20738
and other expenses incurred as a result of prosecuting the civil 20739
action commenced under this division. A civil action under this 20740
division is not the exclusive remedy of a person who incurs 20741
injury, death, or loss to person or property as a result of a 20742
violation of this section. 20743

Sec. 2921.41. (A) No public official or party official shall 20744
commit any theft offense, as defined in division (K) of section 20745
2913.01 of the Revised Code, when either of the following applies: 20746

(1) The offender uses the offender's office in aid of 20747

committing the offense or permits or assents to its use in aid of 20748
committing the offense; 20749

(2) The property or service involved is owned by this state, 20750
any other state, the United States, a county, a municipal 20751
corporation, a township, or any political subdivision, department, 20752
or agency of any of them, is owned by a political party, or is 20753
part of a political campaign fund. 20754

(B) Whoever violates this section is guilty of theft in 20755
office. Except as otherwise provided in this division, theft in 20756
office is a felony of the fifth degree. If the value of property 20757
or services stolen is ~~five~~ seven hundred fifty dollars or more and 20758
is less than five thousand dollars, theft in office is a felony of 20759
the fourth degree. If the value of property or services stolen is 20760
five thousand dollars or more, theft in office is a felony of the 20761
third degree. 20762

(C)(1) A public official or party official who pleads guilty 20763
to theft in office and whose plea is accepted by the court or a 20764
public official or party official against whom a verdict or 20765
finding of guilt for committing theft in office is returned is 20766
forever disqualified from holding any public office, employment, 20767
or position of trust in this state. 20768

(2)(a) A court that imposes sentence for a violation of this 20769
section based on conduct described in division (A)(2) of this 20770
section shall require the public official or party official who is 20771
convicted of or pleads guilty to the offense to make restitution 20772
for all of the property or the service that is the subject of the 20773
offense, in addition to the term of imprisonment and any fine 20774
imposed. A court that imposes sentence for a violation of this 20775
section based on conduct described in division (A)(1) of this 20776
section and that determines at trial that this state or a 20777
political subdivision of this state if the offender is a public 20778
official, or a political party in the United States or this state 20779

if the offender is a party official, suffered actual loss as a 20780
result of the offense shall require the offender to make 20781
restitution to the state, political subdivision, or political 20782
party for all of the actual loss experienced, in addition to the 20783
term of imprisonment and any fine imposed. 20784

(b)(i) In any case in which a sentencing court is required to 20785
order restitution under division (C)(2)(a) of this section and in 20786
which the offender, at the time of the commission of the offense 20787
or at any other time, was a member of the public employees 20788
retirement system, the Ohio police and fire pension fund, the 20789
state teachers retirement system, the school employees retirement 20790
system, or the state highway patrol retirement system; was an 20791
electing employee, as defined in section 3305.01 of the Revised 20792
Code, participating in an alternative retirement plan provided 20793
pursuant to Chapter 3305. of the Revised Code; was a participating 20794
employee or continuing member, as defined in section 148.01 of the 20795
Revised Code, in a deferred compensation program offered by the 20796
Ohio public employees deferred compensation board; was an officer 20797
or employee of a municipal corporation who was a participant in a 20798
deferred compensation program offered by that municipal 20799
corporation; was an officer or employee of a government unit, as 20800
defined in section 148.06 of the Revised Code, who was a 20801
participant in a deferred compensation program offered by that 20802
government unit, or was a participating employee, continuing 20803
member, or participant in any deferred compensation program 20804
described in this division and a member of a retirement system 20805
specified in this division or a retirement system of a municipal 20806
corporation, the entity to which restitution is to be made may 20807
file a motion with the sentencing court specifying any retirement 20808
system, any provider as defined in section 3305.01 of the Revised 20809
Code, and any deferred compensation program of which the offender 20810
was a member, electing employee, participating employee, 20811
continuing member, or participant and requesting the court to 20812

issue an order requiring the specified retirement system, the 20813
specified provider under the alternative retirement plan, or the 20814
specified deferred compensation program, or, if more than one is 20815
specified in the motion, the applicable combination of these, to 20816
withhold the amount required as restitution from any payment that 20817
is to be made under a pension, annuity, or allowance, under an 20818
option in the alternative retirement plan, under a participant 20819
account, as defined in section 148.01 of the Revised Code, or 20820
under any other type of benefit, other than a survivorship 20821
benefit, that has been or is in the future granted to the 20822
offender, from any payment of accumulated employee contributions 20823
standing to the offender's credit with that retirement system, 20824
that provider of the option under the alternative retirement plan, 20825
or that deferred compensation program, or, if more than one is 20826
specified in the motion, the applicable combination of these, and 20827
from any payment of any other amounts to be paid to the offender 20828
upon the offender's withdrawal of the offender's contributions 20829
pursuant to Chapter 145., 148., 742., 3307., 3309., or 5505. of 20830
the Revised Code. A motion described in this division may be filed 20831
at any time subsequent to the conviction of the offender or entry 20832
of a guilty plea. Upon the filing of the motion, the clerk of the 20833
court in which the motion is filed shall notify the offender, the 20834
specified retirement system, the specified provider under the 20835
alternative retirement plan, or the specified deferred 20836
compensation program, or, if more than one is specified in the 20837
motion, the applicable combination of these, in writing, of all of 20838
the following: that the motion was filed; that the offender will 20839
be granted a hearing on the issuance of the requested order if the 20840
offender files a written request for a hearing with the clerk 20841
prior to the expiration of thirty days after the offender receives 20842
the notice; that, if a hearing is requested, the court will 20843
schedule a hearing as soon as possible and notify the offender, 20844
any specified retirement system, any specified provider under an 20845

alternative retirement plan, and any specified deferred 20846
compensation program of the date, time, and place of the hearing; 20847
that, if a hearing is conducted, it will be limited only to a 20848
consideration of whether the offender can show good cause why the 20849
requested order should not be issued; that, if a hearing is 20850
conducted, the court will not issue the requested order if the 20851
court determines, based on evidence presented at the hearing by 20852
the offender, that there is good cause for the requested order not 20853
to be issued; that the court will issue the requested order if a 20854
hearing is not requested or if a hearing is conducted but the 20855
court does not determine, based on evidence presented at the 20856
hearing by the offender, that there is good cause for the 20857
requested order not to be issued; and that, if the requested order 20858
is issued, any retirement system, any provider under an 20859
alternative retirement plan, and any deferred compensation program 20860
specified in the motion will be required to withhold the amount 20861
required as restitution from payments to the offender. 20862

(ii) In any case in which a sentencing court is required to 20863
order restitution under division (C)(2)(a) of this section and in 20864
which a motion requesting the issuance of a withholding order as 20865
described in division (C)(2)(b)(i) of this section is filed, the 20866
offender may receive a hearing on the motion by delivering a 20867
written request for a hearing to the court prior to the expiration 20868
of thirty days after the offender's receipt of the notice provided 20869
pursuant to division (C)(2)(b)(i) of this section. If a request 20870
for a hearing is made by the offender within the prescribed time, 20871
the court shall schedule a hearing as soon as possible after the 20872
request is made and shall notify the offender, the specified 20873
retirement system, the specified provider under the alternative 20874
retirement plan, or the specified deferred compensation program, 20875
or, if more than one is specified in the motion, the applicable 20876
combination of these, of the date, time, and place of the hearing. 20877
A hearing scheduled under this division shall be limited to a 20878

consideration of whether there is good cause, based on evidence 20879
presented by the offender, for the requested order not to be 20880
issued. If the court determines, based on evidence presented by 20881
the offender, that there is good cause for the order not to be 20882
issued, the court shall deny the motion and shall not issue the 20883
requested order. If the offender does not request a hearing within 20884
the prescribed time or if the court conducts a hearing but does 20885
not determine, based on evidence presented by the offender, that 20886
there is good cause for the order not to be issued, the court 20887
shall order the specified retirement system, the specified 20888
provider under the alternative retirement plan, or the specified 20889
deferred compensation program, or, if more than one is specified 20890
in the motion, the applicable combination of these, to withhold 20891
the amount required as restitution under division (C)(2)(a) of 20892
this section from any payments to be made under a pension, 20893
annuity, or allowance, under a participant account, as defined in 20894
section 148.01 of the Revised Code, under an option in the 20895
alternative retirement plan, or under any other type of benefit, 20896
other than a survivorship benefit, that has been or is in the 20897
future granted to the offender, from any payment of accumulated 20898
employee contributions standing to the offender's credit with that 20899
retirement system, that provider under the alternative retirement 20900
plan, or that deferred compensation program, or, if more than one 20901
is specified in the motion, the applicable combination of these, 20902
and from any payment of any other amounts to be paid to the 20903
offender upon the offender's withdrawal of the offender's 20904
contributions pursuant to Chapter 145., 148., 742., 3307., 3309., 20905
or 5505. of the Revised Code, and to continue the withholding for 20906
that purpose, in accordance with the order, out of each payment to 20907
be made on or after the date of issuance of the order, until 20908
further order of the court. Upon receipt of an order issued under 20909
this division, the public employees retirement system, the Ohio 20910
police and fire pension fund, the state teachers retirement 20911

system, the school employees retirement system, the state highway 20912
patrol retirement system, a municipal corporation retirement 20913
system, the provider under the alternative retirement plan, and 20914
the deferred compensation program offered by the Ohio public 20915
employees deferred compensation board, a municipal corporation, or 20916
a government unit, as defined in section 148.06 of the Revised 20917
Code, whichever are applicable, shall withhold the amount required 20918
as restitution, in accordance with the order, from any such 20919
payments and immediately shall forward the amount withheld to the 20920
clerk of the court in which the order was issued for payment to 20921
the entity to which restitution is to be made. 20922

(iii) Service of a notice required by division (C)(2)(b)(i) 20923
or (ii) of this section shall be effected in the same manner as 20924
provided in the Rules of Civil Procedure for the service of 20925
process. 20926

(D) Upon the filing of charges against a person under this 20927
section, the prosecutor, as defined in section 2935.01 of the 20928
Revised Code, who is assigned the case shall send written notice 20929
that charges have been filed against that person to the public 20930
employees retirement system, the Ohio police and fire pension 20931
fund, the state teachers retirement system, the school employees 20932
retirement system, the state highway patrol retirement system, the 20933
provider under an alternative retirement plan, any municipal 20934
corporation retirement system in this state, and the deferred 20935
compensation program offered by the Ohio public employees deferred 20936
compensation board, a municipal corporation, or a government unit, 20937
as defined in section 148.06 of the Revised Code. The written 20938
notice shall specifically identify the person charged. 20939

Sec. 2923.31. As used in sections 2923.31 to 2923.36 of the 20940
Revised Code: 20941

(A) "Beneficial interest" means any of the following: 20942

(1) The interest of a person as a beneficiary under a trust	20943
in which the trustee holds title to personal or real property;	20944
(2) The interest of a person as a beneficiary under any other	20945
trust arrangement under which any other person holds title to	20946
personal or real property for the benefit of such person;	20947
(3) The interest of a person under any other form of express	20948
fiduciary arrangement under which any other person holds title to	20949
personal or real property for the benefit of such person.	20950
"Beneficial interest" does not include the interest of a	20951
stockholder in a corporation or the interest of a partner in	20952
either a general or limited partnership.	20953
(B) "Costs of investigation and prosecution" and "costs of	20954
investigation and litigation" mean all of the costs incurred by	20955
the state or a county or municipal corporation under sections	20956
2923.31 to 2923.36 of the Revised Code in the prosecution and	20957
investigation of any criminal action or in the litigation and	20958
investigation of any civil action, and includes, but is not	20959
limited to, the costs of resources and personnel.	20960
(C) "Enterprise" includes any individual, sole	20961
proprietorship, partnership, limited partnership, corporation,	20962
trust, union, government agency, or other legal entity, or any	20963
organization, association, or group of persons associated in fact	20964
although not a legal entity. "Enterprise" includes illicit as well	20965
as licit enterprises.	20966
(D) "Innocent person" includes any bona fide purchaser of	20967
property that is allegedly involved in a violation of section	20968
2923.32 of the Revised Code, including any person who establishes	20969
a valid claim to or interest in the property in accordance with	20970
division (E) of section 2981.04 of the Revised Code, and any	20971
victim of an alleged violation of that section or of any	20972
underlying offense involved in an alleged violation of that	20973

section. 20974

(E) "Pattern of corrupt activity" means two or more incidents 20975
of corrupt activity, whether or not there has been a prior 20976
conviction, that are related to the affairs of the same 20977
enterprise, are not isolated, and are not so closely related to 20978
each other and connected in time and place that they constitute a 20979
single event. 20980

At least one of the incidents forming the pattern shall occur 20981
on or after January 1, 1986. Unless any incident was an aggravated 20982
murder or murder, the last of the incidents forming the pattern 20983
shall occur within six years after the commission of any prior 20984
incident forming the pattern, excluding any period of imprisonment 20985
served by any person engaging in the corrupt activity. 20986

For the purposes of the criminal penalties that may be 20987
imposed pursuant to section 2923.32 of the Revised Code, at least 20988
one of the incidents forming the pattern shall constitute a felony 20989
under the laws of this state in existence at the time it was 20990
committed or, if committed in violation of the laws of the United 20991
States or of any other state, shall constitute a felony under the 20992
law of the United States or the other state and would be a 20993
criminal offense under the law of this state if committed in this 20994
state. 20995

(F) "Pecuniary value" means money, a negotiable instrument, a 20996
commercial interest, or anything of value, as defined in section 20997
1.03 of the Revised Code, or any other property or service that 20998
has a value in excess of one hundred dollars. 20999

(G) "Person" means any person, as defined in section 1.59 of 21000
the Revised Code, and any governmental officer, employee, or 21001
entity. 21002

(H) "Personal property" means any personal property, any 21003
interest in personal property, or any right, including, but not 21004

limited to, bank accounts, debts, corporate stocks, patents, or 21005
copyrights. Personal property and any beneficial interest in 21006
personal property are deemed to be located where the trustee of 21007
the property, the personal property, or the instrument evidencing 21008
the right is located. 21009

(I) "Corrupt activity" means engaging in, attempting to 21010
engage in, conspiring to engage in, or soliciting, coercing, or 21011
intimidating another person to engage in any of the following: 21012

(1) Conduct defined as "racketeering activity" under the 21013
"Organized Crime Control Act of 1970," 84 Stat. 941, 18 U.S.C. 21014
1961(1)(B), (1)(C), (1)(D), and (1)(E), as amended; 21015

(2) Conduct constituting any of the following: 21016

(a) A violation of section 1315.55, 1322.02, 2903.01, 21017
2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 21018
2905.11, 2905.22, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 21019
2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 21020
2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2913.05, 21021
2913.06, 2921.02, 2921.03, 2921.04, 2921.11, 2921.12, 2921.32, 21022
2921.41, 2921.42, 2921.43, 2923.12, or 2923.17; division 21023
(F)(1)(a), (b), or (c) of section 1315.53; division (A)(1) or (2) 21024
of section 1707.042; division (B), (C)(4), (D), (E), or (F) of 21025
section 1707.44; division (A)(1) or (2) of section 2923.20; 21026
division (J)(1) of section 4712.02; section 4719.02, 4719.05, or 21027
4719.06; division (C), (D), or (E) of section 4719.07; section 21028
4719.08; or division (A) of section 4719.09 of the Revised Code. 21029

(b) Any violation of section 3769.11, 3769.15, 3769.16, or 21030
3769.19 of the Revised Code as it existed prior to July 1, 1996, 21031
any violation of section 2915.02 of the Revised Code that occurs 21032
on or after July 1, 1996, and that, had it occurred prior to that 21033
date, would have been a violation of section 3769.11 of the 21034
Revised Code as it existed prior to that date, or any violation of 21035

section 2915.05 of the Revised Code that occurs on or after July 21036
1, 1996, and that, had it occurred prior to that date, would have 21037
been a violation of section 3769.15, 3769.16, or 3769.19 of the 21038
Revised Code as it existed prior to that date. 21039

(c) Any violation of section 2907.21, 2907.22, 2907.31, 21040
2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 21041
2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37 21042
of the Revised Code, any violation of section 2925.11 of the 21043
Revised Code that is a felony of the first, second, third, or 21044
fourth degree and that occurs on or after July 1, 1996, any 21045
violation of section 2915.02 of the Revised Code that occurred 21046
prior to July 1, 1996, any violation of section 2915.02 of the 21047
Revised Code that occurs on or after July 1, 1996, and that, had 21048
it occurred prior to that date, would not have been a violation of 21049
section 3769.11 of the Revised Code as it existed prior to that 21050
date, any violation of section 2915.06 of the Revised Code as it 21051
existed prior to July 1, 1996, or any violation of division (B) of 21052
section 2915.05 of the Revised Code as it exists on and after July 21053
1, 1996, when the proceeds of the violation, the payments made in 21054
the violation, the amount of a claim for payment or for any other 21055
benefit that is false or deceptive and that is involved in the 21056
violation, or the value of the contraband or other property 21057
illegally possessed, sold, or purchased in the violation exceeds 21058
~~five~~ seven hundred fifty dollars, or any combination of violations 21059
described in division (I)(2)(c) of this section when the total 21060
proceeds of the combination of violations, payments made in the 21061
combination of violations, amount of the claims for payment or for 21062
other benefits that is false or deceptive and that is involved in 21063
the combination of violations, or value of the contraband or other 21064
property illegally possessed, sold, or purchased in the 21065
combination of violations exceeds ~~five~~ seven hundred fifty 21066
dollars; 21067

(d) Any violation of section 5743.112 of the Revised Code 21068
when the amount of unpaid tax exceeds one hundred dollars; 21069

(e) Any violation or combination of violations of section 21070
2907.32 of the Revised Code involving any material or performance 21071
containing a display of bestiality or of sexual conduct, as 21072
defined in section 2907.01 of the Revised Code, that is explicit 21073
and depicted with clearly visible penetration of the genitals or 21074
clearly visible penetration by the penis of any orifice when the 21075
total proceeds of the violation or combination of violations, the 21076
payments made in the violation or combination of violations, or 21077
the value of the contraband or other property illegally possessed, 21078
sold, or purchased in the violation or combination of violations 21079
exceeds ~~five~~ seven hundred fifty dollars; 21080

(f) Any combination of violations described in division 21081
(I)(2)(c) of this section and violations of section 2907.32 of the 21082
Revised Code involving any material or performance containing a 21083
display of bestiality or of sexual conduct, as defined in section 21084
2907.01 of the Revised Code, that is explicit and depicted with 21085
clearly visible penetration of the genitals or clearly visible 21086
penetration by the penis of any orifice when the total proceeds of 21087
the combination of violations, payments made in the combination of 21088
violations, amount of the claims for payment or for other benefits 21089
that is false or deceptive and that is involved in the combination 21090
of violations, or value of the contraband or other property 21091
illegally possessed, sold, or purchased in the combination of 21092
violations exceeds ~~five~~ seven hundred fifty dollars. 21093

(3) Conduct constituting a violation of any law of any state 21094
other than this state that is substantially similar to the conduct 21095
described in division (I)(2) of this section, provided the 21096
defendant was convicted of the conduct in a criminal proceeding in 21097
the other state; 21098

(4) Animal or ecological terrorism; 21099

(5)(a) Conduct constituting any of the following:	21100
(i) Organized retail theft;	21101
(ii) Conduct that constitutes one or more violations of any law of any state other than this state, that is substantially similar to organized retail theft, and that if committed in this state would be organized retail theft, if the defendant was convicted of or pleaded guilty to the conduct in a criminal proceeding in the other state.	21102 21103 21104 21105 21106 21107
(b) By enacting division (I)(5)(a) of this section, it is the intent of the general assembly to add organized retail theft and the conduct described in division (I)(5)(a)(ii) of this section as conduct constituting corrupt activity. The enactment of division (I)(5)(a) of this section and the addition by division (I)(5)(a) of this section of organized retail theft and the conduct described in division (I)(5)(a)(ii) of this section as conduct constituting corrupt activity does not limit or preclude, and shall not be construed as limiting or precluding, any prosecution for a violation of section 2923.32 of the Revised Code that is based on one or more violations of section 2913.02 or 2913.51 of the Revised Code, one or more similar offenses under the laws of this state or any other state, or any combination of any of those violations or similar offenses, even though the conduct constituting the basis for those violations or offenses could be construed as also constituting organized retail theft or conduct of the type described in division (I)(5)(a)(ii) of this section.	21108 21109 21110 21111 21112 21113 21114 21115 21116 21117 21118 21119 21120 21121 21122 21123 21124
(J) "Real property" means any real property or any interest in real property, including, but not limited to, any lease of, or mortgage upon, real property. Real property and any beneficial interest in it is deemed to be located where the real property is located.	21125 21126 21127 21128 21129
(K) "Trustee" means any of the following:	21130

(1) Any person acting as trustee under a trust in which the trustee holds title to personal or real property;	21131 21132
(2) Any person who holds title to personal or real property for which any other person has a beneficial interest;	21133 21134
(3) Any successor trustee.	21135
"Trustee" does not include an assignee or trustee for an insolvent debtor or an executor, administrator, administrator with the will annexed, testamentary trustee, guardian, or committee, appointed by, under the control of, or accountable to a court.	21136 21137 21138 21139
(L) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted in violation of any federal or state law relating to the business of gambling activity or relating to the business of lending money at an usurious rate unless the creditor proves, by a preponderance of the evidence, that the usurious rate was not intentionally set and that it resulted from a good faith error by the creditor, notwithstanding the maintenance of procedures that were adopted by the creditor to avoid an error of that nature.	21140 21141 21142 21143 21144 21145 21146 21147 21148 21149 21150
(M) "Animal activity" means any activity that involves the use of animals or animal parts, including, but not limited to, hunting, fishing, trapping, traveling, camping, the production, preparation, or processing of food or food products, clothing or garment manufacturing, medical research, other research, entertainment, recreation, agriculture, biotechnology, or service activity that involves the use of animals or animal parts.	21151 21152 21153 21154 21155 21156 21157
(N) "Animal facility" means a vehicle, building, structure, nature preserve, or other premises in which an animal is lawfully kept, handled, housed, exhibited, bred, or offered for sale, including, but not limited to, a zoo, rodeo, circus, amusement	21158 21159 21160 21161

park, hunting preserve, or premises in which a horse or dog event 21162
is held. 21163

(O) "Animal or ecological terrorism" means the commission of 21164
any felony that involves causing or creating a substantial risk of 21165
physical harm to any property of another, the use of a deadly 21166
weapon or dangerous ordnance, or purposely, knowingly, or 21167
recklessly causing serious physical harm to property and that 21168
involves an intent to obstruct, impede, or deter any person from 21169
participating in a lawful animal activity, from mining, foresting, 21170
harvesting, gathering, or processing natural resources, or from 21171
being lawfully present in or on an animal facility or research 21172
facility. 21173

(P) "Research facility" means a place, laboratory, 21174
institution, medical care facility, government facility, or public 21175
or private educational institution in which a scientific test, 21176
experiment, or investigation involving the use of animals or other 21177
living organisms is lawfully carried out, conducted, or attempted. 21178
21179

(Q) "Organized retail theft" means the theft of retail 21180
property with a retail value of five hundred dollars or more from 21181
one or more retail establishments with the intent to sell, 21182
deliver, or transfer that property to a retail property fence. 21183

(R) "Retail property" means any tangible personal property 21184
displayed, held, stored, or offered for sale in or by a retail 21185
establishment. 21186

(S) "Retail property fence" means a person who possesses, 21187
procures, receives, or conceals retail property that was 21188
represented to the person as being stolen or that the person knows 21189
or believes to be stolen. 21190

(T) "Retail value" means the full retail value of the retail 21191
property. In determining whether the retail value of retail 21192

property equals or exceeds five hundred dollars, the value of all 21193
retail property stolen from the retail establishment or retail 21194
establishments by the same person or persons within any 21195
one-hundred-eighty-day period shall be aggregated. 21196

Sec. 2929.17. Except as provided in this section, the court 21197
imposing a sentence for a felony upon an offender who is not 21198
required to serve a mandatory prison term may impose any 21199
nonresidential sanction or combination of nonresidential sanctions 21200
authorized under this section. If the court imposes one or more 21201
nonresidential sanctions authorized under this section, the court 21202
shall impose as a condition of the sanction that, during the 21203
period of the nonresidential sanction, the offender shall abide by 21204
the law and shall not leave the state without the permission of 21205
the court or the offender's probation officer. 21206

The court imposing a sentence for a fourth degree felony OVI 21207
offense under division (G)(1) or (2) of section 2929.13 of the 21208
Revised Code or for a third degree felony OVI offense under 21209
division (G)(2) of that section may impose upon the offender, in 21210
addition to the mandatory term of local incarceration or mandatory 21211
prison term imposed under the applicable division, a 21212
nonresidential sanction or combination of nonresidential sanctions 21213
under this section, and the offender shall serve or satisfy the 21214
sanction or combination of sanctions after the offender has served 21215
the mandatory term of local incarceration or mandatory prison term 21216
required for the offense. The court shall not impose a term in a 21217
drug treatment program as described in division (D) of this 21218
section until after considering an assessment by a properly 21219
credentialed treatment professional, if available. Nonresidential 21220
sanctions include, but are not limited to, the following: 21221

(A) A term of day reporting; 21222

(B) A term of house arrest with electronic monitoring or 21223

continuous alcohol monitoring or both electronic monitoring and 21224
continuous alcohol monitoring, a term of electronic monitoring or 21225
continuous alcohol monitoring without house arrest, or a term of 21226
house arrest without electronic monitoring or continuous alcohol 21227
monitoring; 21228

(C) A term of community service of up to five hundred hours 21229
pursuant to division (B) of section 2951.02 of the Revised Code 21230
or, if the court determines that the offender is financially 21231
incapable of fulfilling a financial sanction described in section 21232
2929.18 of the Revised Code, a term of community service as an 21233
alternative to a financial sanction; 21234

(D) A term in a drug treatment program with a level of 21235
security for the offender as determined by the court; 21236

(E) A term of intensive probation supervision; 21237

(F) A term of basic probation supervision; 21238

(G) A term of monitored time; 21239

(H) A term of drug and alcohol use monitoring, including 21240
random drug testing; 21241

(I) A curfew term; 21242

(J) A requirement that the offender obtain employment; 21243

(K) A requirement that the offender obtain education or 21244
training; 21245

(L) Provided the court obtains the prior approval of the 21246
victim, a requirement that the offender participate in 21247
victim-offender mediation; 21248

(M) A license violation report; 21249

(N) If the offense is a violation of section 2919.25 or a 21250
violation of section 2903.11, 2903.12, or 2903.13 of the Revised 21251
Code involving a person who was a family or household member at 21252

the time of the violation, if the offender committed the offense 21253
in the vicinity of one or more children who are not victims of the 21254
offense, and if the offender or the victim of the offense is a 21255
parent, guardian, custodian, or person in loco parentis of one or 21256
more of those children, a requirement that the offender obtain 21257
counseling. This division does not limit the court in requiring 21258
the offender to obtain counseling for any offense or in any 21259
circumstance not specified in this division. 21260

(O) If the offense is a felony violation of division (A)(2) 21261
or (B) of section 2919.21 of the Revised Code, a requirement that 21262
the offender participate in and complete a community corrections 21263
program, as established under sections 5149.30 to 5149.37 of the 21264
Revised Code, unless the offender has previously participated in a 21265
community corrections program within the past three years, if 21266
available in the county in which the court imposing the sentence 21267
is located. 21268

Sec. 2937.22. (A) Bail is security for the appearance of an 21269
accused to appear and answer to a specific criminal or 21270
quasi-criminal charge in any court or before any magistrate at a 21271
specific time or at any time to which a case may be continued, and 21272
not depart without leave. It may take any of the following forms: 21273

~~(A)~~(1) The deposit of cash by the accused or by some other 21274
person for ~~him~~ the accused; 21275

~~(B)~~(2) The deposit by the accused or by some other person for 21276
~~him~~ the accused in form of bonds of the United States, this state, 21277
or any political subdivision thereof in a face amount equal to the 21278
sum set by the court or magistrate. In case of bonds not 21279
negotiable by delivery such bonds shall be properly endorsed for 21280
transfer. 21281

~~(C)~~(3) The written undertaking by one or more persons to 21282
forfeit the sum of money set by the court or magistrate, if the 21283

accused is in default for appearance, which shall be known as a 21284
recognizance. 21285

(B) Whenever a person is charged with any offense other than 21286
a traffic offense that is not a moving violation and posts bail, 21287
the person shall pay a surcharge of twenty-five dollars. The clerk 21288
of the court shall retain the twenty-five dollars until the person 21289
is convicted, pleads guilty, forfeits bail, is found not guilty, 21290
or has the charges dismissed. If the person is convicted, pleads 21291
guilty, or forfeits bail, the clerk shall transmit the twenty-five 21292
dollars on or before the twentieth day of the month following the 21293
month in which the person was convicted, pleaded guilty, or 21294
forfeited bail to the treasurer of state, and the treasurer of 21295
state shall deposit it into the indigent defense support fund 21296
created under section 120.08 of the Revised Code. If the person is 21297
found not guilty or the charges are dismissed, the clerk shall 21298
return the twenty-five dollars to the person. 21299

(C) All bail shall be received by the clerk of the court, 21300
deputy clerk of court, or by the magistrate, or by a special 21301
referee appointed by the supreme court pursuant to section 2937.46 21302
of the Revised Code, and, except in cases of recognizances, 21303
receipt shall be given therefor ~~by him.~~ 21304

(D) As used in this section, "moving violation" has the same 21305
meaning as in section 2743.70 of the Revised Code. 21306

Sec. 2949.091. (A)(1)(a) The court, in which any person is 21307
convicted of or pleads guilty to any offense ~~other than a traffic~~ 21308
~~offense that is not a moving violation,~~ shall impose one of the 21309
~~sum of fifteen dollars following sums~~ as costs in the case in 21310
addition to any other court costs that the court is required by 21311
law to impose upon the offender: 21312

(i) Thirty dollars if the offense is a felony; 21313

(ii) Twenty dollars if the offense is a misdemeanor other than a traffic offense that is not a moving violation; 21314
21315

(iii) Ten dollars if the offense is a traffic offense that is not a moving violation, excluding parking violations. All such 21316
21317

(b) All moneys collected pursuant to division (A)(1)(a) of this section 21318
during a month shall be transmitted on or before the 21319
twentieth day of the following month by the clerk of the court to 21320
the treasurer of state and deposited by the treasurer of state 21321
~~into~~ to the credit of the general revenue indigent defense support 21322
fund established under section 120.08 of the Revised Code. The 21323
court shall not waive the payment of the additional ~~fifteen~~ 21324
~~dollars~~ thirty-, twenty-, or ten-dollar court costs, unless the 21325
court determines that the offender is indigent and waives the 21326
payment of all court costs imposed upon the indigent offender. 21327

(2)(a) The juvenile court, in which a child is found to be a 21328
delinquent child or a juvenile traffic offender for an act ~~which~~ 21329
~~that~~, if committed by an adult, would be an offense ~~other than a~~ 21330
~~traffic offense that is not a moving violation~~, shall impose one 21331
of the sum of fifteen dollars following sums as costs in the case 21332
in addition to any other court costs that the court is required or 21333
permitted by law to impose upon the delinquent child or juvenile 21334
traffic offender: 21335

(i) Thirty dollars if the offense is a felony; 21336

(ii) Twenty dollars if the offense is a misdemeanor other than a traffic offense that is not a moving violation; 21337
21338

(iii) Ten dollars if the offense is a traffic offense that is not a moving violation, excluding parking violations. All such 21339
21340

(b) All moneys collected pursuant to division (A)(2)(a) of this section 21341
during a month shall be transmitted on or before the 21342
twentieth day of the following month by the clerk of the court to 21343
the treasurer of state and deposited by the treasurer of state 21344

~~into~~ to the credit of the general revenue indigent defense support 21345
fund established under section 120.08 of the Revised Code. The 21346
~~fifteen dollars~~ thirty-, twenty-, or ten-dollar court costs shall 21347
be collected in all cases unless the court determines the juvenile 21348
is indigent and waives the payment of all court costs, or enters 21349
an order on its journal stating that it has determined that the 21350
juvenile is indigent, that no other court costs are to be taxed in 21351
the case, and that the payment of the ~~fifteen dollars~~ thirty-, 21352
twenty-, or ten-dollar court costs is waived. 21353

(B) Whenever a person is charged with any offense ~~other than~~ 21354
~~a traffic offense that is not a moving violation and posts bail~~ 21355
described in division (A)(1) of this section, the court shall add 21356
to the amount of the bail the ~~fifteen~~ thirty, twenty, or ten 21357
dollars required to be paid by division (A)(1) of this section. 21358
The ~~fifteen~~ thirty, twenty, or ten dollars shall be retained by 21359
the clerk of the court until the person is convicted, pleads 21360
guilty, forfeits bail, is found not guilty, or has the charges 21361
dismissed. If the person is convicted, pleads guilty, or forfeits 21362
bail, the clerk shall transmit the ~~fifteen~~ thirty, twenty, or ten 21363
dollars on or before the twentieth day of the month following the 21364
month in which the person was convicted, pleaded guilty, or 21365
forfeited bail to the treasurer of state, who shall deposit it 21366
~~into~~ to the credit of the general revenue indigent defense support 21367
fund established under section 120.08 of the Revised Code. If the 21368
person is found not guilty or the charges are dismissed, the clerk 21369
shall return the ~~fifteen~~ thirty, twenty, or ten dollars to the 21370
person. 21371

(C) No person shall be placed or held in a detention facility 21372
for failing to pay the additional ~~fifteen dollars~~ thirty-, 21373
twenty-, or ten-dollar court costs or bail that are required to be 21374
paid by this section. 21375

(D) As used in this section: 21376

(1) "Moving violation" and "bail" have the same meanings as 21377
in section 2743.70 of the Revised Code. 21378

(2) "Detention facility" has the same meaning as in section 21379
2921.01 of the Revised Code. 21380

Sec. 2949.094. (A) The court in which any person is convicted 21381
of or pleads guilty to any moving violation shall impose an 21382
additional court cost of ten dollars upon the offender. The court 21383
shall not waive the payment of the ten dollars unless the court 21384
determines that the offender is indigent and waives the payment of 21385
all court costs imposed upon the indigent offender. 21386

The clerk of the court shall transmit thirty-five per cent of 21387
all additional court costs collected pursuant to this division 21388
during a month on or before the twenty-third day of the following 21389
month to the division of criminal justice services, and the 21390
division of criminal justice services shall deposit the money so 21391
transmitted into the drug law enforcement fund created under 21392
section 5502.68 of the Revised Code. The clerk shall transmit 21393
fifteen per cent of all additional court costs so collected during 21394
a month on or before the twenty-third day of the following month 21395
to the ~~county or municipal~~ local indigent drivers alcohol 21396
treatment fund created by the local alcohol and drug addiction 21397
services board or the local board of alcohol, drug addiction, and 21398
mental health services under ~~the control of that court, as created~~ 21399
~~by the county or municipal corporation under~~ division (H) of 21400
section 4511.191 of the Revised Code. The clerk shall transmit 21401
fifty per cent of all additional court costs so collected during a 21402
month on or before the twenty-third day of the following month to 21403
the state treasury to be credited to the indigent defense support 21404
fund created pursuant to section 120.08 of the Revised Code. 21405

21406

(B) The juvenile court in which a child is found to be a 21407

juvenile traffic offender for an act that is a moving violation 21408
shall impose an additional court cost of ten dollars upon the 21409
juvenile traffic offender. The juvenile court shall not waive the 21410
payment of the ten dollars unless the court determines that the 21411
juvenile is indigent and waives the payment of all court costs 21412
imposed upon the indigent offender. 21413

The clerk of the court shall transmit thirty-five per cent of 21414
all additional court costs collected pursuant to this division 21415
during a month on or before the twenty-third day of the following 21416
month to the division of criminal justice services, and the 21417
division of criminal justice services shall deposit the money so 21418
transmitted into the drug law enforcement fund created under 21419
section 5502.68 of the Revised Code. The clerk shall transmit 21420
fifteen per cent of all additional court costs so collected during 21421
a month on or before the twenty-third day of the following month 21422
to the ~~county juvenile~~ local indigent drivers alcohol treatment 21423
fund created by the local alcohol and drug addiction services 21424
board or the local board of alcohol, drug addiction, and mental 21425
health services ~~under the control of that court, as created by the~~ 21426
~~county under~~ division (H) of section 4511.191 of the Revised Code. 21427
The clerk shall transmit fifty per cent of all additional court 21428
costs so collected during a month on or before the twenty-third 21429
day of the following month to the state treasury to be credited to 21430
the indigent defense support fund created pursuant to section 21431
120.08 of the Revised Code. 21432

(C) Whenever a person is charged with any offense that is a 21434
moving violation and posts bail, the court shall add to the amount 21435
of the bail the ten dollars required to be paid by division (A) of 21436
this section. The clerk of the court shall retain the ten dollars 21437
until the person is convicted, pleads guilty, forfeits bail, is 21438
found not guilty, or has the charges dismissed. If the person is 21439

convicted, pleads guilty, or forfeits bail, the clerk shall 21440
transmit three dollars and fifty cents out of the ten dollars to 21441
the division of criminal justice services, and the division of 21442
criminal justice services shall deposit the money so transmitted 21443
into the drug law enforcement fund created under section 5502.68 21444
of the Revised Code, the clerk shall transmit one dollar and fifty 21445
cents out of the ten dollars to the ~~county, municipal, or county~~ 21446
juvenile local indigent drivers alcohol treatment fund created by 21447
the local alcohol and drug addiction services board or the local 21448
board of alcohol, drug addiction, and mental health services under 21449
~~the control of that court, as created by the county or municipal~~ 21450
~~corporation under~~ division (H) of section 4511.191 of the Revised 21451
Code, and the clerk shall transmit five dollars out of the ten 21452
dollars to the state treasury to be credited to the indigent 21453
defense support fund created under section 120.08 of the Revised 21454
Code. If the person is found not guilty or the charges are 21455
dismissed, the clerk shall return the ten dollars to the person. 21456

21457

(D) No person shall be placed or held in a detention facility 21458
for failing to pay the court cost or bail that is required to be 21459
paid by this section. 21460

(E) As used in this section: 21461

(1) "Bail" and "moving violation" have the same meanings as 21462
in section 2949.093 of the Revised Code. 21463

(2) "Detention facility" has the same meaning as in section 21464
2921.01 of the Revised Code. 21465

(3) "Division of criminal justice services" means the 21466
division of criminal justice services of the department of public 21467
safety, created by section 5502.62 of the Revised Code. 21468

Sec. 2949.111. (A) As used in this section: 21469

(1) "Court costs" means any assessment that the court requires an offender to pay to defray the costs of operating the court.

(2) "State fines or costs" means any costs imposed or forfeited bail collected by the court under section 2743.70 of the Revised Code for deposit into the reparations fund or under section 2949.091 of the Revised Code for deposit into the ~~general revenue~~ indigent defense support fund established under section 120.08 of the Revised Code and all fines, penalties, and forfeited bail collected by the court and paid to a law library association under sections 3375.50 to 3375.53 of the Revised Code.

(3) "Reimbursement" means any reimbursement for the costs of confinement that the court orders an offender to pay pursuant to section 2929.28 of the Revised Code, any supervision fee, any fee for the costs of house arrest with electronic monitoring that an offender agrees to pay, any reimbursement for the costs of an investigation or prosecution that the court orders an offender to pay pursuant to section 2929.71 of the Revised Code, or any other costs that the court orders an offender to pay.

(4) "Supervision fees" means any fees that a court, pursuant to sections 2929.18, 2929.28, and 2951.021 of the Revised Code, requires an offender who is under a community control sanction to pay for supervision services.

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

(B) Unless the court, in accordance with division (C) of this section, enters in the record of the case a different method of assigning payments, if a person who is charged with a misdemeanor is convicted of or pleads guilty to the offense, if the court orders the offender to pay any combination of court costs, state fines or costs, restitution, a conventional fine, or any

reimbursement, and if the offender makes any payment of any of 21501
them to a clerk of court, the clerk shall assign the offender's 21502
payment in the following manner: 21503

(1) If the court ordered the offender to pay any court costs, 21504
the offender's payment shall be assigned toward the satisfaction 21505
of those court costs until they have been entirely paid. 21506

(2) If the court ordered the offender to pay any state fines 21507
or costs and if all of the court costs that the court ordered the 21508
offender to pay have been paid, the remainder of the offender's 21509
payment shall be assigned on a pro rata basis toward the 21510
satisfaction of the state fines or costs until they have been 21511
entirely paid. 21512

(3) If the court ordered the offender to pay any restitution 21513
and if all of the court costs and state fines or costs that the 21514
court ordered the offender to pay have been paid, the remainder of 21515
the offender's payment shall be assigned toward the satisfaction 21516
of the restitution until it has been entirely paid. 21517

(4) If the court ordered the offender to pay any fine and if 21518
all of the court costs, state fines or costs, and restitution that 21519
the court ordered the offender to pay have been paid, the 21520
remainder of the offender's payment shall be assigned toward the 21521
satisfaction of the fine until it has been entirely paid. 21522

(5) If the court ordered the offender to pay any 21523
reimbursement and if all of the court costs, state fines or costs, 21524
restitution, and fines that the court ordered the offender to pay 21525
have been paid, the remainder of the offender's payment shall be 21526
assigned toward the satisfaction of the reimbursements until they 21527
have been entirely paid. 21528

(C) If a person who is charged with a misdemeanor is 21529
convicted of or pleads guilty to the offense and if the court 21530
orders the offender to pay any combination of court costs, state 21531

21532 fines or costs, restitution, fines, or reimbursements, the court,
21533 at the time it orders the offender to make those payments, may
21534 prescribe an order of payments that differs from the order set
21535 forth in division (B) of this section by entering in the record of
21536 the case the order so prescribed. If a different order is entered
21537 in the record, on receipt of any payment, the clerk of the court
21538 shall assign the payment in the manner prescribed by the court.

Sec. 2967.193. (A) Except as provided in division (C) of this 21539
section or in section 2929.13, 2929.14, or 2967.13 of the Revised 21540
Code, a person confined in a state correctional institution may 21541
earn ~~one day~~ seven days of credit as a deduction from the person's 21542
stated prison term for each ~~full~~ completed month during which the 21543
person productively participates in an education program, 21544
vocational training, employment in prison industries, treatment 21545
for substance abuse, ~~treatment as a sex offender,~~ or any other 21546
constructive program, other than a sex offender treatment program, 21547
developed by the department with specific standards for 21548
performance by prisoners. ~~At the end of each calendar month in~~ 21549
~~which a prisoner productively participates in a program or~~ 21550
~~activity listed in this division, the department of rehabilitation~~ 21551
~~and correction shall deduct one day from the date on which the~~ 21552
~~prisoner's stated prison term will expire.~~ If the prisoner 21553
violates prison rules, the department may deny the prisoner a 21554
credit that otherwise could have been awarded to the prisoner or 21555
may withdraw one or more credits previously earned by the 21556
prisoner. 21557

~~If a prisoner is released before the expiration of the~~ 21558
~~prisoner's stated prison term by reason of credit earned under~~ 21559
~~this section, the department shall retain control of the prisoner~~ 21560
~~by means of an appropriate post release control sanction imposed~~ 21561
~~by the parole board until the end of the stated prison term if the~~ 21562
~~parole board imposes a post release control sanction pursuant to~~ 21563

~~section 2967.28 of the Revised Code. If the parole board is not required to impose a post release control sanction under section 2967.28 of the Revised Code, the parole board may elect not to impose a post release control sanction on the prisoner.~~

(B) The department of rehabilitation and correction shall adopt rules that specify the programs or activities for which credit may be earned under this section, the criteria for determining productive participation in the programs or activities and for awarding credit, and the criteria for denying or withdrawing previously earned credit as a result of a violation of prison rules.

(C) No person who is serving a sentence of life imprisonment without parole imposed pursuant to section 2929.03 or 2929.06 of the Revised Code ~~or~~, who is serving a prison term or a term of life imprisonment without parole imposed pursuant to section 2971.03 of the Revised Code, or who is serving a prison term or term of life imprisonment for a sexually oriented offense shall be awarded any days of credit under division (A) of this section.

(D) As used in this section, "sexually oriented offense" has the same meaning as in section 2950.01 of the Revised Code.

Sec. 2981.07. (A) No person shall destroy, damage, remove, or transfer property that is subject to forfeiture or otherwise take any action in regard to property that is subject to forfeiture with purpose to do any of the following:

(1) Prevent or impair the state's or political subdivision's lawful authority to take the property into its custody or control under this chapter or to continue holding the property under its lawful custody or control;

(2) Impair or defeat the court's continuing jurisdiction over the person and property;

(3) Devalue property that the person knows, or has reasonable
cause to believe, is subject to forfeiture proceedings under this
chapter.

(B)(1) Whoever violates this section is guilty of
interference with or diminishing forfeitable property.

(2) Except as otherwise provided in divisions (B)(3), (4),
and (5) of this section, interference with or diminishing
forfeitable property is a misdemeanor of the first degree.

(3) If the value of the property is ~~five~~ seven hundred fifty
dollars or more but less than five thousand dollars, interference
with or diminishing forfeitable property is a felony of the fifth
degree.

(4) If the value of the property is five thousand dollars or
more but less than one hundred thousand dollars, interference with
or diminishing forfeitable property is a felony of the fourth
degree.

(5) If the value of the property is one hundred thousand
dollars or more, interference with or diminishing forfeitable
property is a felony of the third degree.

Sec. 2981.13. (A) Except as otherwise provided in this
section, property ordered forfeited as contraband, proceeds, or an
instrumentality pursuant to this chapter shall be disposed of,
used, or sold pursuant to section 2981.12 of the Revised Code. If
the property is to be sold under that section, the prosecutor
shall cause notice of the proposed sale to be given in accordance
with law.

(B) If the contraband or instrumentality forfeited under this
chapter is sold, any moneys acquired from a sale and any proceeds
forfeited under this chapter shall be applied in the following
order:

(1) First, to pay costs incurred in the seizure, storage, maintenance, security, and sale of the property and in the forfeiture proceeding;

(2) Second, in a criminal forfeiture case, to satisfy any restitution ordered to the victim of the offense or, in a civil forfeiture case, to satisfy any recovery ordered for the person harmed, unless paid from other assets;

(3) Third, to pay the balance due on any security interest preserved under this chapter;

(4) Fourth, apply the remaining amounts as follows:

(a) If the forfeiture was ordered by a juvenile court, ten per cent to one or more certified alcohol and drug addiction treatment programs as provided in division (D) of section 2981.12 of the Revised Code;

(b) If the forfeiture was ordered in a juvenile court, ninety per cent, and if the forfeiture was ordered in a court other than a juvenile court, one hundred per cent to the law enforcement trust fund of the prosecutor and to the following fund supporting the law enforcement agency that substantially conducted the investigation: the law enforcement trust fund of the county sheriff, municipal corporation, township, or park district created under section 511.18 or 1545.01 of the Revised Code; the state highway patrol contraband, forfeiture, and other fund; the department of public safety investigative unit contraband, forfeiture, and other fund; the department of taxation enforcement fund; the board of pharmacy drug law enforcement fund created by division (B)(1) of section 4729.65 of the Revised Code; the medicaid fraud investigation and prosecution fund; or the treasurer of state for deposit into the peace officer training commission fund if any other state law enforcement agency substantially conducted the investigation. In the case of property

forfeited for medicaid fraud, any remaining amount shall be used 21655
by the attorney general to investigate and prosecute medicaid 21656
fraud offenses. 21657

If the prosecutor declines to accept any of the remaining 21658
amounts, the amounts shall be applied to the fund of the agency 21659
that substantially conducted the investigation. 21660

(c) If more than one law enforcement agency is substantially 21661
involved in the seizure of property forfeited under this chapter, 21662
the court ordering the forfeiture shall equitably divide the 21663
amounts, after calculating any distribution to the law enforcement 21664
trust fund of the prosecutor pursuant to division (B)(4) of this 21665
section, among the entities that the court determines were 21666
substantially involved in the seizure. 21667

(C)(1) A law enforcement trust fund shall be established by 21668
the prosecutor of each county who intends to receive any remaining 21669
amounts pursuant to this section, by the sheriff of each county, 21670
by the legislative authority of each municipal corporation, by the 21671
board of township trustees of each township that has a township 21672
police department, township police district police force, or 21673
office of the constable, and by the board of park commissioners of 21674
each park district created pursuant to section 511.18 or 1545.01 21675
of the Revised Code that has a park district police force or law 21676
enforcement department, for the purposes of this section. 21677

There is hereby created in the state treasury the state 21678
highway patrol contraband, forfeiture, and other fund, the 21679
department of public safety investigative unit contraband, 21680
forfeiture, and other fund, the medicaid fraud investigation and 21681
prosecution fund, the department of taxation enforcement fund, and 21682
the peace officer training commission fund, for the purposes of 21683
this section. 21684

Amounts distributed to any municipal corporation, township, 21685

or park district law enforcement trust fund shall be allocated 21686
from the fund by the legislative authority only to the police 21687
department of the municipal corporation, by the board of township 21688
trustees only to the township police department, township police 21689
district police force, or office of the constable, and by the 21690
board of park commissioners only to the park district police force 21691
or law enforcement department. 21692

(2)(a) No amounts shall be allocated to a fund created under 21693
this section or used by an agency unless the agency has adopted a 21694
written internal control policy that addresses the use of moneys 21695
received from the appropriate fund. The appropriate fund shall be 21696
expended only in accordance with that policy and, subject to the 21697
requirements specified in this section, only for the following 21698
purposes: 21699

(i) To pay the costs of protracted or complex investigations 21700
or prosecutions; 21701

(ii) To provide reasonable technical training or expertise; 21702

(iii) To provide matching funds to obtain federal grants to 21703
aid law enforcement, in the support of DARE programs or other 21704
programs designed to educate adults or children with respect to 21705
the dangers associated with the use of drugs of abuse; 21706

(iv) To pay the costs of emergency action taken under section 21707
3745.13 of the Revised Code relative to the operation of an 21708
illegal methamphetamine laboratory if the forfeited property or 21709
money involved was that of a person responsible for the operation 21710
of the laboratory; 21711

(v) For other law enforcement purposes that the 21712
superintendent of the state highway patrol, department of public 21713
safety, prosecutor, county sheriff, legislative authority, 21714
department of taxation, board of township trustees, or board of 21715
park commissioners determines to be appropriate. 21716

(b) The board of pharmacy drug law enforcement fund shall be 21717
expended only in accordance with the written internal control 21718
policy so adopted by the board and only in accordance with section 21719
4729.65 of the Revised Code, except that it also may be expended 21720
to pay the costs of emergency action taken under section 3745.13 21721
of the Revised Code relative to the operation of an illegal 21722
methamphetamine laboratory if the forfeited property or money 21723
involved was that of a person responsible for the operation of the 21724
laboratory. 21725

(c) The state highway patrol contraband, forfeiture, and 21726
other fund, the department of public safety investigative unit 21727
contraband, forfeiture, and other fund, the department of taxation 21728
enforcement fund, the board of pharmacy drug law enforcement fund, 21729
and a law enforcement trust fund shall not be used to meet the 21730
operating costs of the state highway patrol, of the investigative 21731
unit of the department of public safety, of the state board of 21732
pharmacy, of any political subdivision, or of any office of a 21733
prosecutor or county sheriff that are unrelated to law 21734
enforcement. 21735

(d) Forfeited moneys that are paid into the state treasury to 21736
be deposited into the peace officer training commission fund shall 21737
be used by the commission only to pay the costs of peace officer 21738
training. 21739

(3) Any of the following offices or agencies that receive 21740
amounts under this section during any calendar year shall file a 21741
report with the specified entity, not later than the thirty-first 21742
day of January of the next calendar year, verifying that the 21743
moneys were expended only for the purposes authorized by this 21744
section or other relevant statute and specifying the amounts 21745
expended for each authorized purpose: 21746

(a) Any sheriff or prosecutor shall file the report with the 21747
county auditor. 21748

(b) Any municipal corporation police department shall file 21749
the report with the legislative authority of the municipal 21750
corporation. 21751

(c) Any township police department, township police district 21752
police force, or office of the constable shall file the report 21753
with the board of township trustees of the township. 21754

(d) Any park district police force or law enforcement 21755
department shall file the report with the board of park 21756
commissioners of the park district. 21757

(e) The superintendent of the state highway patrol and the 21758
tax commissioner shall file the report with the attorney general. 21759

(f) The executive director of the state board of pharmacy 21760
shall file the report with the attorney general, verifying that 21761
cash and forfeited proceeds paid into the board of pharmacy drug 21762
law enforcement fund were used only in accordance with section 21763
4729.65 of the Revised Code. 21764

(g) The peace officer training commission shall file a report 21765
with the attorney general, verifying that cash and forfeited 21766
proceeds paid into the peace officer training commission fund 21767
pursuant to this section during the prior calendar year were used 21768
by the commission during the prior calendar year only to pay the 21769
costs of peace officer training. 21770

(D) The written internal control policy of a county sheriff, 21771
prosecutor, municipal corporation police department, township 21772
police department, township police district police force, office 21773
of the constable, or park district police force or law enforcement 21774
department shall provide that at least ten per cent of the first 21775
one hundred thousand dollars of amounts deposited during each 21776
calendar year in the agency's law enforcement trust fund under 21777
this section, and at least twenty per cent of the amounts 21778
exceeding one hundred thousand dollars that are so deposited, 21779

shall be used in connection with community preventive education 21780
programs. The manner of use shall be determined by the sheriff, 21781
prosecutor, department, police force, or office of the constable 21782
after receiving and considering advice on appropriate community 21783
preventive education programs from the county's board of alcohol, 21784
drug addiction, and mental health services, from the county's 21785
alcohol and drug addiction services board, or through appropriate 21786
community dialogue. 21787

The financial records kept under the internal control policy 21788
shall specify the amount deposited during each calendar year in 21789
the portion of that amount that was used pursuant to this 21790
division, and the programs in connection with which the portion of 21791
that amount was so used. 21792

As used in this division, "community preventive education 21793
programs" include, but are not limited to, DARE programs and other 21794
programs designed to educate adults or children with respect to 21795
the dangers associated with using drugs of abuse. 21796

(E) Upon the sale, under this section or section 2981.12 of 21797
the Revised Code, of any property that is required by law to be 21798
titled or registered, the state shall issue an appropriate 21799
certificate of title or registration to the purchaser. If the 21800
state is vested with title and elects to retain property that is 21801
required to be titled or registered under law, the state shall 21802
issue an appropriate certificate of title or registration. 21803

(F) Any failure of a law enforcement officer or agency, 21804
prosecutor, court, or the attorney general to comply with this 21805
section in relation to any property seized does not affect the 21806
validity of the seizure and shall not be considered to be the 21807
basis for suppressing any evidence resulting from the seizure, 21808
provided the seizure itself was lawful. 21809

Sec. 3101.08. An ordained or licensed minister of any 21810

religious society or congregation within this state who is 21811
licensed to solemnize marriages, a judge of a county court in 21812
accordance with section 1907.18 of the Revised Code, a judge of a 21813
municipal court in accordance with section 1901.14 of the Revised 21814
Code, a probate judge in accordance with section 2101.27 of the 21815
Revised Code, the mayor of a municipal corporation in any county 21816
in which such municipal corporation wholly or partly lies, the 21817
assistant superintendent ~~of~~ for the state school for the deaf, or 21818
any religious society in conformity with the rules of its church, 21819
may join together as husband and wife any persons who are not 21820
prohibited by law from being joined in marriage. 21821

Sec. 3113.37. (A) If in any calendar year a board of county 21822
commissioners does not allocate all of the funds collected that 21823
year under section 3113.34 or division (D) of section 2303.201 of 21824
the Revised Code to a shelter for victims of domestic violence 21825
that applied for them, or if a board receives no application in 21826
that year from a shelter that is qualified to receive funds as 21827
determined under section 3113.36 of the Revised Code, the funds 21828
shall be deposited, on or before the thirty-first day of December 21829
of that year, in the state treasury to the credit of the ~~domestic~~ 21830
~~violence shelters~~ reparations fund, which is ~~hereby~~ created by 21831
section 2743.191 of the Revised Code. ~~The fund shall be~~ 21832
~~administered by the attorney general for the purpose of providing~~ 21833
~~financial assistance to shelters.~~ 21834

(B) A shelter located in this state may apply to the attorney 21835
general for funds. All applications for funds shall be submitted 21836
by the first day of February of the year for which the funds are 21837
requested and shall contain all of the information set forth in 21838
division (A) of section 3113.35 of the Revised Code. 21839

(C) Upon receipt of an application for funds from a shelter 21840
that meets the criteria set forth in section 3113.36 of the 21841

Revised Code, the attorney general, on or before the fifteenth day 21842
of March of the year in which the application is received, shall 21843
notify the shelter, in writing, whether it is eligible for funds 21844
and, if the shelter is eligible, specify the amount available for 21845
that shelter. 21846

(D) Funds allocated under this section shall be paid once 21847
annually, on or before the thirtieth day of April of the year in 21848
which the application is received. 21849

Sec. 3119.01. (A) As used in the Revised Code, "child support 21850
enforcement agency" means a child support enforcement agency 21851
designated under former section 2301.35 of the Revised Code prior 21852
to October 1, 1997, or a private or government entity designated 21853
as a child support enforcement agency under section 307.981 of the 21854
Revised Code. 21855

(B) As used in this chapter and Chapters 3121., 3123., and 21856
3125. of the Revised Code: 21857

(1) "Administrative child support order" means any order 21858
issued by a child support enforcement agency for the support of a 21859
child pursuant to section 3109.19 or 3111.81 of the Revised Code 21860
or former section 3111.211 of the Revised Code, section 3111.21 of 21861
the Revised Code as that section existed prior to January 1, 1998, 21862
or section 3111.20 or 3111.22 of the Revised Code as those 21863
sections existed prior to March 22, 2001. 21864

(2) "Child support order" means either a court child support 21865
order or an administrative child support order. 21866

(3) "Obligee" means the person who is entitled to receive the 21867
support payments under a support order. 21868

(4) "Obligor" means the person who is required to pay support 21869
under a support order. 21870

(5) "Support order" means either an administrative child 21871

support order or a court support order.	21872
(C) As used in this chapter:	21873
(1) "Combined gross income" means the combined gross income of both parents.	21874 21875
(2) "Court child support order" means any order issued by a court for the support of a child pursuant to Chapter 3115. of the Revised Code, section 2151.23, 2151.231, 2151.232, 2151.33, 2151.36, 2151.361, 2151.49, 3105.21, 3109.05, 3109.19, 3111.13, 3113.04, 3113.07, 3113.31, 3119.65, or 3119.70 of the Revised Code, or division (B) of former section 3113.21 of the Revised Code.	21876 21877 21878 21879 21880 21881 21882
(3) "Court support order" means either a court child support order or an order for the support of a spouse or former spouse issued pursuant to Chapter 3115. of the Revised Code, section 3105.18, 3105.65, or 3113.31 of the Revised Code, or division (B) of former section 3113.21 of the Revised Code.	21883 21884 21885 21886 21887
(4) "Extraordinary medical expenses" means any uninsured medical expenses incurred for a child during a calendar year that exceed one hundred dollars.	21888 21889 21890
(5) "Income" means either of the following:	21891
(a) For a parent who is employed to full capacity, the gross income of the parent;	21892 21893
(b) For a parent who is unemployed or underemployed, the sum of the gross income of the parent and any potential income of the parent.	21894 21895 21896
(6) "Insurer" means any person authorized under Title XXXIX of the Revised Code to engage in the business of insurance in this state, any health insuring corporation, and any legal entity that is self-insured and provides benefits to its employees or members.	21897 21898 21899 21900
(7) "Gross income" means, except as excluded in division	21901

(C)(7) of this section, the total of all earned and unearned 21902
income from all sources during a calendar year, whether or not the 21903
income is taxable, and includes income from salaries, wages, 21904
overtime pay, and bonuses to the extent described in division (D) 21905
of section 3119.05 of the Revised Code; commissions; royalties; 21906
tips; rents; dividends; severance pay; pensions; interest; trust 21907
income; annuities; social security benefits, including retirement, 21908
disability, and survivor benefits that are not means-tested; 21909
workers' compensation benefits; unemployment insurance benefits; 21910
disability insurance benefits; benefits that are not means-tested 21911
and that are received by and in the possession of the veteran who 21912
is the beneficiary for any service-connected disability under a 21913
program or law administered by the United States department of 21914
veterans' affairs or veterans' administration; spousal support 21915
actually received; and all other sources of income. "Gross income" 21916
includes income of members of any branch of the United States 21917
armed services or national guard, including, amounts representing 21918
base pay, basic allowance for quarters, basic allowance for 21919
subsistence, supplemental subsistence allowance, cost of living 21920
adjustment, specialty pay, variable housing allowance, and pay for 21921
training or other types of required drills; self-generated income; 21922
and potential cash flow from any source. 21923

"Gross income" does not include any of the following: 21924

(a) Benefits received from means-tested government 21925
administered programs, including Ohio works first; prevention, 21926
retention, and contingency; means-tested veterans' benefits; 21927
supplemental security income; ~~food stamps~~ supplemental nutrition 21928
assistance program; disability financial assistance; or other 21929
assistance for which eligibility is determined on the basis of 21930
income or assets; 21931

(b) Benefits for any service-connected disability under a 21932
program or law administered by the United States department of 21933

veterans' affairs or veterans' administration that are not 21934
means-tested, that have not been distributed to the veteran who is 21935
the beneficiary of the benefits, and that are in the possession of 21936
the United States department of veterans' affairs or veterans' 21937
administration; 21938

(c) Child support received for children who were not born or 21939
adopted during the marriage at issue; 21940

(d) Amounts paid for mandatory deductions from wages such as 21941
union dues but not taxes, social security, or retirement in lieu 21942
of social security; 21943

(e) Nonrecurring or unsustainable income or cash flow items; 21944

(f) Adoption assistance and foster care maintenance payments 21945
made pursuant to Title IV-E of the "Social Security Act," 94 Stat. 21946
501, 42 U.S.C.A. 670 (1980), as amended. 21947

(8) "Nonrecurring or unsustainable income or cash flow item" 21948
means an income or cash flow item the parent receives in any year 21949
or for any number of years not to exceed three years that the 21950
parent does not expect to continue to receive on a regular basis. 21951
"Nonrecurring or unsustainable income or cash flow item" does not 21952
include a lottery prize award that is not paid in a lump sum or 21953
any other item of income or cash flow that the parent receives or 21954
expects to receive for each year for a period of more than three 21955
years or that the parent receives and invests or otherwise uses to 21956
produce income or cash flow for a period of more than three years. 21957

(9)(a) "Ordinary and necessary expenses incurred in 21958
generating gross receipts" means actual cash items expended by the 21959
parent or the parent's business and includes depreciation expenses 21960
of business equipment as shown on the books of a business entity. 21961

(b) Except as specifically included in "ordinary and 21962
necessary expenses incurred in generating gross receipts" by 21963
division (C)(9)(a) of this section, "ordinary and necessary 21964

expenses incurred in generating gross receipts" does not include 21965
depreciation expenses and other noncash items that are allowed as 21966
deductions on any federal tax return of the parent or the parent's 21967
business. 21968

(10) "Personal earnings" means compensation paid or payable 21969
for personal services, however denominated, and includes wages, 21970
salary, commissions, bonuses, draws against commissions, profit 21971
sharing, vacation pay, or any other compensation. 21972

(11) "Potential income" means both of the following for a 21973
parent who the court pursuant to a court support order, or a child 21974
support enforcement agency pursuant to an administrative child 21975
support order, determines is voluntarily unemployed or voluntarily 21976
underemployed: 21977

(a) Imputed income that the court or agency determines the 21978
parent would have earned if fully employed as determined from the 21979
following criteria: 21980

(i) The parent's prior employment experience; 21981

(ii) The parent's education; 21982

(iii) The parent's physical and mental disabilities, if any; 21983

(iv) The availability of employment in the geographic area in 21984
which the parent resides; 21985

(v) The prevailing wage and salary levels in the geographic 21986
area in which the parent resides; 21987

(vi) The parent's special skills and training; 21988

(vii) Whether there is evidence that the parent has the 21989
ability to earn the imputed income; 21990

(viii) The age and special needs of the child for whom child 21991
support is being calculated under this section; 21992

(ix) The parent's increased earning capacity because of 21993

experience;	21994
(x) Any other relevant factor.	21995
(b) Imputed income from any nonincome-producing assets of a parent, as determined from the local passbook savings rate or another appropriate rate as determined by the court or agency, not to exceed the rate of interest specified in division (A) of section 1343.03 of the Revised Code, if the income is significant.	21996 21997 21998 21999 22000
(12) "Schedule" means the basic child support schedule set forth in section 3119.021 of the Revised Code.	22001 22002
(13) "Self-generated income" means gross receipts received by a parent from self-employment, proprietorship of a business, joint ownership of a partnership or closely held corporation, and rents minus ordinary and necessary expenses incurred by the parent in generating the gross receipts. "Self-generated income" includes expense reimbursements or in-kind payments received by a parent from self-employment, the operation of a business, or rents, including company cars, free housing, reimbursed meals, and other benefits, if the reimbursements are significant and reduce personal living expenses.	22003 22004 22005 22006 22007 22008 22009 22010 22011 22012
(14) "Split parental rights and responsibilities" means a situation in which there is more than one child who is the subject of an allocation of parental rights and responsibilities and each parent is the residential parent and legal custodian of at least one of those children.	22013 22014 22015 22016 22017
(15) "Worksheet" means the applicable worksheet that is used to calculate a parent's child support obligation as set forth in sections 3119.022 and 3119.023 of the Revised Code.	22018 22019 22020
<u>Sec. 3119.371. (A) As used in this section:</u>	22021
<u>(1) "Health insurance provider" means:</u>	22022
<u>(a) A person authorized to engage in the business of sickness</u>	22023

<u>and accident insurance under Title XXXIX of the Revised Code;</u>	22024
<u>(b) A person or government entity providing coverage for</u>	22025
<u>medical services or items to individuals on a self-insurance</u>	22026
<u>basis;</u>	22027
<u>(c) A health insuring corporation as defined in section</u>	22028
<u>1751.01 of the Revised Code;</u>	22029
<u>(d) A group health plan as defined in 29 U.S.C. 1167;</u>	22030
<u>(e) Any organization, business, or association described in</u>	22031
<u>42 U.S.C. 1396a(a)(25); or</u>	22032
<u>(f) A managed care organization.</u>	22033
<u>(2) "Information" means all of the following:</u>	22034
<u>(a) An individual's name, address, date of birth, and social</u>	22035
<u>security number;</u>	22036
<u>(b) The group or plan number or other identifier assigned by</u>	22037
<u>a health insurance provider to a policy held by an individual or a</u>	22038
<u>plan in which the individual participates and the nature of the</u>	22039
<u>coverage; and</u>	22040
<u>(c) Any other data specified by the director of job and</u>	22041
<u>family services in rules adopted under section 3119.51 of the</u>	22042
<u>Revised Code.</u>	22043
<u>(B) Upon request of the office of child support in the</u>	22044
<u>department of job and family services and for the purpose of</u>	22045
<u>establishing and enforcing orders to provide health insurance</u>	22046
<u>coverage, a health insurance provider shall provide the</u>	22047
<u>information described in division (A)(2) of this section to the</u>	22048
<u>office of child support.</u>	22049
Sec. 3121.037. (A) A withholding notice sent under section	22050
3121.03 of the Revised Code shall contain all of the following:	22051
(1) Notice of the amount to be withheld from the obligor's	22052

income and a statement that, notwithstanding that amount, the payor may not withhold an amount for support and other purposes, including the fee described in division (A)~~(11)~~(12) of this section, that exceeds the maximum amounts permitted under section 303(b) of the "Consumer Credit Protection Act," 15 U.S.C. 1673(b);

(2) A statement that the payor is required to send the amount withheld to the office of child support immediately, but not later than seven business days, after the obligor is paid and is required to report to the agency the date the amount was withheld;

(3) A statement that the withholding shall be submitted to the state via electronic means if the employer employs more than fifty employees;

(4) A statement that the withholding is binding on the payor until further notice from the court or agency;

~~(4)~~(5) A statement that if the payor is an employer, the payor is subject to a fine to be determined under the law of this state for discharging the obligor from employment, refusing to employ the obligor, or taking any disciplinary action against the obligor because of the withholding requirement;

~~(5)~~(6) A statement that, if the payor fails to withhold in accordance with the notice, the payor is liable for the accumulated amount the payor should have withheld from the obligor's income;

~~(6)~~(7) A statement that, except for deductions from lump sum payments made in accordance with section 3121.0311 of the Revised Code, the withholding in accordance with the notice has priority over any other legal process under the law of this state against the same income;

~~(7)~~(8) The date on which the notice was mailed and a statement that the payor is required to implement the withholding no later than fourteen business days following the date the notice

was mailed or, if the payor is an employer, no later than the 22084
first pay period that occurs after fourteen business days 22085
following the date the notice was mailed, and is required to 22086
continue the withholding at the intervals specified in the notice. 22087

~~(8)~~(9) A requirement that the payor do the following: 22088

(a) Promptly notify the child support enforcement agency 22089
administering the support order, in writing, within ten business 22090
days after the date of any situation that occurs in which the 22091
payor ceases to pay income to the obligor in an amount sufficient 22092
to comply with the order, including termination of employment, 22093
layoff of the obligor from employment, any leave of absence of the 22094
obligor from employment without pay, termination of workers' 22095
compensation benefits, or termination of any pension, annuity, 22096
allowance, or retirement benefit; 22097

(b) Provide the agency with the obligor's last known address 22098
and, with respect to a court support order and if known, notify 22099
the agency of any new employer or income source and the name, 22100
address, and telephone number of the new employer or income 22101
source. 22102

~~(9)~~(10) A requirement that, if the payor is an employer, the 22103
payor do both of the following: 22104

(a) Identify in the notice given under division (A)~~(8)~~(9) of 22105
this section any types of benefits other than personal earnings 22106
the obligor is receiving or is eligible to receive as a benefit of 22107
employment or as a result of the obligor's termination of 22108
employment, including, but not limited to, unemployment 22109
compensation, workers' compensation benefits, severance pay, sick 22110
leave, lump sum payments of retirement benefits or contributions, 22111
and bonuses or profit-sharing payments or distributions, and the 22112
amount of the benefits; 22113

(b) Include in the notice the obligor's last known address 22114

and telephone number, date of birth, social security number, and 22115
case number and, if known, the name and business address of any 22116
new employer of the obligor. 22117

~~(10)~~(11) Subject to section 3121.0311 of the Revised Code, a 22118
requirement that, no later than the earlier of forty-five days 22119
before a lump sum payment is to be made or, if the obligor's right 22120
to the lump sum payment is determined less than forty-five days 22121
before it is to be made, the date on which that determination is 22122
made, the payor notify the child support enforcement agency 22123
administering the support order of any lump sum payment of any 22124
kind of one hundred fifty dollars or more that is to be paid to 22125
the obligor, hold each lump sum payment of one hundred fifty 22126
dollars or more for thirty days after the date on which it would 22127
otherwise be paid to the obligor and, on order of the court or 22128
agency that issued the support order, pay all or a specified 22129
amount of the lump sum payment to the office of child support; 22130

~~(11)~~(12) A statement that, in addition to the amount withheld 22131
for support, the payor may withhold a fee from the obligor's 22132
income as a charge for its services in complying with the notice 22133
and a specification of the amount that may be withheld. 22134

(B) A deduction notice sent under section 3121.03 of the 22135
Revised Code shall contain all of the following: 22136

(1) Notice of the amount to be deducted from the obligor's 22137
account; 22138

(2) A statement that the financial institution is required to 22139
send the amount deducted to the office of child support 22140
immediately, but not later than seven business days, after the 22141
date the last deduction was made and to report to the child 22142
support enforcement agency the date on which the amount was 22143
deducted; 22144

(3) A statement that the deduction is binding on the 22145

financial institution until further notice from the court or 22146
agency; 22147

(4) A statement that the deduction in accordance with the 22148
notice has priority over any other legal process under the law of 22149
this state against the same account; 22150

(5) The date on which the notice was mailed and a statement 22151
that the financial institution is required to implement the 22152
deduction no later than fourteen business days following that date 22153
and to continue the deduction at the intervals specified in the 22154
notice; 22155

(6) A requirement that the financial institution promptly 22156
notify the child support enforcement agency administering the 22157
support order, in writing, within ten days after the date of any 22158
termination of the account from which the deduction is being made 22159
and notify the agency, in writing, of the opening of a new account 22160
at that financial institution, the account number of the new 22161
account, the name of any other known financial institutions in 22162
which the obligor has any accounts, and the numbers of those 22163
accounts; 22164

(7) A requirement that the financial institution include in 22165
all notices the obligor's last known mailing address, last known 22166
residence address, and social security number; 22167

(8) A statement that, in addition to the amount deducted for 22168
support, the financial institution may deduct a fee from the 22169
obligor's account as a charge for its services in complying with 22170
the notice and a specification of the amount that may be deducted. 22171

Sec. 3121.0311. (A) If a lump sum payment referred to in 22172
division (A)~~(10)~~(11) of section 3121.037 of the Revised Code 22173
consists of workers' compensation benefits and the obligor is 22174
represented by an attorney with respect to the obligor's workers' 22175

compensation claim, prior to issuing the notice to the child 22176
support enforcement agency required by that division, the 22177
administrator of workers' compensation, for claims involving state 22178
fund employers, or a self-insuring employer, for that employer's 22179
claims, shall notify the obligor and the obligor's attorney in 22180
writing that the obligor is subject to a support order and that 22181
the administrator or self-insuring employer, as appropriate, shall 22182
hold the lump sum payment for a period of thirty days after the 22183
administrator or self-insuring employer sends this written notice, 22184
pending receipt of the information referred to in division (B) of 22185
this section. 22186

(B) The administrator or self-insuring employer, as 22187
appropriate, shall instruct the obligor's attorney in writing to 22188
file a copy of the fee agreement signed by the obligor, along with 22189
an affidavit signed by the attorney setting forth the amount of 22190
the attorney's fee with respect to the lump sum payment award to 22191
the obligor and the amount of all necessary expenses, along with 22192
documentation of those expenses, incurred by the attorney with 22193
respect to obtaining the lump sum award. The obligor's attorney 22194
shall file the fee agreement and attorney affidavit with the 22195
administrator or self-insuring employer, as appropriate, within 22196
thirty days after the date the administrator or self-insuring 22197
employer sends the notice required by division (A) of this 22198
section. 22199

(C) Upon receipt of the fee agreement and attorney affidavit, 22200
the administrator or self-insuring employer, as appropriate, shall 22201
deduct from the lump sum payment the amount of the attorney's fee 22202
and necessary expenses and pay that amount directly to and solely 22203
in the name of the attorney within fourteen days after the fee 22204
agreement and attorney affidavit have been filed with the 22205
administrator or self-insuring employer. 22206

(D) After deducting any attorney's fee and necessary 22207

expenses, if the lump sum payment is one hundred fifty dollars or 22208
more, the administrator or self-insuring employer, as appropriate, 22209
shall hold the balance of the lump sum award in accordance with 22210
division (A)~~(10)~~(11) of section 3121.037 of the Revised Code. 22211

Sec. 3121.19. (A) The entire amount withheld or deducted 22212
pursuant to a withholding or deduction notice described in section 22213
3121.03 of the Revised Code shall be forwarded to the office of 22214
child support in the department of job and family services 22215
immediately, but not later than seven business days, after the 22216
withholding or deduction, as directed in the withholding or 22217
deduction notice. 22218

(B) An employer who employs more than fifty employees shall 22219
submit the entire amount withheld pursuant to a withholding notice 22220
described in section 3121.03 of the Revised Code by electronic 22221
transfer to the office of child support in the department of job 22222
and family services immediately, but not later than seven business 22223
days, after the withholding, as directed in the withholding 22224
notice. 22225

Sec. 3121.20. (A) A payor or financial institution required 22226
to withhold or deduct a specified amount from the income or 22227
savings of more than one obligor under a withholding or deduction 22228
notice described in section 3121.03 of the Revised Code and to 22229
forward the amounts withheld or deducted to the office of child 22230
support may combine all of the amounts to be forwarded in one 22231
payment if the payment is accompanied by a list that clearly 22232
identifies ~~each~~ all of the following: 22233

(1) Each obligor covered by the payment and the; 22234

(2) Each child support case, numbered as provided on the 22235
withholding or deduction notice, that is covered by the payment; 22236

(3) The portion of the payment attributable to each obligor 22237

and each case number. 22238

(B) A payor who employs more than fifty employees and who is 22239
required to submit the withholding by electronic transfer pursuant 22240
to sections 3121.037 and 3121.19 of the Revised Code shall combine 22241
all of the amounts to be forwarded in one payment. The payment 22242
shall be accompanied by information that clearly identifies all of 22243
the following: 22244

(1) Each obligor that is covered by the payment; 22245

(2) Each child support case, numbered as provided on the 22246
withholding notice issued pursuant to section 3121.03 of the 22247
Revised Code, that is covered by the payment; 22248

(3) The portion of the payment attributable to each obligor 22249
and each case number. 22250

Sec. 3121.898. The department of job and family services 22251
shall use the new hire reports it receives for any of the 22252
following purposes set forth in 42 U.S.C. 653a, as amended, 22253
including: 22254

(A) To locate individuals for the purposes of establishing 22255
paternity and for establishing, modifying, and enforcing child 22256
support orders. 22257

(B) As used in this division, "state agency" means every 22258
department, bureau, board, commission, office, or other organized 22259
body established by the constitution or laws of this state for the 22260
exercise of state government; every entity of county government 22261
that is subject to the rules of a state agency; and every 22262
contractual agent of a state agency. 22263

To make available to any state agency responsible for 22264
administering any of the following programs for purposes of 22265
verifying program eligibility: 22266

(1) Any Title IV-A program as defined in section 5101.80 of 22267

the Revised Code;	22268
(2) The medicaid program authorized by Chapter 5111. of the Revised Code;	22269 22270
(3) The unemployment compensation program authorized by Chapter 4141. of the Revised Code;	22271 22272
(4) The food stamp <u>supplemental nutrition assistance</u> program authorized by section 5101.54 of the Revised Code;	22273 22274
(5) Any other program authorized in 42 U.S.C. 1320b-7(b), as amended.	22275 22276
(C) The administration of the employment security program under the director of job and family services.	22277 22278
Sec. 3123.952. A child support enforcement agency may submit the name of a delinquent obligor to the office of child support for inclusion on a poster only if all of the following apply:	22279 22280 22281
(A) The obligor is subject to a support order and there has been an attempt to enforce the order through a public notice, a wage withholding order, a lien on property, a financial institution deduction order, or other court-ordered procedures.	22282 22283 22284 22285
(B) The department of job and family services reviewed the obligor's records and confirms the child support enforcement agency's finding that the obligor's name and photograph may be submitted to be displayed on a poster.	22286 22287 22288 22289
(C) The agency does not know or is unable to verify the obligor's whereabouts.	22290 22291
(D) The obligor is not a participant in Ohio works first or the prevention, retention, and contingency program or a recipient of disability financial assistance, supplemental security income, or food stamps <u>supplemental nutrition assistance program benefits</u> .	22292 22293 22294 22295
(E) The child support enforcement agency does not have	22296

evidence that the obligor has filed for protection under the 22297
federal Bankruptcy Code, 11 U.S.C.A. 101, as amended. 22298

(F) The obligee gave written authorization to the agency to 22299
display the obligor on a poster. 22300

(G) A legal representative of the agency and a child support 22301
enforcement administrator reviewed the case. 22302

(H) The agency is able to submit to the department a 22303
description and photograph of the obligor, a statement of the 22304
possible locations of the obligor, and any other information 22305
required by the department. 22306

Sec. 3125.25. The director of job and family services shall 22307
adopt rules under Chapter 119. of the Revised Code governing the 22308
operation of support enforcement by child support enforcement 22309
agencies. The rules shall include, but shall not be limited to, 22310
~~provisions~~ the following: 22311

(A) Provisions relating to plans of cooperation between the 22312
agencies and boards of county commissioners entered into under 22313
section 3125.12 of the Revised Code, ~~requirements;~~ 22314

(B) Provisions for the compromise and waiver of child support 22315
arrears owed to the state and federal government, consistent 22316
with Title IV-D of the "Social Security Act," 88 Stat. 2351 22317
(1975), 42 U.S.C. 651 et seq., as amended; 22318

(C) Requirements for public hearings by the agencies, ~~and~~ 22319
~~provisions;~~ 22320

(D) Provisions for appeals of agency decisions under 22321
procedures established by the director. 22322

Sec. 3301.07. The state board of education shall exercise 22323
under the acts of the general assembly general supervision of the 22324
system of public education in the state. In addition to the powers 22325

otherwise imposed on the state board under the provisions of law, 22326
the board shall have the following powers: 22327

(A) Exercise policy forming, planning, and evaluative 22328
functions for the public schools of the state, ~~and for adult~~ 22329
~~education~~, except as otherwise provided by law; 22330

(B)(1) Exercise leadership in the improvement of public 22331
education in this state, and administer the educational policies 22332
of this state relating to public schools, and relating to 22333
instruction and instructional material, building and equipment, 22334
transportation of pupils, administrative responsibilities of 22335
school officials and personnel, and finance and organization of 22336
school districts, educational service centers, and territory. 22337
Consultative and advisory services in such matters shall be 22338
provided by the board to school districts and educational service 22339
centers of this state. ~~The~~ 22340

(2) ~~The state~~ board also shall develop a standard of 22341
financial reporting which shall be used by ~~all~~ each school 22342
~~districts and district board of education~~, educational service 22343
~~centers~~ center governing board, community school governing 22344
authority, and STEM school governing body to make ~~their~~ its 22345
financial information and annual budgets for each school building 22346
under its control available to the public in a format 22347
understandable by the average citizen ~~and provide year to year~~ 22348
~~comparisons for at least five years~~. The format shall show, among 22349
other things, ~~district and educational service center~~ school 22350
building revenue by source; expenditures for salaries, wages, and 22351
benefits of employees, showing such amounts separately for 22352
classroom teachers, other employees required to hold licenses 22353
issued pursuant to sections 3319.22 to 3319.31 of the Revised 22354
Code, and all other employees; expenditures other than for 22355
personnel, by category, including utilities, textbooks and other 22356
educational materials, equipment, permanent improvements, pupil 22357

transportation, extracurricular athletics, and other 22358
extracurricular activities; and per pupil expenditures. 22359

(C) Administer and supervise the allocation and distribution 22360
of all state and federal funds for public school education under 22361
the provisions of law, and may prescribe such systems of 22362
accounting as are necessary and proper to this function. It may 22363
require county auditors and treasurers, boards of education, 22364
educational service center governing boards, treasurers of such 22365
boards, teachers, and other school officers and employees, or 22366
other public officers or employees, to file with it such reports 22367
as it may prescribe relating to such funds, or to the management 22368
and condition of such funds. 22369

(D) Formulate and prescribe minimum standards to be applied 22370
to all elementary and secondary schools in this state for the 22371
purpose of requiring a general education of high quality. Such 22372
standards shall provide adequately for: the licensing of teachers, 22373
administrators, and other professional personnel and their 22374
assignment according to training and qualifications; efficient and 22375
effective instructional materials and equipment, including library 22376
facilities; the proper organization, administration, and 22377
supervision of each school, including regulations for preparing 22378
all necessary records and reports and the preparation of a 22379
statement of policies and objectives for each school; buildings, 22380
grounds, health and sanitary facilities and services; admission of 22381
pupils, and such requirements for their promotion from grade to 22382
grade as will assure that they are capable and prepared for the 22383
level of study to which they are certified; requirements for 22384
graduation; and such other factors as the board finds necessary. 22385

In the formulation and administration of such standards for 22386
nonpublic schools the board shall also consider the particular 22387
needs, methods and objectives of those schools, provided they do 22388
not conflict with the provision of a general education of a high 22389

quality and provided that regular procedures shall be followed for 22390
promotion from grade to grade of pupils who have met the 22391
educational requirements prescribed. 22392

In the formulation and administration of such standards as 22393
they relate to instructional materials and equipment in public 22394
schools, including library materials, the board shall require that 22395
the material and equipment be aligned with and promote skills 22396
expected under the statewide academic standards adopted under 22397
section 3301.079 of the Revised Code. 22398

(E) In addition to the minimum standards required by division 22399
(D) of this section, formulate and prescribe the following 22400
operating standards for school districts: 22401

(1) Standards for the effective and efficient organization, 22402
administration, and supervision of each school district so that it 22403
becomes a thinking and learning organization according to 22404
principles of systems design and collaborative professional 22405
learning communities research as defined by the superintendent of 22406
public instruction, including a focus on the personalized and 22407
individualized needs of each student; a shared responsibility 22408
among school boards, administrators, faculty, and staff to develop 22409
a common vision, mission, and set of guiding principles; a shared 22410
responsibility among school boards, administrators, faculty, and 22411
staff to engage in a process of collective inquiry, action 22412
orientation, and experimentation to ensure the academic success of 22413
all students; commitment to peer evaluation; commitment to 22414
teaching and learning strategies that utilize technological tools 22415
and emphasize inter-disciplinary, real world, project-based, 22416
technology-oriented, and service learning experiences to meet the 22417
individual needs of every student; commitment to high expectations 22418
for every student to achieve core knowledge and twenty-first 22419
century skills in accordance with the statewide academic standards 22420
adopted under section 3301.079 of the Revised Code; commitment to 22421

the use of assessments to diagnose the needs of each student; 22422
effective connections and relationships with families and 22423
community organizations that support student success; and 22424
commitment to the use of positive behavior intervention supports 22425
throughout a district to ensure a safe and secure learning 22426
environment for all students. 22427

(2) Standards for the establishment of a business advisory 22428
committee and a family and community engagement team in each 22429
school district, under sections 3301.82 and 3301.821 of the 22430
Revised Code, respectively. 22431

(3) Standards for the expenditure of the amount received for 22432
each component of the adequacy amount under Chapter 3306. of the 22433
Revised Code; 22434

(4) Standards for school district organizational units that 22435
require: 22436

(a) The effective and efficient organization, administration, 22437
and supervision of each school district organizational unit so 22438
that it becomes a thinking and learning organization according to 22439
principles of systems design and collaborative professional 22440
learning communities research as defined by the state 22441
superintendent, including a focus on the personalized and 22442
individualized needs of each student; a shared responsibility 22443
among organizational unit administrators, faculty, and staff to 22444
develop a common vision, mission, and set of guiding principles; a 22445
shared responsibility among organizational unit administrators, 22446
faculty, and staff to engage in a process of collective inquiry, 22447
action orientation, and experimentation to ensure the academic 22448
success of all students; commitment to job embedded professional 22449
development and professional mentoring and coaching; established 22450
periods of time for teachers to pursue joint planning time for the 22451
development of lesson plans, professional development, and shared 22452
learning; commitment to peer evaluation; commitment to effective 22453

management strategies that allow administrators unfettered access 22454
to classrooms for observation and professional development 22455
experiences; commitment to teaching and learning strategies that 22456
utilize technological tools and emphasize inter-disciplinary, real 22457
world, project-based, technology-oriented, and service learning 22458
experiences to meet the individual needs of every student; 22459
commitment to high expectations for every student to achieve core 22460
knowledge and twenty-first century skills in accordance with the 22461
statewide academic standards adopted under section 3301.079 of the 22462
Revised Code; commitment to the use of assessments to diagnose the 22463
needs of each student; effective connections and relationships 22464
with families and community organizations that support student 22465
success; commitment to the use of positive behavior intervention 22466
supports throughout the organizational unit to ensure a safe and 22467
secure learning environment for all students; 22468

(b) A school organizational unit leadership team to 22469
coordinate positive behavior intervention supports, family and 22470
community engagement services, learning environments, thinking and 22471
learning systems, collaborative planning, planning time, student 22472
academic interventions, student extended learning opportunities, 22473
and other activities identified by the team and approved by the 22474
district board of education. The team shall include the building 22475
principal, representatives from each collective bargaining unit, 22476
the building lead teacher, parents, business representatives, and 22477
community representatives. 22478

(c) Compliance with standards for expenditure of the amount 22479
received for each component of the adequacy amount under Chapter 22480
3306. of the Revised Code; 22481

Notwithstanding any provision to the contrary in Chapter 22482
4117. of the Revised Code, the provisions of division (E) of this 22483
section and any operating standards adopted by the state board 22484
under that division prevail over any conflicting provisions of a 22485

<u>collective bargaining agreement entered into after the effective</u>	22486
<u>date of this amendment.</u>	22487
<u>Compliance with the standards adopted under divisions (B)(2),</u>	22488
<u>(D), and (E) of this section, as they relate to the operation of a</u>	22489
<u>school operated by a school district, may be waived by the state</u>	22490
<u>superintendent pursuant to section 3306.40 of the Revised Code.</u>	22491
<u>(F)</u> May require as part of the health curriculum information	22492
developed under section 2108.34 of the Revised Code promoting the	22493
donation of anatomical gifts pursuant to Chapter 2108. of the	22494
Revised Code and may provide the information to high schools,	22495
educational service centers, and joint vocational school district	22496
boards of education;	22497
(F) <u>(G)</u> Prepare and submit annually to the governor and the	22498
general assembly a report on the status, needs, and major problems	22499
of the public schools of the state, with recommendations for	22500
necessary legislative action and a ten-year projection of the	22501
state's public and nonpublic school enrollment, by year and by	22502
grade level;	22503
(G) <u>(H)</u> Prepare and submit to the director of budget and	22504
management the biennial budgetary requests of the state board of	22505
education, for its agencies and for the public schools of the	22506
state;	22507
(H) <u>(I)</u> Cooperate with federal, state, and local agencies	22508
concerned with the health and welfare of children and youth of the	22509
state;	22510
(I) <u>(J)</u> Require such reports from school districts and	22511
educational service centers, school officers, and employees as are	22512
necessary and desirable. The superintendents and treasurers of	22513
school districts and educational service centers shall certify as	22514
to the accuracy of all reports required by law or state board or	22515
state department of education rules to be submitted by the	22516

district or educational service center and which contain 22517
information necessary for calculation of state funding. Any 22518
superintendent who knowingly falsifies such report shall be 22519
subject to license revocation pursuant to section 3319.31 of the 22520
Revised Code. 22521

~~(J)~~(K) In accordance with Chapter 119. of the Revised Code, 22522
adopt procedures, standards, and guidelines for the education of 22523
children with disabilities pursuant to Chapter 3323. of the 22524
Revised Code, including procedures, standards, and guidelines 22525
governing programs and services operated by county boards of 22526
mental retardation and developmental disabilities pursuant to 22527
section 3323.09 of the Revised Code; 22528

~~(K)~~(L) For the purpose of encouraging the development of 22529
special programs of education for academically gifted children, 22530
employ competent persons to analyze and publish data, promote 22531
research, advise and counsel with boards of education, and 22532
encourage the training of teachers in the special instruction of 22533
gifted children. The board may provide financial assistance out of 22534
any funds appropriated for this purpose to boards of education and 22535
educational service center governing boards for developing and 22536
conducting programs of education for academically gifted children. 22537
22538

~~(L)~~(M) Require that all public schools emphasize and 22539
encourage, within existing units of study, the teaching of energy 22540
and resource conservation as recommended to each district board of 22541
education by leading business persons involved in energy 22542
production and conservation, beginning in the primary grades; 22543

~~(M)~~(N) Formulate and prescribe minimum standards requiring 22544
the use of phonics as a technique in the teaching of reading in 22545
grades kindergarten through three. In addition, the state board 22546
shall provide in-service training programs for teachers on the use 22547
of phonics as a technique in the teaching of reading in grades 22548

kindergarten through three. 22549

~~(N)~~(O) Develop and modify as necessary a state plan for 22550
technology to encourage and promote the use of technological 22551
advancements in educational settings. 22552

The board may adopt rules necessary for carrying out any 22553
function imposed on it by law, and may provide rules as are 22554
necessary for its government and the government of its employees, 22555
and may delegate to the superintendent of public instruction the 22556
management and administration of any function imposed on it by 22557
law. It may provide for the appointment of board members to serve 22558
on temporary committees established by the board for such purposes 22559
as are necessary. Permanent or standing committees shall not be 22560
created. 22561

As used in this section, "community school" means a community 22562
school established under Chapter 3314. of the Revised Code, and 22563
"STEM school" means a STEM school established under Chapter 3326. 22564
of the Revised Code. 22565

Sec. 3301.073. ~~Upon~~ As required by section 3306.33 of the 22566
Revised Code, and otherwise upon the request of the board of 22567
education of any school district, the state board of education 22568
shall furnish technical assistance to the school district in the 22569
preparation of budgets, development of fiscal controls, 22570
preparation of financial statements and reports, revenue 22571
estimating, or in assisting the district in complying with any 22572
certification requirements relating to the district's revenue or 22573
expenditures. The assistance may be in the form of grants, 22574
consultants, or the temporary assignment of employees after 22575
determining in consultation with the district, its needs and the 22576
nature of assistance needed and what assistance the state board of 22577
education can provide within the amounts appropriated for this 22578
purpose. The state board may enter into contracts with the 22579

department of taxation ~~and~~, the auditor of state, and any other 22580
governmental or private entity to perform its duties under this 22581
section. 22582

Sec. 3301.079. (A)(1) Not later than ~~December 31, 2001~~ June 22583
30, 2010, and at least once every five years thereafter, the state 22584
board of education shall adopt statewide academic standards with 22585
emphasis on coherence, focus, and rigor for each of grades 22586
kindergarten through twelve in ~~reading, writing, and mathematics.~~ 22587
~~Not later than December 31, 2002, the state board shall adopt~~ 22588
~~statewide academic standards for each of grades kindergarten~~ 22589
~~through twelve in science and social studies. The~~ English language 22590
arts, mathematics, science, and social studies. 22591

The standards shall specify the following: 22592

(a) The core academic content and skills that students are 22593
expected to know and be able to do at each grade level- 22594

~~(2)~~ that will allow each student to be prepared for 22595
postsecondary instruction and the workplace for success in the 22596
twenty-first century; 22597

(b) The development of skill sets as they relate to 22598
creativity and innovation, critical thinking and problem solving, 22599
and communication and collaboration; 22600

(c) The development of skill sets that promote information, 22601
media, and technological literacy; 22602

(d) The development of skill sets that promote flexibility 22603
and adaptability, initiative and self-direction, social and 22604
cross-cultural skills, productivity and accountability, and 22605
leadership and responsibility; 22606

(e) Interdisciplinary, project-based real world learning 22607
opportunities; 22608

(f) Opportunities for the inclusion of community service 22609

learning. 22610

(2) After completing the standards required by division 22611
(A)(1) of this section, the state board shall adopt standards and 22612
model curricula for instruction in computer literacy, wellness 22613
literacy, financial literacy and entrepreneurship, fine arts, and 22614
foreign language for grades kindergarten through twelve. The 22615
standards shall meet the same requirements prescribed in divisions 22616
(A)(1)(a) to (f) of this section. 22617

(3) The state board shall adopt the most recent standards 22618
developed by the national association for sport and physical 22619
education for physical education in grades kindergarten through 22620
twelve or shall adopt its own standards for physical education in 22621
those grades and revise and update them periodically. 22622

The department shall employ a full-time physical education 22623
coordinator to provide guidance and technical assistance to 22624
districts and community schools in implementing the physical 22625
education standards adopted under this division. The 22626
superintendent of public instruction shall determine that the 22627
person employed as coordinator is qualified for the position, as 22628
demonstrated by possessing an adequate combination of education, 22629
license, and experience. 22630

(4) When academic standards have been completed for any 22631
subject area required by this ~~division~~ section, the state board 22632
shall inform all school districts, and all community schools 22633
established under Chapter 3314. of the Revised Code, of the 22634
content of those standards. 22635

(B) Not later than ~~eighteen months after the completion of~~ 22636
~~academic standards for any subject area required by division (A)~~ 22637
~~of this section~~ December 31, 2010, the state board shall adopt a 22638
model curriculum for instruction in ~~that~~ each subject area for 22639
which updated academic standards are required by division (A)(1) 22640

of this section and for each of grades kindergarten through twelve 22641
that is sufficient to meet the needs of students in every 22642
community. The model curriculum shall be aligned with the 22643
standards, to ensure that the academic content and skills 22644
specified for each grade level are taught to students, and shall 22645
demonstrate vertical articulation and emphasize coherence, focus, 22646
and rigor. When any model curriculum has been completed, the state 22647
board shall inform all school districts and community schools of 22648
the content of that model curriculum. 22649

All school districts and community schools may utilize the 22650
state standards and the model curriculum established by the state 22651
board, together with other relevant resources, examples, or models 22652
to ensure that students have the opportunity to attain the 22653
academic standards. Upon request, the department of education 22654
shall provide technical assistance to any district or community 22655
school in implementing the model curriculum. 22656

Nothing in this section requires any school district to 22657
utilize all or any part of a model curriculum developed under this 22658
division. 22659

(C) The state board shall develop achievement ~~tests~~ 22660
assessments aligned with the academic standards and model 22661
curriculum for each of the subject areas and grade levels required 22662
by divisions (A)(1) and (B)(1) of section 3301.0710 of the Revised 22663
Code. 22664

When any achievement ~~test~~ assessment has been completed, the 22665
state board shall inform all school districts and community 22666
schools of its completion, and the department of education shall 22667
make the achievement ~~test~~ assessment available to the districts 22668
and community schools. ~~School districts shall administer the~~ 22669
~~achievement test beginning in the school year indicated in section~~ 22670
~~3301.0712 of the Revised Code.~~ 22671

(D)(1) The state board shall adopt a diagnostic assessment 22672
aligned with the academic standards and model curriculum for each 22673
of grades kindergarten through two in reading, writing, and 22674
mathematics and for grade three in writing. The diagnostic 22675
assessment shall be designed to measure student comprehension of 22676
academic content and mastery of related skills for the relevant 22677
subject area and grade level. Any diagnostic assessment shall not 22678
include components to identify gifted students. Blank copies of 22679
diagnostic tests shall be public records. 22680

(2) When each diagnostic assessment has been completed, the 22681
state board shall inform all school districts of its completion 22682
and the department of education shall make the diagnostic 22683
assessment available to the districts at no cost to the district. 22684
School districts shall administer the diagnostic assessment 22685
pursuant to section 3301.0715 of the Revised Code beginning the 22686
first school year following the development of the assessment. 22687

(E) The state board shall not adopt a diagnostic or 22688
achievement assessment for any grade level or subject area other 22689
than those specified in this section. 22690

(F) Whenever the state board or the department of education 22691
consults with persons for the purpose of drafting or reviewing any 22692
standards, diagnostic assessments, achievement ~~tests~~ assessments, 22693
or model curriculum required under this section, the state board 22694
or the department shall first consult with parents of students in 22695
kindergarten through twelfth grade and with active Ohio classroom 22696
teachers, other school personnel, and administrators with 22697
expertise in the appropriate subject area. Whenever practicable, 22698
the state board and department shall consult with teachers 22699
recognized as outstanding in their fields. 22700

If the department contracts with more than one outside entity 22701
for the development of the achievement ~~tests~~ assessments required 22702
by this section, the department shall ensure the 22703

interchangeability of those ~~tests~~ assessments. 22704

~~(F)~~(G) The fairness sensitivity review committee, established 22705
by rule of the state board of education, shall not allow any 22706
question on any achievement ~~test~~ or diagnostic assessment 22707
developed under this section or any proficiency test prescribed by 22708
former section 3301.0710 of the Revised Code, as it existed prior 22709
to September 11, 2001, to include, be written to promote, or 22710
inquire as to individual moral or social values or beliefs. The 22711
decision of the committee shall be final. This section does not 22712
create a private cause of action. 22713

(H) As used in this section: 22714

(1) "Coherence" means a reflection of the structure of the 22715
discipline being taught. 22716

(2) "Focus" means limiting the number of items included in a 22717
curriculum to allow for deeper exploration of the subject matter. 22718

(3) "Rigor" means more challenging and demanding when 22719
compared to international standards. 22720

(4) "Vertical articulation" means key academic concepts and 22721
skills associated with mastery in particular content areas should 22722
be articulated and reinforced in a developmentally appropriate 22723
manner at each grade level so that over time students acquire a 22724
depth of knowledge and understanding in the core academic 22725
disciplines. 22726

Sec. 3301.0710. The state board of education shall adopt 22727
rules establishing a statewide program to ~~test~~ assess student 22728
achievement. The state board shall ensure that all ~~tests~~ 22729
assessments administered under the ~~testing~~ program are aligned 22730
with the academic standards and model curricula adopted by the 22731
state board and are created with input from Ohio parents, Ohio 22732
classroom teachers, Ohio school administrators, and other Ohio 22733

school personnel pursuant to section 3301.079 of the Revised Code. 22734

The ~~testing~~ assessment program shall be designed to ensure 22735
that students who receive a high school diploma demonstrate at 22736
least high school levels of achievement in ~~reading, writing~~ 22737
English language arts, mathematics, science, and social studies, 22738
and other skills necessary in the twenty-first century. 22739

(A)(1) The state board shall prescribe all of the following: 22740

(a) Two statewide achievement ~~tests~~ assessments, one each 22741
designed to measure the level of ~~reading~~ English language arts and 22742
mathematics skill expected at the end of third grade; 22743

(b) ~~Three~~ Two statewide achievement ~~tests~~ assessments, one 22744
each designed to measure the level of ~~reading, writing,~~ English 22745
language arts and mathematics skill expected at the end of fourth 22746
grade; 22747

(c) Four statewide achievement ~~tests~~ assessments, one each 22748
designed to measure the level of ~~reading~~ English language arts, 22749
mathematics, science, and social studies skill expected at the end 22750
of fifth grade; 22751

(d) Two statewide achievement ~~tests~~ assessments, one each 22752
designed to measure the level of ~~reading~~ English language arts and 22753
mathematics skill expected at the end of sixth grade; 22754

(e) ~~Three~~ Two statewide achievement ~~tests~~ assessments, one 22755
each designed to measure the level of ~~reading, writing,~~ English 22756
language arts and mathematics skill expected at the end of seventh 22757
grade; 22758

(f) Four statewide achievement ~~tests~~ assessments, one each 22759
designed to measure the level of ~~reading~~ English language arts, 22760
mathematics, science, and social studies skill expected at the end 22761
of eighth grade. 22762

(2) The state board shall determine and designate at least 22763

~~five~~ three ranges of scores on each of the achievement ~~tests~~ assessments described in divisions (A)(1) and (B)(~~1~~) of this section. Each range of scores shall be deemed to demonstrate a level of achievement so that any student attaining a score within such range has achieved one of the following:

- (a) An advanced level of skill;
- (b) ~~An accelerated level of skill;~~
- ~~(c)~~ A proficient level of skill;
- ~~(d)~~ ~~A basic level of skill;~~
- ~~(e)~~(c) A limited level of skill.

(B)(~~1~~) The ~~tests~~ assessments prescribed under ~~this~~ division (B)(~~1~~) of this section shall collectively be known as the Ohio graduation tests. The state board shall prescribe five statewide high school achievement ~~tests~~ assessments, one each designed to measure the level of reading, writing, mathematics, science, and social studies skill expected at the end of tenth grade. The state board shall designate a score in at least the range designated under division (A)(2)~~(c)~~(b) of this section on each such ~~test~~ assessment that shall be deemed to be a passing score on the ~~test~~ assessment as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code until the assessment system prescribed by section 3301.0712 of the Revised Code is implemented in accordance with rules adopted by the state board under division (E) of that section.

(2) The state board shall prescribe an assessment system in accordance with section 3301.0712 of the Revised Code that shall replace the Ohio graduation tests in the manner prescribed by rules adopted by the state board under division (E) of that section.

(3) The state board may enter into a reciprocal agreement 22794
with the appropriate body or agency of any other state that has 22795
similar statewide achievement ~~testing~~ assessment requirements for 22796
receiving high school diplomas, under which any student who has 22797
met an achievement ~~testing~~ assessment requirement of one state is 22798
recognized as having met the similar ~~achievement-testing~~ 22799
requirement of the other state for purposes of receiving a high 22800
school diploma. For purposes of this section and sections 22801
3301.0711 and 3313.61 of the Revised Code, any student enrolled in 22802
any public high school in this state who has met an achievement 22803
~~testing~~ assessment requirement specified in a reciprocal agreement 22804
entered into under this division shall be deemed to have attained 22805
at least the applicable score designated under this division on 22806
each ~~test~~ assessment required by ~~this~~ division (B)(1) or (2) of 22807
this section that is specified in the agreement. 22808

~~(C) Except as provided in division (H) of this section, the~~ 22809
~~state board shall annually designate as follows the dates on which~~ 22810
~~the tests prescribed under this section shall be administered:~~ 22811

~~(1) For the reading test prescribed under division (A)(1)(a)~~ 22812
~~of this section, as follows:~~ 22813

~~(a) One date prior to the thirty first day of December each~~ 22814
~~school year;~~ 22815

~~(b) At least one date of each school year that is not earlier~~ 22816
~~than Monday of the week containing the twenty fourth day of April.~~ 22817
22818

~~(2) For the mathematics test prescribed under division~~ 22819
~~(A)(1)(a) of this section and the tests prescribed under divisions~~ 22820
~~(A)(1)(b), (c), (d), (e), and (f) of this section, at least one~~ 22821
~~date of each school year that is not earlier than Monday of the~~ 22822
~~week containing the twenty fourth day of April;~~ 22823

~~(3) For the tests prescribed under division (B) of this~~ 22824

~~section, at least one date in each school year that is not earlier than Monday of the week containing the fifteenth day of March for all tenth grade students and at least one date prior to the thirty first day of December and at least one date subsequent to that date but prior to the thirty first day of March of each school year for eleventh and twelfth grade students.~~

~~(D) In prescribing test dates pursuant to division (C)(3) of this section, the state board shall, to the greatest extent practicable, provide options to school districts in the case of tests administered under that division to eleventh and twelfth grade students and in the case of tests administered to students pursuant to division (C)(2) of section 3301.0711 of the Revised Code. Such options shall include at least an opportunity for school districts to give such tests outside of regular school hours.~~

~~(E) In The superintendent of public instruction shall designate dates and times for the administration of the assessments prescribed by divisions (A) and (B) of this section.~~

~~In prescribing ~~test~~ administration dates pursuant to this section division, the ~~state board of education~~ superintendent shall designate the dates in such a way as to allow a reasonable length of time between the administration of ~~tests~~ assessments prescribed under this section and any administration of the ~~National Assessment~~ national assessment of ~~Education Progress Test~~ education progress given to students in the same grade level pursuant to section 3301.27 of the Revised Code or federal law.~~

~~(F)(D) The state board shall prescribe a practice version of each Ohio graduation test described in division (B)(1) of this section that is of comparable length to the actual test.~~

~~(G)(E) Any committee established by the department of~~

education for the purpose of making recommendations to the state 22856
board regarding the state board's designation of scores on the 22857
tests described by this section shall inform the state board of 22858
the probable percentage of students who would score in each of the 22859
ranges established under division (A)(2) of this section on the 22860
tests if the committee's recommendations are adopted by the state 22861
board. To the extent possible, these percentages shall be 22862
disaggregated by gender, major racial and ethnic groups, limited 22863
English proficient students, economically disadvantaged students, 22864
students with disabilities, and migrant students. 22865

If the state board intends to make any change to the 22866
committee's recommendations, the state board shall explain the 22867
intended change to the Ohio accountability task force established 22868
by section 3302.021 of the Revised Code. The task force shall 22869
recommend whether the state board should proceed to adopt the 22870
intended change. Nothing in this division shall require the state 22871
board to designate test scores based upon the recommendations of 22872
the task force. 22873

~~(H)(1) The state board shall require any alternate assessment 22874
administered to a student under division (C)(1) of section 22875
3301.0711 of the Revised Code to be completed and submitted to the 22876
entity with which the department contracts for the scoring of the 22877
test not later than the first day of April of the school year in 22878
which the test is administered. 22879~~

~~(2) For any test prescribed by this section, the state board 22880
may designate a date one week earlier than the applicable date 22881
designated under division (C) of this section for the 22882
administration of the test to limited English proficient students. 22883~~

~~(3) In designating days for the administration of the tests 22884
prescribed by division (A) of this section, the state board shall 22885
require the tests for each grade level to be administered over a 22886
period of two weeks. 22887~~

Sec. 3301.0711. (A) The department of education shall: 22888

(1) Annually furnish to, grade, and score all ~~tests~~ 22889
assessments required by divisions (A)(1) and (B)(1) of section 22890
3301.0710 of the Revised Code to be administered by city, local, 22891
exempted village, and joint vocational school districts, except 22892
that each district shall score any test administered pursuant to 22893
division (B)(10) of this section. Each ~~test~~ assessment so 22894
furnished shall include the data verification code of the student 22895
to whom the test will be administered, as assigned pursuant to 22896
division (D)(2) of section 3301.0714 of the Revised Code. In 22897
furnishing the practice versions of Ohio graduation tests 22898
prescribed by division ~~(F)~~(D) of section 3301.0710 of the Revised 22899
Code, the department shall make the tests available on its web 22900
site for reproduction by districts. In awarding contracts for 22901
grading ~~tests~~ assessments, the department shall give preference to 22902
Ohio-based entities employing Ohio residents. 22903

(2) Adopt rules for the ethical use of ~~tests~~ assessments and 22904
prescribing the manner in which the ~~tests~~ assessments prescribed 22905
by section 3301.0710 of the Revised Code shall be administered to 22906
students. 22907

(B) Except as provided in divisions (C) and (J) of this 22908
section, the board of education of each city, local, and exempted 22909
village school district shall, in accordance with rules adopted 22910
under division (A) of this section: 22911

(1) Administer the ~~reading test~~ English language arts 22912
prescribed under division (A)(1)(a) of section 3301.0710 of the 22913
Revised Code twice annually to all students in the third grade who 22914
have not attained the score designated for that ~~test~~ assessment 22915
under division (A)(2)~~(e)~~(b) of section 3301.0710 of the Revised 22916
Code. 22917

(2) Administer the mathematics ~~test~~ assessment prescribed 22918

under division (A)(1)(a) of section 3301.0710 of the Revised Code 22919
at least once annually to all students in the third grade. 22920

(3) Administer the ~~tests~~ assessments prescribed under 22921
division (A)(1)(b) of section 3301.0710 of the Revised Code at 22922
least once annually to all students in the fourth grade. 22923

(4) Administer the ~~tests~~ assessments prescribed under 22924
division (A)(1)(c) of section 3301.0710 of the Revised Code at 22925
least once annually to all students in the fifth grade. 22926

(5) Administer the ~~tests~~ assessments prescribed under 22927
division (A)(1)(d) of section 3301.0710 of the Revised Code at 22928
least once annually to all students in the sixth grade. 22929

(6) Administer the ~~tests~~ assessments prescribed under 22930
division (A)(1)(e) of section 3301.0710 of the Revised Code at 22931
least once annually to all students in the seventh grade. 22932

(7) Administer the ~~tests~~ assessments prescribed under 22933
division (A)(1)(f) of section 3301.0710 of the Revised Code at 22934
least once annually to all students in the eighth grade. 22935

(8) Except as provided in division (B)(9) of this section, 22936
administer any ~~test~~ assessment prescribed under division (B)(1) of 22937
section 3301.0710 of the Revised Code as follows: 22938

(a) At least once annually to all tenth grade students and at 22939
least twice annually to all students in eleventh or twelfth grade 22940
who have not yet attained the score on that ~~test~~ assessment 22941
designated under that division; 22942

(b) To any person who has successfully completed the 22943
curriculum in any high school or the individualized education 22944
program developed for the person by any high school pursuant to 22945
section 3323.08 of the Revised Code but has not received a high 22946
school diploma and who requests to take such ~~test~~ assessment, at 22947
any time such test is administered in the district. 22948

(9) In lieu of the board of education of any city, local, or
exempted village school district in which the student is also
enrolled, the board of a joint vocational school district shall
administer any ~~test~~ assessment prescribed under division (B)(1) of
section 3301.0710 of the Revised Code at least twice annually to
any student enrolled in the joint vocational school district who
has not yet attained the score on that ~~test~~ assessment designated
under that division. A board of a joint vocational school district
may also administer such a ~~test~~ an assessment to any student
described in division (B)(8)(b) of this section.

(10) If the district has been declared to be under an
academic watch or in a state of academic emergency pursuant to
section 3302.03 of the Revised Code or has a three-year average
graduation rate of not more than seventy-five per cent, administer
each ~~test~~ assessment prescribed by division ~~(F)~~(D) of section
3301.0710 of the Revised Code in September to all ninth grade
students, beginning in the school year that starts July 1, 2005.

Except as provided in section 3313.614 of the Revised Code
for administration of an assessment to a person who has fulfilled
the curriculum requirement for a high school diploma but has not
passed one or more of the required assessments, the assessments
prescribed under division (B)(1) of section 3301.0710 of the
Revised Code and the practice assessments prescribed under
division (D) of that section and required to be administered under
divisions (B)(8), (9), and (10) of this section shall not be
administered after the assessment system prescribed by division
(B)(2) of section 3301.0710 and section 3301.0712 of the Revised
Code is implemented under rule of the state board adopted under
division (E)(1) of section 3301.0712 of the Revised Code.

(11) Administer the assessments prescribed by division (B)(2)
of section 3301.0710 and section 3301.0712 of the Revised Code in
accordance with the timeline and plan for implementation of those

assessments prescribed by rule of the state board adopted under 22981
division (E)(1) of section 3301.0712 of the Revised Code. 22982

(C)(1)(a) Any student receiving special education services 22983
under Chapter 3323. of the Revised Code may be excused from taking 22984
any particular ~~test~~ assessment required to be administered under 22985
this section if the individualized education program developed for 22986
the student pursuant to section 3323.08 of the Revised Code 22987
excuses the student from taking that ~~test~~ assessment and instead 22988
specifies an alternate assessment method approved by the 22989
department of education as conforming to requirements of federal 22990
law for receipt of federal funds for disadvantaged pupils. To the 22991
extent possible, the individualized education program shall not 22992
excuse the student from taking a ~~test~~ an assessment unless no 22993
reasonable accommodation can be made to enable the student to take 22994
the ~~test~~ assessment. 22995

(b) Any alternate assessment approved by the department for a 22996
student under this division shall produce measurable results 22997
comparable to those produced by the ~~tests which the alternate~~ 22998
~~assessments are replacing~~ assessment it replaces in order to allow 22999
for the student's ~~assessment~~ results to be included in the data 23000
compiled for a school district or building under section 3302.03 23001
of the Revised Code. 23002

(c) Any student enrolled in a chartered nonpublic school who 23003
has been identified, based on an evaluation conducted in 23004
accordance with section 3323.03 of the Revised Code or section 504 23005
of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 23006
794, as amended, as a child with a disability shall be excused 23007
from taking any particular ~~test~~ assessment required to be 23008
administered under this section if a plan developed for the 23009
student pursuant to rules adopted by the state board excuses the 23010
student from taking that ~~test~~ assessment. In the case of any 23011
student so excused from taking a ~~test~~ an assessment, the chartered 23012

nonpublic school shall not prohibit the student from taking the 23013
~~test~~ assessment. 23014

(2) A district board may, for medical reasons or other good 23015
cause, excuse a student from taking ~~a test~~ an assessment 23016
administered under this section on the date scheduled, but ~~any~~ 23017
~~such test~~ that assessment shall be administered to ~~such the~~ 23018
excused student not later than nine days following the scheduled 23019
date. The district board shall annually report the number of 23020
students who have not taken one or more of the ~~tests~~ assessments 23021
required by this section to the state board of education not later 23022
than the thirtieth day of June. 23023

(3) As used in this division, "limited English proficient 23024
student" has the same meaning as in 20 U.S.C. 7801. 23025

No school district board shall excuse any limited English 23026
proficient student from taking any particular ~~test~~ assessment 23027
required to be administered under this section, except that any 23028
limited English proficient student who has been enrolled in United 23029
States schools for less than one full school year shall not be 23030
required to take any ~~such~~ reading ~~or~~, writing ~~test~~, or English 23031
language arts assessment. However, no board shall prohibit a 23032
limited English proficient student who is not required to take a 23033
~~test~~ an assessment under this division from taking the ~~test~~ 23034
assessment. A board may permit any limited English proficient 23035
student to take ~~any test~~ an assessment required to be administered 23036
under this section with appropriate accommodations, as determined 23037
by the department. For each limited English proficient student, 23038
each school district shall annually assess that student's progress 23039
in learning English, in accordance with procedures approved by the 23040
department. 23041

The governing authority of a chartered nonpublic school may 23042
excuse a limited English proficient student from taking any ~~test~~ 23043
assessment administered under this section. However, no governing 23044

authority shall prohibit a limited English proficient student from 23045
taking the ~~test~~ assessment. 23046

(D)(1) In the school year next succeeding the school year in 23047
which the ~~tests~~ assessments prescribed by division (A)(1) or 23048
(B)(1) of section 3301.0710 of the Revised Code or former division 23049
(A)(1), (A)(2), or (B) of section 3301.0710 of the Revised Code as 23050
it existed prior to September 11, 2001, are administered to any 23051
student, the board of education of any school district in which 23052
the student is enrolled in that year shall provide to the student 23053
intervention services commensurate with the student's ~~test~~ 23054
performance, including any intensive intervention required under 23055
section 3313.608 of the Revised Code, in any skill in which the 23056
student failed to demonstrate at least a score at the proficient 23057
level on the ~~test~~ assessment. 23058

(2) Following any administration of the ~~tests~~ assessments 23059
prescribed by division ~~(F)~~(D) of section 3301.0710 of the Revised 23060
Code to ninth grade students, each school district that has a 23061
three-year average graduation rate of not more than seventy-five 23062
per cent shall determine for each high school in the district 23063
whether the school shall be required to provide intervention 23064
services to any students who took the ~~tests~~ assessments. In 23065
determining which high schools shall provide intervention services 23066
based on the resources available, the district shall consider each 23067
school's graduation rate and scores on the practice ~~tests~~ 23068
assessments. The district also shall consider the scores received 23069
by ninth grade students on the ~~reading~~ English language arts and 23070
mathematics tests prescribed under division (A)(1)(f) of section 23071
3301.0710 of the Revised Code in the eighth grade in determining 23072
which high schools shall provide intervention services. 23073

Each high school selected to provide intervention services 23074
under this division shall provide intervention services to any 23075
23076

student whose ~~test~~ results indicate that the student is failing to 23077
make satisfactory progress toward being able to attain scores at 23078
the proficient level on the Ohio graduation tests. Intervention 23079
services shall be provided in any skill in which a student 23080
demonstrates unsatisfactory progress and shall be commensurate 23081
with the student's ~~test~~ performance. Schools shall provide the 23082
intervention services prior to the end of the school year, during 23083
the summer following the ninth grade, in the next succeeding 23084
school year, or at any combination of those times. 23085

(E) Except as provided in section 3313.608 of the Revised 23086
Code and division (M) of this section, no school district board of 23087
education shall utilize any student's failure to attain a 23088
specified score on ~~any test~~ an assessment administered under this 23089
section as a factor in any decision to deny the student promotion 23090
to a higher grade level. However, a district board may choose not 23091
to promote to the next grade level any student who does not take 23092
~~any test~~ an assessment administered under this section or make up 23093
~~such test~~ an assessment as provided by division (C)(2) of this 23094
section and who is not exempt from the requirement to take the 23095
~~test~~ assessment under division (C)(3) of this section. 23096

(F) No person shall be charged a fee for taking any ~~test~~ 23097
assessment administered under this section. 23098

(G)(1) Each school district board shall designate one 23099
location for the collection of ~~tests~~ assessments administered in 23100
the spring under division (B)(1) of this section and ~~the tests~~ 23101
those administered under divisions (B)(2) to (7) of this section. 23102
Each district board shall submit the ~~tests~~ assessments to the 23103
entity with which the department contracts for the scoring of the 23104
~~tests~~ assessments as follows: 23105

(a) If the district's total enrollment in grades kindergarten 23106
through twelve during the first full school week of October was 23107
less than two thousand five hundred, not later than the Friday 23108

after all of the ~~tests~~ assessments have been administered; 23109

(b) If the district's total enrollment in grades kindergarten 23110
through twelve during the first full school week of October was 23111
two thousand five hundred or more, but less than seven thousand, 23112
not later than the Monday after all of the ~~tests~~ assessments have 23113
been administered; 23114

(c) If the district's total enrollment in grades kindergarten 23115
through twelve during the first full school week of October was 23116
seven thousand or more, not later than the Tuesday after all of 23117
the ~~tests~~ assessments have been administered. 23118

However, any ~~such test~~ assessment that a student takes during 23119
the make-up period described in division (C)(2) of this section 23120
shall be submitted not later than the Friday following the day the 23121
student takes the ~~test~~ assessment. 23122

(2) The department or an entity with which the department 23123
contracts for the scoring of the ~~test~~ assessment shall send to 23124
each school district board a list of the individual ~~test~~ scores of 23125
all persons taking ~~any test~~ an assessment prescribed by division 23126
(A)(1) or (B)(1) of section 3301.0710 of the Revised Code within 23127
sixty days after its administration, but in no case shall the 23128
scores be returned later than the fifteenth day of June following 23129
the administration. For ~~any tests~~ assessments administered under 23130
this section by a joint vocational school district, the department 23131
or entity shall also send to each city, local, or exempted village 23132
school district a list of the individual ~~test~~ scores of any 23133
students of such city, local, or exempted village school district 23134
who are attending school in the joint vocational school district. 23135

(H) Individual ~~test~~ scores on any ~~tests~~ assessments 23137
administered under this section shall be released by a district 23138
board only in accordance with section 3319.321 of the Revised Code 23139

and the rules adopted under division (A) of this section. No 23140
district board or its employees shall utilize individual or 23141
aggregate ~~test~~ results in any manner that conflicts with rules for 23142
the ethical use of ~~tests~~ assessments adopted pursuant to division 23143
(A) of this section. 23144

(I) Except as provided in division (G) of this section, the 23145
department or an entity with which the department contracts for 23146
the scoring of the ~~test~~ assessment shall not release any 23147
individual ~~test~~ scores on any ~~test~~ assessment administered under 23148
this section. The state board of education shall adopt rules to 23149
ensure the protection of student confidentiality at all times. The 23150
rules may require the use of the data verification codes assigned 23151
to students pursuant to division (D)(2) of section 3301.0714 of 23152
the Revised Code to protect the confidentiality of student ~~test~~ 23153
scores. 23154

(J) Notwithstanding division (D) of section 3311.52 of the 23155
Revised Code, this section does not apply to the board of 23156
education of any cooperative education school district except as 23157
provided under rules adopted pursuant to this division. 23158

(1) In accordance with rules that the state board of 23159
education shall adopt, the board of education of any city, 23160
exempted village, or local school district with territory in a 23161
cooperative education school district established pursuant to 23162
divisions (A) to (C) of section 3311.52 of the Revised Code may 23163
enter into an agreement with the board of education of the 23164
cooperative education school district for administering any ~~test~~ 23165
assessment prescribed under this section to students of the city, 23166
exempted village, or local school district who are attending 23167
school in the cooperative education school district. 23168

(2) In accordance with rules that the state board of 23169
education shall adopt, the board of education of any city, 23170
exempted village, or local school district with territory in a 23171

cooperative education school district established pursuant to 23172
section 3311.521 of the Revised Code shall enter into an agreement 23173
with the cooperative district that provides for the administration 23174
of any ~~test~~ assessment prescribed under this section to both of 23175
the following: 23176

(a) Students who are attending school in the cooperative 23177
district and who, if the cooperative district were not 23178
established, would be entitled to attend school in the city, 23179
local, or exempted village school district pursuant to section 23180
3313.64 or 3313.65 of the Revised Code; 23181

(b) Persons described in division (B)(8)(b) of this section. 23182

Any ~~testing~~ assessment of students pursuant to such an 23183
agreement shall be in lieu of any ~~testing~~ assessment of such 23184
students or persons pursuant to this section. 23185

(K)(1) Any chartered nonpublic school may participate in the 23186
~~testing~~ assessment program by administering any of the ~~tests~~ 23187
assessments prescribed by section 3301.0710 or 3301.0712 of the 23188
Revised Code if the chief administrator of the school specifies 23189
which ~~tests~~ assessments the school wishes to administer. Such 23190
specification shall be made in writing to the superintendent of 23191
public instruction prior to the first day of August of any school 23192
year in which ~~tests~~ assessments are administered and shall include 23193
a pledge that the nonpublic school will administer the specified 23194
~~tests~~ assessments in the same manner as public schools are 23195
required to do under this section and rules adopted by the 23196
department. 23197

(2) The department of education shall furnish the ~~tests~~ 23198
assessments prescribed by section 3301.0710 or 3301.0712 of the 23199
Revised Code to any chartered nonpublic school electing to 23200
participate under this division. 23201

(L)(1) The assistant superintendent ~~of~~ for the state school 23202

for the blind and the assistant superintendent ~~of~~ for the state 23203
school for the deaf shall administer the ~~tests~~ assessments 23204
described by ~~section~~ sections 3301.0710 and 3301.0712 of the 23205
Revised Code. Each assistant superintendent shall administer the 23206
~~tests~~ assessments in the same manner as district boards are 23207
required to do under this section and rules adopted by the 23208
department of education and in conformity with division (C)(1)(a) 23209
of this section. 23210

(2) The department of education shall furnish the ~~tests~~ 23211
assessments described by ~~section~~ sections 3301.0710 and 3301.0712 23212
of the Revised Code to each assistant superintendent. 23213

(M) Notwithstanding division (E) of this section, a school 23214
district may use a student's failure to attain a score in at least 23215
the basic range on the mathematics ~~test~~ assessment described by 23216
division (A)(1)(a) of section 3301.0710 of the Revised Code or on 23217
~~any of the tests~~ an assessment described by division (A)(1)(b), 23218
(c), (d), (e), or (f) of section 3301.0710 of the Revised Code as 23219
a factor in retaining that student in the current grade level. 23220

(N)(1) In the manner specified in divisions (N)(3) ~~to~~ (5) and 23221
(4) of this section, the ~~tests~~ assessments required by division 23222
(A)(1) of section 3301.0710 of the Revised Code shall become 23223
public records pursuant to section 149.43 of the Revised Code on 23224
the first day of July following the school year that the ~~test was~~ 23225
assessments were administered. 23226

(2) The department may field test proposed ~~test~~ questions 23227
with samples of students to determine the validity, reliability, 23228
or appropriateness of ~~test~~ questions for possible inclusion in a 23229
future year's ~~test~~ assessment. The department also may use anchor 23230
questions on ~~tests~~ assessments to ensure that different versions 23231
of the same test are of comparable difficulty. 23232

Field test questions and anchor questions shall not be 23233

considered in computing ~~test~~ scores for individual students. Field 23234
test questions and anchor questions may be included as part of the 23235
administration of any ~~test~~ assessment required by division (A)(1) 23236
or (B)(1) of section 3301.0710 of the Revised Code. 23237

(3) Any field test question or anchor question administered 23238
under division (N)(2) of this section shall not be a public 23239
record. Such field test questions and anchor questions shall be 23240
redacted from any ~~tests~~ assessments which are released as a public 23241
record pursuant to division (N)(1) of this section. 23242

(4) This division applies to the ~~tests~~ assessments prescribed 23243
by division (A) of section 3301.0710 of the Revised Code. 23244

(a) The first administration of each ~~test~~ assessment, as 23245
specified in former section 3301.0712 of the Revised Code, shall 23246
be a public record. 23247

(b) For subsequent administrations of each ~~test~~ assessment, 23248
not less than forty per cent of the questions on the ~~test~~ 23249
assessment that are used to compute a student's score shall be a 23250
public record. The department shall determine which questions will 23251
be needed for reuse on a future ~~test~~ assessment and those 23252
questions shall not be public records and shall be redacted from 23253
the ~~test~~ assessment prior to its release as a public record. 23254
However, for each redacted question, the department shall inform 23255
each city, local, and exempted village school district of the 23256
statewide academic standard adopted by the state board of 23257
education under section 3301.079 of the Revised Code and the 23258
corresponding benchmark to which the question relates. The 23259
preceding sentence does not apply to field test questions that are 23260
redacted under division (N)(3) of this section. 23261

(5) Each ~~test~~ assessment prescribed by division (B)(1) of 23262
section 3301.0710 of the Revised Code ~~that is administered in the~~ 23263
~~spring shall be a public record. Each test prescribed by that~~ 23264

~~division that is administered in the fall or summer shall not be a~~ 23265
public record. 23266

(0) As used in this section: 23267

(1) "Three-year average" means the average of the most recent 23268
consecutive three school years of data. 23269

(2) "Dropout" means a student who withdraws from school 23270
before completing course requirements for graduation and who is 23271
not enrolled in an education program approved by the state board 23272
of education or an education program outside the state. "Dropout" 23273
does not include a student who has departed the country. 23274

(3) "Graduation rate" means the ratio of students receiving a 23275
diploma to the number of students who entered ninth grade four 23276
years earlier. Students who transfer into the district are added 23277
to the calculation. Students who transfer out of the district for 23278
reasons other than dropout are subtracted from the calculation. If 23279
a student who was a dropout in any previous year returns to the 23280
same school district, that student shall be entered into the 23281
calculation as if the student had entered ninth grade four years 23282
before the graduation year of the graduating class that the 23283
student joins. 23284

Sec. 3301.0712. (A) The state board of education, the 23285
superintendent of public instruction, and the chancellor of the 23286
Ohio board of regents shall develop a system of assessments as 23287
described in divisions (B)(1) to (4) of this section to assess 23288
whether each student upon graduating from high school is college 23289
or career ready. The system shall replace the Ohio graduation 23290
tests prescribed in division (B)(1) of section 3301.0710 of the 23291
Revised Code as a measure of student academic performance and a 23292
prerequisite for eligibility for a high school diploma in the 23293
manner prescribed by rule of the state board adopted under 23294
division (E) of this section. 23295

<u>(B) The assessment system shall consist of the following:</u>	23296
<u>(1) A nationally standardized assessment that measures</u>	23297
<u>competencies in science, mathematics, and English language arts</u>	23298
<u>selected jointly by the state superintendent and the chancellor.</u>	23299
<u>(2) A series of end-of-course examinations in the areas of</u>	23300
<u>science, mathematics, English language arts, and social studies</u>	23301
<u>selected jointly by the state superintendent and the chancellor in</u>	23302
<u>consultation with faculty in the appropriate subject areas at</u>	23303
<u>institutions of higher education of the university system of Ohio.</u>	23304
<u>(3) A community service learning project developed and</u>	23305
<u>completed by each student in accordance with section 3313.605 of</u>	23306
<u>the Revised Code. The purpose of the community service learning</u>	23307
<u>project is to assess the student's:</u>	23308
<u>(a) Awareness of the importance of civic responsibility and</u>	23309
<u>community service;</u>	23310
<u>(b) Leadership skills;</u>	23311
<u>(c) Collaboration skills;</u>	23312
<u>(d) Cultural awareness and global competence; and</u>	23313
<u>(e) Flexibility, adaptability, and self-direction.</u>	23314
<u>The community service learning project shall promote learning</u>	23315
<u>through active participation, provide structured time for the</u>	23316
<u>student to reflect, provide opportunities to use skills and</u>	23317
<u>knowledge in real-life situations, extend learning beyond the</u>	23318
<u>classroom, and foster a sense of caring for others.</u>	23319
<u>(4) A senior project completed by a student or a group of</u>	23320
<u>students. The purpose of the senior project is to assess the</u>	23321
<u>student's:</u>	23322
<u>(a) Mastery of core knowledge in a subject area chosen by the</u>	23323
<u>student;</u>	23324

<u>(b) Written and verbal communication skills;</u>	23325
<u>(c) Critical thinking and problem-solving skills;</u>	23326
<u>(d) Real world and interdisciplinary learning;</u>	23327
<u>(e) Creative and innovative thinking;</u>	23328
<u>(f) Acquired technology, information, and media skills; and</u>	23329
<u>(g) Personal management skills such as self-direction, time</u>	23330
<u>management, work ethic, enthusiasm, and the desire to produce a</u>	23331
<u>high quality product.</u>	23332
<u>The state superintendent and the chancellor jointly shall</u>	23333
<u>develop standards for the senior project for students</u>	23334
<u>participating in dual enrollment programs.</u>	23335
<u>(C)(1) The state superintendent and the chancellor jointly</u>	23336
<u>shall designate the scoring rubrics and the required overall</u>	23337
<u>composite score for the assessment system to assess whether each</u>	23338
<u>student is college or career ready.</u>	23339
<u>(2) Each community service learning project and senior</u>	23340
<u>project shall be judged by the student's high school in accordance</u>	23341
<u>with rubrics designated by the state superintendent and the</u>	23342
<u>chancellor.</u>	23343
<u>(D) Not later than thirty days after the state board adopts</u>	23344
<u>the model curricula required by division (B) of section 3301.079</u>	23345
<u>of the Revised Code, the state board shall convene a group of</u>	23346
<u>national experts, state experts, and local practitioners to</u>	23347
<u>provide advice, guidance, and recommendations for the alignment of</u>	23348
<u>standards and model curricula to the assessments and in the design</u>	23349
<u>of the end-of-course examinations and scoring rubrics prescribed</u>	23350
<u>by this section.</u>	23351
<u>(E) Upon completion of the development of the assessment</u>	23352
<u>system, the state board shall adopt rules prescribing all of the</u>	23353
<u>following:</u>	23354

(1) A timeline and plan for implementation of the assessment system, including a phased implementation if the state board determines such a phase-in is warranted; 23355
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23357

(2) The date after which a person entering ninth grade shall attain at least the composite score for the entire assessment system as a prerequisite for a high school diploma under sections 3313.61, 3313.612, or 3325.08 of the Revised Code; 23358
23359
23360
23361

(3) The date after which a person shall attain at least the composite score for the entire assessment system as a prerequisite for a diploma of adult education under section 3313.611 of the Revised Code; 23362
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23364
23365

(4) Whether and the extent to which a person may be excused from a social studies end-of-course examination under division (H) of section 3313.61 and division (B)(2) of section 3313.612 of the Revised Code; 23366
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(5) The date after which a person who has fulfilled the curriculum requirement for a diploma but has not passed one or more of the required assessments at the time the person fulfilled the curriculum requirement shall attain at least the composite score for the entire assessment system as a prerequisite for a high school diploma under division (B) of section 3313.614 of the Revised Code; 23370
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(6) The extent to which the assessment system applies to students enrolled in a dropout recovery and prevention program for purposes of division (F) of section 3313.603 and section 3314.36 of the Revised Code. 23377
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No rule adopted under this division shall be effective earlier than one year after the date the rule is filed in final form pursuant to Chapter 119. of the Revised Code. 23381
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23383

Sec. 3301.0714. (A) The state board of education shall adopt 23384

rules for a statewide education management information system. The 23385
rules shall require the state board to establish guidelines for 23386
the establishment and maintenance of the system in accordance with 23387
this section and the rules adopted under this section. The 23388
guidelines shall include: 23389

(1) Standards identifying and defining the types of data in 23390
the system in accordance with divisions (B) and (C) of this 23391
section; 23392

(2) Procedures for annually collecting and reporting the data 23393
to the state board in accordance with division (D) of this 23394
section; 23395

(3) Procedures for annually compiling the data in accordance 23396
with division (G) of this section; 23397

(4) Procedures for annually reporting the data to the public 23398
in accordance with division (H) of this section. 23399

(B) The guidelines adopted under this section shall require 23400
the data maintained in the education management information system 23401
to include at least the following: 23402

(1) Student participation and performance data, for each 23403
grade in each school district as a whole and for each grade in 23404
each school building in each school district, that includes: 23405

(a) The numbers of students receiving each category of 23406
instructional service offered by the school district, such as 23407
regular education instruction, vocational education instruction, 23408
specialized instruction programs or enrichment instruction that is 23409
part of the educational curriculum, instruction for gifted 23410
students, instruction for students with disabilities, and remedial 23411
instruction. The guidelines shall require instructional services 23412
under this division to be divided into discrete categories if an 23413
instructional service is limited to a specific subject, a specific 23414
type of student, or both, such as regular instructional services 23415

in mathematics, remedial reading instructional services, 23416
instructional services specifically for students gifted in 23417
mathematics or some other subject area, or instructional services 23418
for students with a specific type of disability. The categories of 23419
instructional services required by the guidelines under this 23420
division shall be the same as the categories of instructional 23421
services used in determining cost units pursuant to division 23422
(C)(3) of this section. 23423

(b) The numbers of students receiving support or 23424
extracurricular services for each of the support services or 23425
extracurricular programs offered by the school district, such as 23426
counseling services, health services, and extracurricular sports 23427
and fine arts programs. The categories of services required by the 23428
guidelines under this division shall be the same as the categories 23429
of services used in determining cost units pursuant to division 23430
(C)(4)(a) of this section. 23431

(c) Average student grades in each subject in grades nine 23432
through twelve; 23433

(d) Academic achievement levels as assessed ~~by the testing of~~ 23434
~~student achievement~~ under sections 3301.0710 ~~and~~, 3301.0711, and 23435
3301.0712 of the Revised Code; 23436

(e) The number of students designated as having a disabling 23437
condition pursuant to division (C)(1) of section 3301.0711 of the 23438
Revised Code; 23439

(f) The numbers of students reported to the state board 23440
pursuant to division (C)(2) of section 3301.0711 of the Revised 23441
Code; 23442

(g) Attendance rates and the average daily attendance for the 23443
year. For purposes of this division, a student shall be counted as 23444
present for any field trip that is approved by the school 23445
administration. 23446

(h) Expulsion rates;	23447
(i) Suspension rates;	23448
(j) The percentage of students receiving corporal punishment;	23449
(k) Dropout rates;	23450
(l) Rates of retention in grade;	23451
(m) For pupils in grades nine through twelve, the average number of carnegie units, as calculated in accordance with state board of education rules;	23452 23453 23454
(n) Graduation rates, to be calculated in a manner specified by the department of education that reflects the rate at which students who were in the ninth grade three years prior to the current year complete school and that is consistent with nationally accepted reporting requirements;	23455 23456 23457 23458 23459
(o) Results of diagnostic assessments administered to kindergarten students as required under section 3301.0715 of the Revised Code to permit a comparison of the academic readiness of kindergarten students. However, no district shall be required to report to the department the results of any diagnostic assessment administered to a kindergarten student if the parent of that student requests the district not to report those results.	23460 23461 23462 23463 23464 23465 23466
<u>(p) Aggregate results of kindergarten and first grade hearing, vision, speech and communications, health and medical, and developmental screenings required under section 3313.673 of the Revised Code.</u>	23467 23468 23469 23470
(2) Personnel and classroom enrollment data for each school district, including:	23471 23472
(a) The total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed employees and nonlicensed employees providing each category of instructional service, instructional support service, and	23473 23474 23475 23476

administrative support service used pursuant to division (C)(3) of 23477
this section. The guidelines adopted under this section shall 23478
require these categories of data to be maintained for the school 23479
district as a whole and, wherever applicable, for each grade in 23480
the school district as a whole, for each school building as a 23481
whole, and for each grade in each school building. 23482

(b) The total number of employees and the number of full-time 23483
equivalent employees providing each category of service used 23484
pursuant to divisions (C)(4)(a) and (b) of this section, and the 23485
total numbers of licensed employees and nonlicensed employees and 23486
the numbers of full-time equivalent licensed employees and 23487
nonlicensed employees providing each category used pursuant to 23488
division (C)(4)(c) of this section. The guidelines adopted under 23489
this section shall require these categories of data to be 23490
maintained for the school district as a whole and, wherever 23491
applicable, for each grade in the school district as a whole, for 23492
each school building as a whole, and for each grade in each school 23493
building. 23494

(c) The total number of regular classroom teachers teaching 23495
classes of regular education and the average number of pupils 23496
enrolled in each such class, in each of grades kindergarten 23497
through five in the district as a whole and in each school 23498
building in the school district. 23499

(d) The number of ~~master~~ lead teachers employed by each 23500
school district and each school building, ~~once a definition of~~ 23501
~~master teacher has been developed by the educator standards board~~ 23502
~~pursuant to section 3319.61 of the Revised Code.~~ 23503

(3)(a) Student demographic data for each school district, 23504
including information regarding the gender ratio of the school 23505
district's pupils, the racial make-up of the school district's 23506
pupils, the number of limited English proficient students in the 23507
district, and an appropriate measure of the number of the school 23508

district's pupils who reside in economically disadvantaged 23509
households. The demographic data shall be collected in a manner to 23510
allow correlation with data collected under division (B)(1) of 23511
this section. Categories for data collected pursuant to division 23512
(B)(3) of this section shall conform, where appropriate, to 23513
standard practices of agencies of the federal government. 23514

(b) With respect to each student entering kindergarten, 23515
whether the student previously participated in a public preschool 23516
program, a private preschool program, or a head start program, and 23517
the number of years the student participated in each of these 23518
programs. 23519

(4) Any data required to be collected pursuant to federal 23520
law. 23521

(C) The education management information system shall include 23522
cost accounting data for each district as a whole and for each 23523
school building in each school district. The guidelines adopted 23524
under this section shall require the cost data for each school 23525
district to be maintained in a system of mutually exclusive cost 23526
units and shall require all of the costs of each school district 23527
to be divided among the cost units. The guidelines shall require 23528
the system of mutually exclusive cost units to include at least 23529
the following: 23530

(1) Administrative costs for the school district as a whole. 23531
The guidelines shall require the cost units under this division 23532
(C)(1) to be designed so that each of them may be compiled and 23533
reported in terms of average expenditure per pupil in formula ADM 23534
in the school district, as determined pursuant to section 3317.03 23535
of the Revised Code. 23536

(2) Administrative costs for each school building in the 23537
school district. The guidelines shall require the cost units under 23538
this division (C)(2) to be designed so that each of them may be 23539

compiled and reported in terms of average expenditure per 23540
full-time equivalent pupil receiving instructional or support 23541
services in each building. 23542

(3) Instructional services costs for each category of 23543
instructional service provided directly to students and required 23544
by guidelines adopted pursuant to division (B)(1)(a) of this 23545
section. The guidelines shall require the cost units under 23546
division (C)(3) of this section to be designed so that each of 23547
them may be compiled and reported in terms of average expenditure 23548
per pupil receiving the service in the school district as a whole 23549
and average expenditure per pupil receiving the service in each 23550
building in the school district and in terms of a total cost for 23551
each category of service and, as a breakdown of the total cost, a 23552
cost for each of the following components: 23553

(a) The cost of each instructional services category required 23554
by guidelines adopted under division (B)(1)(a) of this section 23555
that is provided directly to students by a classroom teacher; 23556

(b) The cost of the instructional support services, such as 23557
services provided by a speech-language pathologist, classroom 23558
aide, multimedia aide, or librarian, provided directly to students 23559
in conjunction with each instructional services category; 23560

(c) The cost of the administrative support services related 23561
to each instructional services category, such as the cost of 23562
personnel that develop the curriculum for the instructional 23563
services category and the cost of personnel supervising or 23564
coordinating the delivery of the instructional services category. 23565

(4) Support or extracurricular services costs for each 23566
category of service directly provided to students and required by 23567
guidelines adopted pursuant to division (B)(1)(b) of this section. 23568
The guidelines shall require the cost units under division (C)(4) 23569
of this section to be designed so that each of them may be 23570

compiled and reported in terms of average expenditure per pupil 23571
receiving the service in the school district as a whole and 23572
average expenditure per pupil receiving the service in each 23573
building in the school district and in terms of a total cost for 23574
each category of service and, as a breakdown of the total cost, a 23575
cost for each of the following components: 23576

(a) The cost of each support or extracurricular services 23577
category required by guidelines adopted under division (B)(1)(b) 23578
of this section that is provided directly to students by a 23579
licensed employee, such as services provided by a guidance 23580
counselor or any services provided by a licensed employee under a 23581
supplemental contract; 23582

(b) The cost of each such services category provided directly 23583
to students by a nonlicensed employee, such as janitorial 23584
services, cafeteria services, or services of a sports trainer; 23585

(c) The cost of the administrative services related to each 23586
services category in division (C)(4)(a) or (b) of this section, 23587
such as the cost of any licensed or nonlicensed employees that 23588
develop, supervise, coordinate, or otherwise are involved in 23589
administering or aiding the delivery of each services category. 23590

(D)(1) The guidelines adopted under this section shall 23591
require school districts to collect information about individual 23592
students, staff members, or both in connection with any data 23593
required by division (B) or (C) of this section or other reporting 23594
requirements established in the Revised Code. The guidelines may 23595
also require school districts to report information about 23596
individual staff members in connection with any data required by 23597
division (B) or (C) of this section or other reporting 23598
requirements established in the Revised Code. The guidelines shall 23599
not authorize school districts to request social security numbers 23600
of individual students. The guidelines shall prohibit the 23601
reporting under this section of a student's name, address, and 23602

social security number to the state board of education or the 23603
department of education. The guidelines shall also prohibit the 23604
reporting under this section of any personally identifiable 23605
information about any student, except for the purpose of assigning 23606
the data verification code required by division (D)(2) of this 23607
section, to any other person unless such person is employed by the 23608
school district or the information technology center operated 23609
under section 3301.075 of the Revised Code and is authorized by 23610
the district or technology center to have access to such 23611
information or is employed by an entity with which the department 23612
contracts for the scoring of ~~tests~~ assessments administered under 23613
section 3301.0711 ~~or 3301.0712~~ of the Revised Code. The guidelines 23614
may require school districts to provide the social security 23615
numbers of individual staff members. 23616

(2) The guidelines shall provide for each school district or 23617
community school to assign a data verification code that is unique 23618
on a statewide basis over time to each student whose initial Ohio 23619
enrollment is in that district or school and to report all 23620
required individual student data for that student utilizing such 23621
code. The guidelines shall also provide for assigning data 23622
verification codes to all students enrolled in districts or 23623
community schools on the effective date of the guidelines 23624
established under this section. 23625

Individual student data shall be reported to the department 23626
through the information technology centers utilizing the code but, 23627
except as provided in sections 3310.11, 3310.42, 3313.978, and 23628
3317.20 of the Revised Code, at no time shall the state board or 23629
the department have access to information that would enable any 23630
data verification code to be matched to personally identifiable 23631
student data. 23632

Each school district shall ensure that the data verification 23633
code is included in the student's records reported to any 23634

subsequent school district or community school in which the 23635
student enrolls. Any such subsequent district or school shall 23636
utilize the same identifier in its reporting of data under this 23637
section. 23638

The director of health shall request and receive, pursuant to 23639
sections 3301.0723 and 3701.62 of the Revised Code, a data 23640
verification code for a child who is receiving services under 23641
division (A)(2) of section 3701.61 of the Revised Code. 23642

(E) The guidelines adopted under this section may require 23643
school districts to collect and report data, information, or 23644
reports other than that described in divisions (A), (B), and (C) 23645
of this section for the purpose of complying with other reporting 23646
requirements established in the Revised Code. The other data, 23647
information, or reports may be maintained in the education 23648
management information system but are not required to be compiled 23649
as part of the profile formats required under division (G) of this 23650
section or the annual statewide report required under division (H) 23651
of this section. 23652

(F) Beginning with the school year that begins July 1, 1991, 23653
the board of education of each school district shall annually 23654
collect and report to the state board, in accordance with the 23655
guidelines established by the board, the data required pursuant to 23656
this section. A school district may collect and report these data 23657
notwithstanding section 2151.357 or 3319.321 of the Revised Code. 23658

(G) The state board shall, in accordance with the procedures 23659
it adopts, annually compile the data reported by each school 23660
district pursuant to division (D) of this section. The state board 23661
shall design formats for profiling each school district as a whole 23662
and each school building within each district and shall compile 23663
the data in accordance with these formats. These profile formats 23664
shall: 23665

(1) Include all of the data gathered under this section in a manner that facilitates comparison among school districts and among school buildings within each school district;

(2) Present the data on academic achievement levels as assessed by the testing of student achievement maintained pursuant to division (B)(1)(d) of this section.

(H)(1) The state board shall, in accordance with the procedures it adopts, annually prepare a statewide report for all school districts and the general public that includes the profile of each of the school districts developed pursuant to division (G) of this section. Copies of the report shall be sent to each school district.

(2) The state board shall, in accordance with the procedures it adopts, annually prepare an individual report for each school district and the general public that includes the profiles of each of the school buildings in that school district developed pursuant to division (G) of this section. Copies of the report shall be sent to the superintendent of the district and to each member of the district board of education.

(3) Copies of the reports received from the state board under divisions (H)(1) and (2) of this section shall be made available to the general public at each school district's offices. Each district board of education shall make copies of each report available to any person upon request and payment of a reasonable fee for the cost of reproducing the report. The board shall annually publish in a newspaper of general circulation in the school district, at least twice during the two weeks prior to the week in which the reports will first be available, a notice containing the address where the reports are available and the date on which the reports will be available.

(I) Any data that is collected or maintained pursuant to this

section and that identifies an individual pupil is not a public 23697
record for the purposes of section 149.43 of the Revised Code. 23698

(J) As used in this section: 23699

(1) "School district" means any city, local, exempted 23700
village, or joint vocational school district and, in accordance 23701
with section 3314.17 of the Revised Code, any community school. As 23702
used in division (L) of this section, "school district" also 23703
includes any educational service center or other educational 23704
entity required to submit data using the system established under 23705
this section. 23706

(2) "Cost" means any expenditure for operating expenses made 23707
by a school district excluding any expenditures for debt 23708
retirement except for payments made to any commercial lending 23709
institution for any loan approved pursuant to section 3313.483 of 23710
the Revised Code. 23711

(K) Any person who removes data from the information system 23712
established under this section for the purpose of releasing it to 23713
any person not entitled under law to have access to such 23714
information is subject to section 2913.42 of the Revised Code 23715
prohibiting tampering with data. 23716

(L)(1) In accordance with division (L)(2) of this section and 23717
the rules adopted under division (L)(10) of this section, the 23718
department of education may sanction any school district that 23719
reports incomplete or inaccurate data, reports data that does not 23720
conform to data requirements and descriptions published by the 23721
department, fails to report data in a timely manner, or otherwise 23722
does not make a good faith effort to report data as required by 23723
this section. 23724

(2) If the department decides to sanction a school district 23725
under this division, the department shall take the following 23726
sequential actions: 23727

(a) Notify the district in writing that the department has 23728
determined that data has not been reported as required under this 23729
section and require the district to review its data submission and 23730
submit corrected data by a deadline established by the department. 23731
The department also may require the district to develop a 23732
corrective action plan, which shall include provisions for the 23733
district to provide mandatory staff training on data reporting 23734
procedures. 23735

(b) Withhold up to ten per cent of the total amount of state 23736
funds due to the district for the current fiscal year and, if not 23737
previously required under division (L)(2)(a) of this section, 23738
require the district to develop a corrective action plan in 23739
accordance with that division; 23740

(c) Withhold an additional amount of up to twenty per cent of 23741
the total amount of state funds due to the district for the 23742
current fiscal year; 23743

(d) Direct department staff or an outside entity to 23744
investigate the district's data reporting practices and make 23745
recommendations for subsequent actions. The recommendations may 23746
include one or more of the following actions: 23747

(i) Arrange for an audit of the district's data reporting 23748
practices by department staff or an outside entity; 23749

(ii) Conduct a site visit and evaluation of the district; 23750

(iii) Withhold an additional amount of up to thirty per cent 23751
of the total amount of state funds due to the district for the 23752
current fiscal year; 23753

(iv) Continue monitoring the district's data reporting; 23754

(v) Assign department staff to supervise the district's data 23755
management system; 23756

(vi) Conduct an investigation to determine whether to suspend 23757

or revoke the license of any district employee in accordance with 23758
division (N) of this section; 23759

(vii) If the district is issued a report card under section 23760
3302.03 of the Revised Code, indicate on the report card that the 23761
district has been sanctioned for failing to report data as 23762
required by this section; 23763

(viii) If the district is issued a report card under section 23764
3302.03 of the Revised Code and incomplete or inaccurate data 23765
submitted by the district likely caused the district to receive a 23766
higher performance rating than it deserved under that section, 23767
issue a revised report card for the district; 23768

(ix) Any other action designed to correct the district's data 23769
reporting problems. 23770

(3) Any time the department takes an action against a school 23771
district under division (L)(2) of this section, the department 23772
shall make a report of the circumstances that prompted the action. 23773
The department shall send a copy of the report to the district 23774
superintendent or chief administrator and maintain a copy of the 23775
report in its files. 23776

(4) If any action taken under division (L)(2) of this section 23777
resolves a school district's data reporting problems to the 23778
department's satisfaction, the department shall not take any 23779
further actions described by that division. If the department 23780
withheld funds from the district under that division, the 23781
department may release those funds to the district, except that if 23782
the department withheld funding under division (L)(2)(c) of this 23783
section, the department shall not release the funds withheld under 23784
division (L)(2)(b) of this section and, if the department withheld 23785
funding under division (L)(2)(d) of this section, the department 23786
shall not release the funds withheld under division (L)(2)(b) or 23787
(c) of this section. 23788

(5) Notwithstanding anything in this section to the contrary, 23789
the department may use its own staff or an outside entity to 23790
conduct an audit of a school district's data reporting practices 23791
any time the department has reason to believe the district has not 23792
made a good faith effort to report data as required by this 23793
section. If any audit conducted by an outside entity under 23794
division (L)(2)(d)(i) or (5) of this section confirms that a 23795
district has not made a good faith effort to report data as 23796
required by this section, the district shall reimburse the 23797
department for the full cost of the audit. The department may 23798
withhold state funds due to the district for this purpose. 23799

(6) Prior to issuing a revised report card for a school 23800
district under division (L)(2)(d)(viii) of this section, the 23801
department may hold a hearing to provide the district with an 23802
opportunity to demonstrate that it made a good faith effort to 23803
report data as required by this section. The hearing shall be 23804
conducted by a referee appointed by the department. Based on the 23805
information provided in the hearing, the referee shall recommend 23806
whether the department should issue a revised report card for the 23807
district. If the referee affirms the department's contention that 23808
the district did not make a good faith effort to report data as 23809
required by this section, the district shall bear the full cost of 23810
conducting the hearing and of issuing any revised report card. 23811

(7) If the department determines that any inaccurate data 23812
reported under this section caused a school district to receive 23813
excess state funds in any fiscal year, the district shall 23814
reimburse the department an amount equal to the excess funds, in 23815
accordance with a payment schedule determined by the department. 23816
The department may withhold state funds due to the district for 23817
this purpose. 23818

(8) Any school district that has funds withheld under 23819
division (L)(2) of this section may appeal the withholding in 23820

accordance with Chapter 119. of the Revised Code. 23821

(9) In all cases of a disagreement between the department and 23822
a school district regarding the appropriateness of an action taken 23823
under division (L)(2) of this section, the burden of proof shall 23824
be on the district to demonstrate that it made a good faith effort 23825
to report data as required by this section. 23826

(10) The state board of education shall adopt rules under 23827
Chapter 119. of the Revised Code to implement division (L) of this 23828
section. 23829

(M) No information technology center or school district shall 23830
acquire, change, or update its student administration software 23831
package to manage and report data required to be reported to the 23832
department unless it converts to a student software package that 23833
is certified by the department. 23834

(N) The state board of education, in accordance with sections 23835
3319.31 and 3319.311 of the Revised Code, may suspend or revoke a 23836
license as defined under division (A) of section 3319.31 of the 23837
Revised Code that has been issued to any school district employee 23838
found to have willfully reported erroneous, inaccurate, or 23839
incomplete data to the education management information system. 23840

(O) No person shall release or maintain any information about 23841
any student in violation of this section. Whoever violates this 23842
division is guilty of a misdemeanor of the fourth degree. 23843

(P) The department shall disaggregate the data collected 23844
under division (B)(1)(o) of this section according to the race and 23845
socioeconomic status of the students assessed. No data collected 23846
under that division shall be included on the report cards required 23847
by section 3302.03 of the Revised Code. 23848

(Q) If the department cannot compile any of the information 23849
required by division (C)(5) of section 3302.03 of the Revised Code 23850
based upon the data collected under this section, the department 23851

shall develop a plan and a reasonable timeline for the collection 23852
of any data necessary to comply with that division. 23853

Sec. 3301.0716. Notwithstanding division (D) of section 23854
3301.0714 of the Revised Code, the department of education may 23855
have access to personally identifiable information about any 23856
student under the following circumstances: 23857

(A) An entity with which the department contracts for the 23858
scoring of ~~tests~~ assessments administered under section 3301.0711 23859
or 3301.0712 of the Revised Code has notified the department that 23860
the student's written response to a question on ~~such a test~~ an 23861
assessment included threats or descriptions of harm to another 23862
person or the student's self and the information is necessary to 23863
enable the department to identify the student for purposes of 23864
notifying the school district or school in which the student is 23865
enrolled of the potential for harm. 23866

(B) The department requests the information to respond to an 23867
appeal from a school district or school for verification of the 23868
accuracy of the student's score on ~~a test~~ an assessment 23869
administered under section 3301.0711 or 3301.0712 of the Revised 23870
Code. 23871

(C) The department requests the information to determine 23872
whether the student satisfies the alternative conditions for a 23873
high school diploma prescribed in section 3313.615 of the Revised 23874
Code. 23875

Sec. 3301.0722. As used in this section and section 3301.0721 23876
of the Revised Code, "form" means any report, document, paper, 23877
computer software program, or other instrument used in the 23878
management information system created by section 3301.0714 of the 23879
Revised Code or used to gather required or requested education 23880
data under division ~~(I)~~(J) of section 3301.07 of the Revised Code 23881

or any other provision of state or federal statute or rule. 23882

Beginning July 1, 1992, the state board of education, the 23883
superintendent of public instruction, or the department of 23884
education shall not put into use any new form or any modified 23885
version of any previously existing form, unless the new or 23886
modified form has been submitted to the unit established pursuant 23887
to section 3301.133 of the Revised Code, the unit has reviewed the 23888
form, and the superintendent has considered the findings of the 23889
review and the unit's recommendations. 23890

Sec. 3301.12. (A) The superintendent of public instruction in 23891
addition to the authority otherwise imposed on the superintendent, 23892
shall perform the following duties: 23893

(1) The superintendent shall provide technical and 23894
professional assistance and advice to all school districts in 23895
reference to all aspects of education, including finance, 23896
buildings and equipment, administration, organization of school 23897
districts, curriculum and instruction, transportation of pupils, 23898
personnel problems, and the interpretation of school laws and 23899
state regulations. 23900

(2) The superintendent shall prescribe and require the 23901
preparation and filing of such financial and other reports from 23902
school districts, officers, and employees as are necessary or 23903
proper. The superintendent shall prescribe and require the 23904
installation by school districts of such standardized reporting 23905
forms and accounting procedures as are essential to the 23906
businesslike operations of the public schools of the state. 23907

(3) The superintendent shall conduct such studies and 23908
research projects as are necessary or desirable for the 23909
improvement of public school education in Ohio, and such as may be 23910
assigned to the superintendent by the state board of education. 23911
Such studies and projects may include analysis of data contained 23912

in the education management information system established under 23913
section 3301.0714 of the Revised Code. For any study or project 23914
that requires the analysis of individual student data, the 23915
department of education or any entity with which the 23916
superintendent or department contracts to conduct the study or 23917
project shall maintain the confidentiality of student data at all 23918
times. For this purpose, the department or contracting entity 23919
shall use the data verification code assigned pursuant to division 23920
(D)(2) of section 3301.0714 of the Revised Code for each student 23921
whose data is analyzed. Except as otherwise provided in division 23922
(D)(1) of section 3301.0714 of the Revised Code, at no time shall 23923
the superintendent, the department, the state board of education, 23924
or any entity conducting a study or research project on the 23925
superintendent's behalf have access to a student's name, address, 23926
or social security number while analyzing individual student data. 23927

(4) The superintendent shall prepare and submit annually to 23928
the state board of education a report of the activities of the 23929
department of education and the status, problems, and needs of 23930
education in the state of Ohio. 23931

(5) The superintendent shall supervise all agencies over 23932
which the board exercises administrative control, including 23933
schools for education of persons with disabilities. 23934

(6) In accordance with section 3333.048 of the Revised Code, 23935
the superintendent, jointly with the chancellor of the Ohio board 23936
of regents, shall establish metrics and courses of study for 23937
institutions of higher education that prepare educators and other 23938
school personnel and shall provide for inspection of those 23939
institutions. 23940

(B) The superintendent of public instruction may annually 23941
inspect and analyze the expenditures of each school district and 23942
make a determination as to the efficiency of each district's 23943
costs, relative to other school districts in the state, for 23944

instructional, administrative, and student support services. The 23945
superintendent shall notify each school district as to the nature 23946
of, and reasons for, the determination. The state board of 23947
education shall adopt rules in accordance with Chapter 119. of the 23948
Revised Code setting forth the procedures and standards for the 23949
performance of the inspection and analysis. 23950

Sec. 3301.13. The department of education hereby created, 23951
shall be the administrative unit and organization through which 23952
the policies, directives, and powers of the state board of 23953
education and the duties of the superintendent of public 23954
instruction are administered by such superintendent as executive 23955
officer of the board. 23956

The department of education shall consist of the state board 23957
of education, the superintendent of public instruction, and a 23958
staff of such professional, clerical, and other employees as may 23959
be necessary to perform the duties and to exercise the required 23960
functions of the department. 23961

The department of education shall be organized as provided by 23962
law or by order of the state board of education. The 23963
superintendent of public instruction shall be the chief 23964
administrative officer of such department, and, subject to board 23965
policies, rules, and regulations, shall exercise general 23966
supervision of the department. 23967

The department of education shall be subject to all 23968
provisions of law pertaining to departments, offices, or 23969
institutions established for the exercise of any function of the 23970
state government; excepting that it shall not be one of the 23971
departments provided for under division (A) of section 121.01 of 23972
the Revised Code. In the exercise of any of its functions or 23973
powers, including the power to make rules and regulations and to 23974
prescribe minimum standards, the department of education, and any 23975

officer or agency therein, shall be subject to Chapter 119. of the 23976
Revised Code. The headquarters of the department of education 23977
shall be at the seat of government, where office space suitable 23978
and adequate for the work of the department shall be provided by 23979
the appropriate state agency. There the state board of education 23980
shall meet and transact its business, unless the board chooses to 23981
meet elsewhere in Ohio as provided by section 3301.04 of the 23982
Revised Code. There the records of the state board of education 23983
and the records, papers, and documents belonging to the department 23984
shall be kept in charge of the superintendent of public 23985
instruction. 23986

The superintendent of public instruction shall recommend, for 23987
approval by the board, the organization of the department of 23988
education, and the assignment of the work within such department. 23989
The appointment, number, and salaries of assistant superintendents 23990
and division heads shall be determined by the state board of 23991
education after recommendation of the superintendent of public 23992
instruction. Such assistant superintendents and division heads 23993
shall serve at the pleasure of the board. The superintendent of 23994
public instruction may appoint, fix the salary, and terminate the 23995
employment of such other employees as are engaged in educational 23996
or research duties, including employees who work at the state 23997
school for the deaf and the state school for the blind, subject to 23998
division (L) of section 124.15 of the Revised Code. 23999

Sec. 3301.16. Pursuant to standards prescribed by the state 24000
board of education as provided in division (D) of section 3301.07 24001
of the Revised Code, the state board shall classify and charter 24002
school districts and individual schools within each district 24003
except that no charter shall be granted to a nonpublic school 24004
unless ~~pursuant to division (K) of section 3301.0711 of the~~ 24005
~~Revised Code the school elects to administer the tests prescribed~~ 24006
~~by division (B) of~~ complies with section ~~3301.0710~~ 3313.612 of the 24007

Revised Code ~~beginning July 1, 1995.~~ 24008

In the course of considering the charter of a new school 24009
district created under section 3311.26 or 3311.38 of the Revised 24010
Code, the state board shall require the party proposing creation 24011
of the district to submit to the board a map, certified by the 24012
county auditor of the county in which the proposed new district is 24013
located, showing the boundaries of the proposed new district. In 24014
the case of a proposed new district located in more than one 24015
county, the map shall be certified by the county auditor of each 24016
county in which the proposed district is located. 24017

The state board shall revoke the charter of any school 24018
district or school which fails to meet the standards for 24019
elementary and high schools as prescribed by the board. The state 24020
board shall also revoke the charter of any nonpublic school that 24021
does not comply with section 3313.612 of the Revised Code ~~or, on~~ 24022
~~or after July 1, 1995, does not participate in the testing program~~ 24023
~~prescribed by division (B) of section 3301.0710 of the Revised~~ 24024
~~Code.~~ 24025

In the issuance and revocation of school district or school 24026
charters, the state board shall be governed by the provisions of 24027
Chapter 119. of the Revised Code. 24028

No school district, or individual school operated by a school 24029
district, shall operate without a charter issued by the state 24030
board under this section. 24031

In case a school district charter is revoked pursuant to this 24032
section, the state board may dissolve the school district and 24033
transfer its territory to one or more adjacent districts. An 24034
equitable division of the funds, property, and indebtedness of the 24035
school district shall be made by the state board among the 24036
receiving districts. The board of education of a receiving 24037
district shall accept such territory pursuant to the order of the 24038

state board. Prior to dissolving the school district, the state 24039
board shall notify the appropriate educational service center 24040
governing board and all adjacent school district boards of 24041
education of its intention to do so. Boards so notified may make 24042
recommendations to the state board regarding the proposed 24043
dissolution and subsequent transfer of territory. Except as 24044
provided in section 3301.161 of the Revised Code, the transfer 24045
ordered by the state board shall become effective on the date 24046
specified by the state board, but the date shall be at least 24047
thirty days following the date of issuance of the order. 24048

A high school is one of higher grade than an elementary 24049
school, in which instruction and training are given in accordance 24050
with sections 3301.07 and 3313.60 of the Revised Code and which 24051
also offers other subjects of study more advanced than those 24052
taught in the elementary schools and such other subjects as may be 24053
approved by the state board of education. 24054

An elementary school is one in which instruction and training 24055
are given in accordance with sections 3301.07 and 3313.60 of the 24056
Revised Code and which offers such other subjects as may be 24057
approved by the state board of education. In districts wherein a 24058
junior high school is maintained, the elementary schools in that 24059
district may be considered to include only the work of the first 24060
six school years inclusive, plus the kindergarten year. 24061

Sec. 3301.42. The partnership for continued learning shall 24062
promote systemic approaches to education by supporting regional 24063
efforts to foster collaboration among providers of preschool 24064
through postsecondary education, identifying the workforce needs 24065
of private sector employers in the state, and making 24066
recommendations for facilitating collaboration among providers of 24067
preschool through postsecondary education and for maintaining a 24068
high-quality workforce in the state. Copies of the recommendations 24069

shall be provided to the governor, the president and minority leader of the senate, the speaker and minority leader of the house of representatives, the chairpersons and ranking minority members of the standing committees of the senate and the house of representatives that consider education legislation, the ~~chairperson~~ chancellor of the Ohio board of regents, and the president of the state board of education. The recommendations shall address at least the following issues:

(A) Expansion of access to preschool and other learning opportunities for children under five years old;

(B) Increasing opportunities for students to earn credit toward a degree from an institution of higher education while enrolled in high school, including expanded opportunities for students to earn that credit on their high school campuses; a definition of "in good standing" for purposes of section 3313.6013 of the Revised Code; and legislative changes that the partnership, in consultation with the Ohio board of regents and the state board of education, determines would improve the operation of the post-secondary enrollment options program established under Chapter 3365. of the Revised Code and other dual enrollment programs. The recommendations for legislative changes required by this division shall be issued not later than May 31, 2007.

(C) Expansion of access to workforce development programs administered by school districts, institutions of higher education, and other providers of career-technical education;

(D) Alignment of the statewide academic standards for grades nine through twelve adopted under section 3301.079 of the Revised Code, the Ohio graduation tests prescribed by division (B)(1) of section 3301.0710 of the Revised Code and the assessment system prescribed by division (B)(2) of that section, and the curriculum requirements for a high school diploma prescribed by section

3313.603 of the Revised Code with the expectations of employers	24101
and institutions of higher education regarding the knowledge and	24102
skills that high school graduates should attain prior to entering	24103
the workforce or enrolling in an institution of higher education;	24104
(E) Improving the science and mathematics skills of students	24105
and employees to meet the needs of a knowledge-intensive economy;	24106
(F) Reducing the number of students who need academic	24107
remediation after enrollment in an institution of higher	24108
education;	24109
(G) Expansion of school counseling career and educational	24110
programs, access programs, and other strategies to overcome	24111
financial, cultural, and organizational barriers that interfere	24112
with students' planning for postsecondary education and that	24113
prevent students from obtaining a postsecondary education;	24114
(H) Alignment of teacher preparation programs approved by the	24115
state board of education <u>chancellor of the Ohio board of regents</u>	24116
pursuant to section 3319.23 <u>3333.048</u> of the Revised Code with the	24117
instructional needs and expectations of school districts;	24118
(I) Strategies for retaining more graduates of Ohio	24119
institutions of higher education in the state and for attracting	24120
talented individuals from outside Ohio to work in the state;	24121
(J) Strategies for promoting lifelong continuing education as	24122
a component of maintaining a strong workforce and economy;	24123
(K) Appropriate measures of the impact of statewide efforts	24124
to promote collaboration among providers of preschool through	24125
postsecondary education and to develop a high-quality workforce	24126
and strategies for collecting and sharing data relevant to such	24127
measures;	24128
(L) Strategies for developing and improving opportunities and	24129
for removing barriers to achievement for children identified as	24130

gifted under Chapter 3324. of the Revised Code; 24131

(M) Legislative changes to establish criteria by which state 24132
universities may waive the general requirement, under division (B) 24133
of section 3345.06 of the Revised Code, that a student complete 24134
the Ohio core curriculum to be admitted as an undergraduate. The 24135
partnership at least shall consider criteria for waiving the 24136
requirement for students who have served in the military and 24137
students who entered ninth grade on or after July 1, 2010, in 24138
another state and moved to Ohio prior to high school graduation. 24139
The recommendations for legislative changes under this division 24140
shall be developed in consultation with the Ohio board of regents 24141
and shall be issued not later than July 1, 2007. 24142

Sec. 3301.55. (A) A school district, county MR/DD board, or 24143
eligible nonpublic school operating a preschool program shall 24144
house the program in buildings that meet the following 24145
requirements: 24146

(1) The building is operated by the district, county MR/DD 24147
board, or eligible nonpublic school and has been approved by the 24148
division of ~~industrial compliance~~ labor in the department of 24149
commerce or a certified municipal, township, or county building 24150
department for the purpose of operating a program for preschool 24151
children. Any such structure shall be constructed, equipped, 24152
repaired, altered, and maintained in accordance with applicable 24153
provisions of Chapters 3781. and 3791. and with rules adopted by 24154
the board of building standards under Chapter 3781. of the Revised 24155
Code for the safety and sanitation of structures erected for this 24156
purpose. 24157

(2) The building is in compliance with fire and safety laws 24158
and regulations as evidenced by reports of annual school fire and 24159
safety inspections as conducted by appropriate local authorities. 24160

(3) The school is in compliance with rules established by the 24161

state board of education regarding school food services. 24162

(4) The facility includes not less than thirty-five square 24163
feet of indoor space for each child in the program. Safe play 24164
space, including both indoor and outdoor play space, totaling not 24165
less than sixty square feet for each child using the space at any 24166
one time, shall be regularly available and scheduled for use. 24167

(5) First aid facilities and space for temporary placement or 24168
isolation of injured or ill children are provided. 24169

(B) Each school district, county MR/DD board, or eligible 24170
nonpublic school that operates, or proposes to operate, a 24171
preschool program shall submit a building plan including all 24172
information specified by the state board of education to the board 24173
not later than the first day of September of the school year in 24174
which the program is to be initiated. The board shall determine 24175
whether the buildings meet the requirements of this section and 24176
section 3301.53 of the Revised Code, and notify the superintendent 24177
of its determination. If the board determines, on the basis of the 24178
building plan or any other information, that the buildings do not 24179
meet those requirements, it shall cause the buildings to be 24180
inspected by the department of education. The department shall 24181
make a report to the superintendent specifying any aspects of the 24182
building that are not in compliance with the requirements of this 24183
section and section 3301.53 of the Revised Code and the time 24184
period that will be allowed the district, county MR/DD board, or 24185
school to meet the requirements. 24186

Sec. 3301.80. The office of school resource management is 24187
hereby established within the department of education. The office 24188
shall assist school districts, community schools established under 24189
Chapter 3314. of the Revised Code, and STEM schools established 24190
under Chapter 3326. of the Revised Code in improving the 24191
efficiency of their educational and operational systems by using 24192

data and best practices to redirect resources to classroom 24193
practices that research has shown to contribute to student 24194
academic success. 24195

The office shall do all of the following: 24196

(A) In consultation with the auditor of state and the 24197
director of budget and management, determine the fiscal data to be 24198
included on the funding and expenditure accountability reports 24199
required under division (C) of section 3302.031 of the Revised 24200
Code. The office shall use data collected from the department's 24201
work with school districts on resource allocation, conducted 24202
pursuant to Section 269.10.60 of Am. Sub. H.B. 119 of the 127th 24203
general assembly, in making its determination. 24204

(B) Collaborate with the auditor of state to establish the 24205
metrics for the performance audits conducted under section 3306.32 24206
of the Revised Code and to periodically publish best practices for 24207
improved operational efficiency, as identified in the performance 24208
audits; 24209

(C) Ensure that school districts, community schools, and STEM 24210
schools act in a timely manner to develop plans for implementation 24211
of the recommendations made in the performance audits conducted 24212
under section 3306.32 of the Revised Code; 24213

(D) Provide staff assistance to the Ohio research-based 24214
funding model advisory council; 24215

(E) Conduct assessments and evaluations as directed by the 24216
superintendent of public instruction. 24217

Sec. 3301.81. The office of urban and rural student success 24218
is hereby created within the department of education. The office 24219
shall do all of the following: 24220

(A) Develop system redesign and improvement strategies for 24221

<u>urban and rural school districts;</u>	24222
<u>(B) Provide school districts with recommendations and strategies to improve the academic success of students from economically disadvantaged areas;</u>	24223 24224 24225
<u>(C) Provide school districts with recommendations and strategies to address nonacademic barriers, including social, emotional, physical, and psychological barriers, facing students from economically disadvantaged areas;</u>	24226 24227 24228 24229
<u>(D) Work with the university system of Ohio institutions, private institutions of higher education, and national and international experts when implementing its duties under divisions (A) to (C) of this section;</u>	24230 24231 24232 24233
<u>(E) Provide other assistance and support to meet the unique needs of urban and rural school districts, as directed by the superintendent of public instruction.</u>	24234 24235 24236
<u>Sec. 3301.82.</u> (A) <u>The center for creativity and innovation is hereby created in the department of education. The center shall assist schools in city, exempted village, local, and joint vocational school districts in any of the following:</u>	24237 24238 24239 24240
<u>(1) The design and implementation of strategies and systems that enable schools to become professional learning communities, including the following:</u>	24241 24242 24243
<u>(a) Mentoring and coaching teachers and support staff;</u>	24244
<u>(b) Enabling school principals to focus on supporting instruction and engaging teachers and support staff as part of the instructional leadership team so that teachers and staff may share the responsibility for making and implementing school decisions;</u>	24245 24246 24247 24248
<u>(c) Adopting new models for restructuring the learning day or year, such as including teacher planning and collaboration time as part of the school day;</u>	24249 24250 24251

(d) Creating smaller schools or smaller units within larger schools to facilitate teacher collaboration to improve and advance the professional practice of teaching and to enhance instruction that yields enhanced student achievement. 24252
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(2) The use of strategies in collaboration with the teach Ohio program to promote, recruit, and enhance the teaching profession, including: 24256
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(a) The design and implementation of "grow your own" recruitment and retention strategies that are designed to support individuals in becoming licensed teachers, to retain highly qualified teachers, to assist experienced teachers in obtaining licensure in subject areas for which there is need, to assist teachers in obtaining senior professional educator and lead professional educator licenses, and to assist teachers to grow and develop in the profession; 24259
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(b) Enhanced conditions for new teachers; 24267

(c) Incentives to attract qualified mathematics, science, or special education teachers; 24268
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(d) The development and implementation of a partnership with teacher preparation programs at colleges and universities to help attract teachers qualified to teach in shortage areas; 24270
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(e) The implementation of a program to increase the cultural competency of both new and veteran teachers. 24273
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(3) Identifying statutes, rules, and regulations that impede the adoption of innovative practices and make recommendations to the superintendent of public instruction for the repeal, rescission, revision, or waiver of those provisions; 24275
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(4) Identifying promising programs and practices based on high quality education research and developing models for their early adoption; 24279
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(5) Other duties as assigned by the superintendent of public instruction. 24282
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(B) The department may accept, receive, and expend gifts, devises, or bequests of money, lands, or other properties for the center for creativity and innovation. The state board of education may adopt rules for the purpose of enabling the center to carry out the conditions and limitations upon which a bequest, gift, or endowment is made. 24284
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Sec. 3301.83. (A) The department of education, in cooperation with one or more institutions of higher education of the university system of Ohio, shall conduct an on-site visit of each school operated by a school district at least every five years to evaluate the school's operations. During each visit, the department shall do all of the following: 24290
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(1) Determine if the school has complied with the operating standards prescribed by the state board of education under division (E) of section 3301.07 of the Revised Code; 24296
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(2) Determine if the school has complied with all laws regarding academic and fiscal accountability and with all other applicable laws and administrative rules; 24299
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(3) Review the school's progress in implementing a continuous improvement plan developed under division (B) of section 3302.04 of the Revised Code, if applicable. 24302
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(B) Each on-site visit conducted under this section may include school tours, classroom observations, and interviews with administrators, teachers, other school staff, parents, community members, or students. 24305
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(C) Each school shall provide any data, documents, or other materials the department considers necessary to enable it to conduct a thorough on-site visit. 24309
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(D) Upon completion of each on-site visit, the department shall issue a written report summarizing its findings. The department shall provide a copy of the report to the district board of education. The district board may submit factual corrections to the department by a deadline established by the department. Upon receipt of any factual corrections, the department shall revise the report and issue a final version. The department shall post the final version of the report on its web site. The district board also shall post the final version on the district's web site, if the district maintains a web site.

(E) Any on-site visit required by this section may be conducted in conjunction with a site evaluation required under division (D) of section 3302.04 of the Revised Code.

(F) The state board of education shall adopt rules to implement this section.

Sec. 3301.90. The governor shall create the early childhood advisory council in accordance with 42 U.S.C. 9837b(b)(1) and shall appoint one of its members to serve as chairperson of the council. The council shall serve as the state advisory council on early childhood education and care, as described in 42 U.S.C. 9837b(b)(1). In addition to the duties specified in 42 U.S.C. 9837b(b)(1), the council shall advise the state regarding the creation and duties of the center for early childhood development.

Sec. 3302.01. As used in this chapter:

(A) "Performance index score" means the average of the totals derived from calculations for each subject area of ~~reading,~~ writing English language arts, mathematics, science, and social studies of the weighted proportion of untested students and students scoring at each level of skill described in division

(A)(2) of section 3301.0710 of the Revised Code on the ~~tests~~ 24342
assessments prescribed by divisions (A) and (B)(1) of that 24343
section. The department of education shall assign weights such 24344
that students who do not take ~~a test~~ an assessment receive a 24345
weight of zero and students who take ~~a test~~ an assessment receive 24346
progressively larger weights dependent upon the level of skill 24347
attained on the ~~test~~ assessment. The department shall also 24348
determine the performance index score a school district or 24349
building needs to achieve for the purpose of the performance 24350
ratings assigned pursuant to section 3302.03 of the Revised Code. 24351

Students shall be included in the "performance index score" 24352
in accordance with division (D)(2) of section 3302.03 of the 24353
Revised Code. 24354

(B) "Subgroup" means a subset of the entire student 24355
population of the state, a school district, or a school building 24356
and includes each of the following: 24357

(1) Major racial and ethnic groups; 24358

(2) Students with disabilities; 24359

(3) Economically disadvantaged students; 24360

(4) Limited English proficient students. 24361

(C) "No Child Left Behind Act of 2001" includes the statutes 24362
codified at 20 U.S.C. 6301 et seq. and any amendments thereto, 24363
rules and regulations promulgated pursuant to those statutes, 24364
guidance documents, and any other policy directives regarding 24365
implementation of that act issued by the United States department 24366
of education. 24367

(D) "Adequate yearly progress" means a measure of annual 24368
academic performance as calculated in accordance with the "No 24369
Child Left Behind Act of 2001." 24370

(E) "Supplemental educational services" means additional 24371

academic assistance, such as tutoring, remediation, or other 24372
educational enrichment activities, that is conducted outside of 24373
the regular school day by a provider approved by the department in 24374
accordance with the "No Child Left Behind Act of 2001." 24375

(F) "Value-added progress dimension" means a measure of 24376
academic gain for a student or group of students over a specific 24377
period of time that is calculated by applying a statistical 24378
methodology to individual student achievement data derived from 24379
the achievement ~~tests~~ assessments prescribed by section 3301.0710 24380
of the Revised Code. 24381

Sec. 3302.02. ~~The~~ Not later than December 31, 2009, and not 24382
later than the thirty-first day of December every sixth year 24383
thereafter, upon recommendations of the superintendent of public 24384
instruction, the state board of education ~~annually through 2007,~~ 24385
~~and every six years thereafter,~~ shall establish ~~at least seventeen~~ 24386
performance indicators for the report cards required by division 24387
(C) of section 3302.03 of the Revised Code. In establishing these 24388
indicators, the ~~state board~~ superintendent shall consider 24389
inclusion of student performance on ~~any tests given~~ assessments 24390
prescribed under section 3301.0710 or 3301.0712 of the Revised 24391
Code, rates of student improvement on such tests, student 24392
attendance, the breadth of coursework available within the 24393
district, and other indicators of student success. The ~~state board~~ 24394
superintendent shall inform the Ohio accountability task force 24395
established under section 3302.021 of the Revised Code of the 24396
performance indicators ~~it~~ the superintendent establishes under 24397
this section and the rationale for choosing each indicator and for 24398
determining how a school district or building meets that 24399
indicator. 24400

The ~~state board~~ superintendent shall not establish any 24401
performance indicator for passage of the third or fourth grade 24402

~~reading test~~ English language arts assessment that is solely based 24403
on the ~~test~~ assessment given in the fall for the purpose of 24404
determining whether students have met the reading guarantee 24405
provisions of section 3313.608 of the Revised Code. 24406

Sec. 3302.021. (A) Not earlier than July 1, 2005, and not 24407
later than July 1, 2007, the department of education shall 24408
implement a value-added progress dimension for school districts 24409
and buildings and shall incorporate the value-added progress 24410
dimension into the report cards and performance ratings issued for 24411
districts and buildings under section 3302.03 of the Revised Code. 24412

The state board of education shall adopt rules, pursuant to 24413
Chapter 119. of the Revised Code, for the implementation of the 24414
value-added progress dimension. In adopting rules, the state board 24415
shall consult with the Ohio accountability task force established 24416
under division ~~(D)~~(E) of this section. The rules adopted under 24417
this division shall specify both of the following: 24418

(1) A scale for describing the levels of academic progress in 24419
reading and mathematics relative to a standard year of academic 24420
growth in those subjects for each of grades three through eight; 24421

(2) That the department shall maintain the confidentiality of 24422
individual student test scores and individual student reports in 24423
accordance with sections 3301.0711, 3301.0714, and 3319.321 of the 24424
Revised Code and federal law. The department may require school 24425
districts to use a unique identifier for each student for this 24426
purpose. Individual student test scores and individual student 24427
reports shall be made available only to a student's classroom 24428
teacher and other appropriate educational personnel and to the 24429
student's parent or guardian. 24430

(B) The department shall use a system designed for collecting 24431
necessary data, calculating the value-added progress dimension, 24432
analyzing data, and generating reports, which system has been used 24433

previously by a non-profit organization led by the Ohio business 24434
community for at least one year in the operation of a pilot 24435
program in cooperation with school districts to collect and report 24436
student achievement data via electronic means and to provide 24437
information to the districts regarding the academic performance of 24438
individual students, grade levels, school buildings, and the 24439
districts as a whole. 24440

(C) The department shall not pay more than two dollars per 24441
student for data analysis and reporting to implement the 24442
value-added progress dimension in the same manner and with the 24443
same services as under the pilot program described by division (B) 24444
of this section. However, nothing in this section shall preclude 24445
the department or any school district from entering into a 24446
contract for the provision of more services at a higher fee per 24447
student. Any data analysis conducted under this section by an 24448
entity under contract with the department shall be completed in 24449
accordance with timelines established by the superintendent of 24450
public instruction. 24451

(D) The department shall share any aggregate student data and 24452
any calculation, analysis, or report utilizing aggregate student 24453
data that is generated under this section with the chancellor of 24454
the Ohio board of regents. The department shall not share 24455
individual student test scores and individual student reports with 24456
the chancellor. 24457

(E)(1) There is hereby established the Ohio accountability 24458
task force. The task force shall consist of the following thirteen 24459
members: 24460

(a) The chairpersons and ranking minority members of the 24461
house of representatives and senate standing committees primarily 24462
responsible for education legislation, who shall be nonvoting 24463
members; 24464

(b) One representative of the governor's office, appointed by the governor;	24465 24466
(c) The superintendent of public instruction, or the superintendent's designee;	24467 24468
(d) One representative of teacher employee organizations formed pursuant to Chapter 4117. of the Revised Code, appointed by the speaker of the house of representatives;	24469 24470 24471
(e) One representative of school district boards of education, appointed by the president of the senate;	24472 24473
(f) One school district superintendent, appointed by the speaker of the house of representatives;	24474 24475
(g) One representative of business, appointed by the president of the senate;	24476 24477
(h) One representative of a non-profit organization led by the Ohio business community, appointed by the governor;	24478 24479
(i) One school building principal, appointed by the president of the senate;	24480 24481
(j) A member of the state board of education, appointed by the speaker of the house of representatives.	24482 24483
Initial appointed members of the task force shall serve until January 1, 2005. Thereafter, terms of office for appointed members shall be for two years, each term ending on the same day of the same month as did the term that it succeeds. Each appointed member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term.	24484 24485 24486 24487 24488 24489 24490 24491 24492 24493 24494

The task force shall select from among its members a chairperson. The task force shall meet at least six times each calendar year and at other times upon the call of the chairperson to conduct its business. Members of the task force shall serve without compensation.

(2) The task force shall do all of the following:

(a) Examine the implementation of the value-added progress dimension by the department, including the system described in division (B) of this section, the reporting of performance data to school districts and buildings, and the provision of professional development on the interpretation of the data to classroom teachers and administrators;

(b) Periodically review any fees for data analysis and reporting paid by the department pursuant to division (C) of this section and determine if the fees are appropriate based upon the level of services provided;

(c) Periodically report to the department and the state board on all issues related to the school district and building accountability system established under this chapter;

(d) Not later than seven years after its initial meeting, make recommendations to improve the school district and building accountability system established under this chapter. The task force shall adopt recommendations by a majority vote of its members. Copies of the recommendations shall be provided to the state board, the governor, the speaker of the house of representatives, and the president of the senate.

(e) Determine starting dates for the implementation of the value-added progress dimension and its incorporation into school district and building report cards and performance ratings.

Sec. 3302.03. (A) Annually the department of education shall

report for each school district and each school building in a	24525
district all of the following:	24526
(1) The extent to which the school district or building meets	24527
each of the applicable performance indicators created by the state	24528
board of education under section 3302.02 of the Revised Code and	24529
the number of applicable performance indicators that have been	24530
achieved;	24531
(2) The performance index score of the school district or	24532
building;	24533
(3) Whether the school district or building has made adequate	24534
yearly progress;	24535
(4) Whether the school district or building is excellent,	24536
effective, needs continuous improvement, is under an academic	24537
watch, or is in a state of academic emergency.	24538
(B) Except as otherwise provided in divisions (B)(6) and (7)	24539
of this section:	24540
(1) A school district or building shall be declared excellent	24541
if it fulfills one of the following requirements:	24542
(a) It makes adequate yearly progress and either meets at	24543
least ninety-four per cent of the applicable state performance	24544
indicators or has a performance index score established by the	24545
department.	24546
(b) It has failed to make adequate yearly progress for not	24547
more than two consecutive years and either meets at least	24548
ninety-four per cent of the applicable state performance	24549
indicators or has a performance index score established by the	24550
department.	24551
(2) A school district or building shall be declared effective	24552
if it fulfills one of the following requirements:	24553
(a) It makes adequate yearly progress and either meets at	24554

least seventy-five per cent but less than ninety-four per cent of 24555
the applicable state performance indicators or has a performance 24556
index score established by the department. 24557

(b) It does not make adequate yearly progress and either 24558
meets at least seventy-five per cent of the applicable state 24559
performance indicators or has a performance index score 24560
established by the department, except that if it does not make 24561
adequate yearly progress for three consecutive years, it shall be 24562
declared in need of continuous improvement. 24563

(3) A school district or building shall be declared to be in 24564
need of continuous improvement if it fulfills one of the following 24565
requirements: 24566

(a) It makes adequate yearly progress, meets less than 24567
seventy-five per cent of the applicable state performance 24568
indicators, and has a performance index score established by the 24569
department. 24570

(b) It does not make adequate yearly progress and either 24571
meets at least fifty per cent but less than seventy-five per cent 24572
of the applicable state performance indicators or has a 24573
performance index score established by the department. 24574

(4) A school district or building shall be declared to be 24575
under an academic watch if it does not make adequate yearly 24576
progress and either meets at least thirty-one per cent but less 24577
than fifty per cent of the applicable state performance indicators 24578
or has a performance index score established by the department. 24579

(5) A school district or building shall be declared to be in 24580
a state of academic emergency if it does not make adequate yearly 24581
progress, does not meet at least thirty-one per cent of the 24582
applicable state performance indicators, and has a performance 24583
index score established by the department. 24584

(6) When designating performance ratings for school districts 24585

and buildings under divisions (B)(1) to (5) of this section, the 24586
department shall not assign a school district or building a lower 24587
designation from its previous year's designation based solely on 24588
one subgroup not making adequate yearly progress. 24589

(7) Division (B)(7) of this section does not apply to any 24590
community school established under Chapter 3314. of the Revised 24591
Code in which a majority of the students are enrolled in a dropout 24592
prevention and recovery program. 24593

A school district or building shall not be assigned a higher 24594
performance rating than in need of continuous improvement if at 24595
least ten per cent but not more than fifteen per cent of the 24596
enrolled students do not take all achievement ~~tests~~ assessments 24597
prescribed for their grade level under division (A)(1) or (B)(1) 24598
of section 3301.0710 of the Revised Code from which they are not 24599
excused pursuant to division (C)(1) or (3) of section 3301.0711 of 24600
the Revised Code. A school district or building shall not be 24601
assigned a higher performance rating than under an academic watch 24602
if more than fifteen per cent but not more than twenty per cent of 24603
the enrolled students do not take all achievement ~~tests~~ 24604
assessments prescribed for their grade level under division (A)(1) 24605
or (B)(1) of section 3301.0710 of the Revised Code from which they 24606
are not excused pursuant to division (C)(1) or (3) of section 24607
3301.0711 of the Revised Code. A school district or building shall 24608
not be assigned a higher performance rating than in a state of 24609
academic emergency if more than twenty per cent of the enrolled 24610
students do not take all achievement ~~tests~~ assessments prescribed 24611
for their grade level under division (A)(1) or (B)(1) of section 24612
3301.0710 of the Revised Code from which they are not excused 24613
pursuant to division (C)(1) or (3) of section 3301.0711 of the 24614
Revised Code. 24615

(C)(1) The department shall issue annual report cards for 24616
each school district, each building within each district, and for 24617

the state as a whole reflecting performance on the indicators 24618
created by the state board under section 3302.02 of the Revised 24619
Code, the performance index score, and adequate yearly progress. 24620

(2) The department shall include on the report card for each 24621
district information pertaining to any change from the previous 24622
year made by the school district or school buildings within the 24623
district on any performance indicator. 24624

(3) When reporting data on student performance, the 24625
department shall disaggregate that data according to the following 24626
categories: 24627

(a) Performance of students by age group; 24628

(b) Performance of students by race and ethnic group; 24629

(c) Performance of students by gender; 24630

(d) Performance of students grouped by those who have been 24631
enrolled in a district or school for three or more years; 24632

(e) Performance of students grouped by those who have been 24633
enrolled in a district or school for more than one year and less 24634
than three years; 24635

(f) Performance of students grouped by those who have been 24636
enrolled in a district or school for one year or less; 24637

(g) Performance of students grouped by those who are 24638
economically disadvantaged; 24639

(h) Performance of students grouped by those who are enrolled 24640
in a conversion community school established under Chapter 3314. 24641
of the Revised Code; 24642

(i) Performance of students grouped by those who are 24643
classified as limited English proficient; 24644

(j) Performance of students grouped by those who have 24645
disabilities; 24646

(k) Performance of students grouped by those who are 24647
classified as migrants; 24648

(l) Performance of students grouped by those who are 24649
identified as gifted pursuant to Chapter 3324. of the Revised 24650
Code. 24651

The department may disaggregate data on student performance 24652
according to other categories that the department determines are 24653
appropriate. To the extent possible, the department shall 24654
disaggregate data on student performance according to any 24655
combinations of two or more of the categories listed in divisions 24656
(C)(3)(a) to (l) of this section that it deems relevant. 24657

In reporting data pursuant to division (C)(3) of this 24658
section, the department shall not include in the report cards any 24659
data statistical in nature that is statistically unreliable or 24660
that could result in the identification of individual students. 24661
For this purpose, the department shall not report student 24662
performance data for any group identified in division (C)(3) of 24663
this section that contains less than ten students. 24664

(4) The department may include with the report cards any 24665
additional education and fiscal performance data it deems 24666
valuable. 24667

(5) The department shall include on each report card a list 24668
of additional information collected by the department that is 24669
available regarding the district or building for which the report 24670
card is issued. When available, such additional information shall 24671
include student mobility data disaggregated by race and 24672
socioeconomic status, college enrollment data, and the reports 24673
prepared under section 3302.031 of the Revised Code. 24674

The department shall maintain a site on the world wide web. 24675
The report card shall include the address of the site and shall 24676
specify that such additional information is available to the 24677

public at that site. The department shall also provide a copy of 24678
each item on the list to the superintendent of each school 24679
district. The district superintendent shall provide a copy of any 24680
item on the list to anyone who requests it. 24681

(6)(a) This division does not apply to conversion community 24682
schools that primarily enroll students between sixteen and 24683
twenty-two years of age who dropped out of high school or are at 24684
risk of dropping out of high school due to poor attendance, 24685
disciplinary problems, or suspensions. 24686

For any district that sponsors a conversion community school 24687
under Chapter 3314. of the Revised Code, the department shall 24688
combine data regarding the academic performance of students 24689
enrolled in the community school with comparable data from the 24690
schools of the district for the purpose of calculating the 24691
performance of the district as a whole on the report card issued 24692
for the district. 24693

(b) Any district that leases a building to a community school 24694
located in the district or that enters into an agreement with a 24695
community school located in the district whereby the district and 24696
the school endorse each other's programs may elect to have data 24697
regarding the academic performance of students enrolled in the 24698
community school combined with comparable data from the schools of 24699
the district for the purpose of calculating the performance of the 24700
district as a whole on the district report card. Any district that 24701
so elects shall annually file a copy of the lease or agreement 24702
with the department. 24703

(7) The department shall include on each report card the 24704
percentage of teachers in the district or building who are highly 24705
qualified, as defined by the "No Child Left Behind Act of 2001," 24706
and a comparison of that percentage with the percentages of such 24707
teachers in similar districts and buildings. 24708

(8) The department shall include on the report card the number of ~~master~~ lead teachers employed by each district and each building once the data is available from the education management information system established under section 3301.0714 of the Revised Code.

(D)(1) In calculating ~~reading, writing~~ English language arts, mathematics, social studies, or science ~~proficiency or achievement test~~ assessment passage rates used to determine school district or building performance under this section, the department shall include all students taking ~~a test~~ an assessment with accommodation or to whom an alternate assessment is administered pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code.

(2) In calculating performance index scores, rates of achievement on the performance indicators established by the state board under section 3302.02 of the Revised Code, and adequate yearly progress for school districts and buildings under this section, the department shall do all of the following:

(a) Include for each district or building only those students who are included in the ADM certified for the first full school week of October and are continuously enrolled in the district or building through the time of the spring administration of any ~~test~~ assessment prescribed by division (A)(1) or (B)(1) of section 3301.0710 of the Revised Code that is administered to the student's grade level;

(b) Include cumulative totals from both the fall and spring administrations of the third grade reading achievement test;

(c) Except as required by the "No Child Left Behind Act of 2001" for the calculation of adequate yearly progress, exclude for each district or building any limited English proficient student who has been enrolled in United States schools for less than one

full school year. 24740

Sec. 3302.031. (A) As used in this section: 24741

(1) "Community school" means a community school established 24742
under Chapter 3314. of the Revised Code. 24743

(2) "STEM school" means a science, technology, engineering, 24744
and mathematics school established under Chapter 3326. of the 24745
Revised Code. 24746

(B) In addition to the report cards required under section 24747
3302.03 of the Revised Code, the department of education shall 24748
annually prepare the following reports for each school district 24749
and described in this section. The department shall make a copy of 24750
each report available to the public on the department's web site 24751
and shall provide a hard copy of each report to the applicable 24752
school district superintendent of each district. 24753

(A) A, community school chief administrator, or STEM school 24754
chief administrative officer. 24755

(C) The department shall prepare a funding and expenditure 24756
accountability report which shall consist of for each school 24757
district, community school, and STEM school. The report shall 24758
specify the amount of state aid payments for the fiscal year the 24759
school district, community school, or STEM school will receive 24760
during the fiscal year under Chapter Chapters 3306. and 3317. of 24761
the Revised Code and. The report shall include any other fiscal 24762
data the department office of school resource management 24763
established under section 3301.80 of the Revised Code determines 24764
is necessary to inform the public about the financial status of 24765
the district. 24766

(B) or school. 24767

(D) The department shall prepare the following reports for 24768
each school district: 24769

(1) A school safety and discipline report which shall consist 24770
of statistical information regarding student safety and discipline 24771
in each school building, including the number of suspensions and 24772
expulsions disaggregated according to race and gender; 24773

~~(C)~~(2) A student equity report which shall consist of at 24774
least a description of the status of teacher qualifications, 24775
library and media resources, textbooks, classroom materials and 24776
supplies, and technology resources for each district. To the 24777
extent possible, the information included in the report required 24778
under this division shall be disaggregated according to grade 24779
level, race, gender, disability, and scores attained on ~~tests~~ 24780
assessments required under section 3301.0710 of the Revised Code. 24781

~~(D)~~(3) A school enrollment report which shall consist of 24782
information about the composition of classes within each district 24783
by grade and subject disaggregated according to race, gender, and 24784
scores attained on ~~tests~~ assessments required under section 24785
3301.0710 of the Revised Code; 24786

~~(E)~~(4) A student retention report which shall consist of the 24787
number of students retained in their respective grade levels in 24788
the district disaggregated by grade level, subject area, race, 24789
gender, and disability; 24790

~~(F)~~(5) A school district performance report which shall 24791
describe for the district and each building within the district 24792
the extent to which the district or building meets each of the 24793
applicable performance indicators established under section 24794
3302.02 of the Revised Code, the number of performance indicators 24795
that have been achieved, and the performance index score. In 24796
calculating the rates of achievement on the performance indicators 24797
and the performance index scores for each report, the department 24798
shall exclude all students with disabilities. 24799

Sec. 3302.05. The state board of education shall adopt rules 24800

freeing school districts declared to be excellent under division 24801
(B)(1) or effective under division (B)(2) of section 3302.03 of 24802
the Revised Code from specified state mandates. Any mandates 24803
included in the rules shall be only those statutes or rules 24804
pertaining to state education requirements. The rules shall not 24805
exempt districts from any standard or requirement of Chapter 3306. 24806
or from any operating standard adopted under division (E) of 24807
section 3301.07 of the Revised Code. 24808

Sec. 3302.07. (A) The board of education of any school 24809
district, the governing board of any educational service center, 24810
or the administrative authority of any chartered nonpublic school 24811
may submit to the state board of education an application 24812
proposing an innovative education pilot program the implementation 24813
of which requires exemptions from specific statutory provisions or 24814
rules. If a district or service center board employs teachers 24815
under a collective bargaining agreement adopted pursuant to 24816
Chapter 4117. of the Revised Code, any application submitted under 24817
this division shall include the written consent of the teachers' 24818
employee representative designated under division (B) of section 24819
4117.04 of the Revised Code. The exemptions requested in the 24820
application shall be limited to any requirement of Title XXXIII of 24821
the Revised Code or of any rule of the state board adopted 24822
pursuant to that title except that the application may not propose 24823
an exemption from any requirement of or rule adopted pursuant to 24824
Chapter 3307. or 3309., sections 3319.07 to 3319.21, or Chapter 24825
3323. of the Revised Code. Furthermore, an exemption from any 24826
standard or requirement of Chapter 3306. or from any operating 24827
standard adopted under division (E) of section 3301.07 of the 24828
Revised Code shall be granted only pursuant to a waiver granted by 24829
the superintendent of public instruction under section 3306.40 of 24830
the Revised Code. 24831

(B) The state board of education shall accept any application 24832

submitted in accordance with division (A) of this section. The 24833
superintendent of public instruction shall approve or disapprove 24834
the application in accordance with standards for approval, which 24835
shall be adopted by the state board. 24836

(C) The superintendent of public instruction shall exempt 24837
each district or service center board or chartered nonpublic 24838
school administrative authority with an application approved under 24839
division (B) of this section for a specified period from the 24840
statutory provisions or rules specified in the approved 24841
application. The period of exemption shall not exceed the period 24842
during which the pilot program proposed in the application is 24843
being implemented and a reasonable period to allow for evaluation 24844
of the effectiveness of the program. 24845

Sec. 3304.231. There is hereby created a brain injury 24846
advisory committee, which shall advise the administrator of the 24847
rehabilitation services commission and the brain injury program 24848
with regard to unmet needs of survivors of brain injury, 24849
development of programs for survivors and their families, 24850
establishment of training programs for health care professionals, 24851
and any other matter within the province of the brain injury 24852
program. The committee shall consist of not ~~less~~ fewer than 24853
~~eighteen~~ twenty and not more than ~~twenty-one~~ twenty-two members as 24854
follows: 24855

(A) Not ~~less~~ fewer than ten and not more than twelve members 24856
appointed by the administrator of the rehabilitation services 24857
commission, including all of the following: a survivor of brain 24858
injury, a relative of a survivor of brain injury, a licensed 24859
physician recommended by the Ohio chapter of the American college 24860
of emergency physicians, a licensed physician recommended by the 24861
Ohio state medical association, one other health care 24862
professional, a rehabilitation professional, an individual who 24863

represents the brain injury association of Ohio, and not ~~less~~ 24864
fewer than three nor more than five individuals who shall 24865
represent the public; 24866

(B) The directors of the departments of health, alcohol and 24867
drug addiction services, mental retardation and developmental 24868
disabilities, mental health, job and family services, aging, and 24869
~~highway public~~ safety; the administrator of workers' compensation; 24870
the superintendent of public instruction; and the administrator of 24871
the rehabilitation services commission. Any of the officials 24872
specified in this division may designate an individual to serve in 24873
the official's place as a member of the committee. 24874

~~The director of health shall make initial appointments to the~~ 24875
~~committee by November 1, 1990. Appointments made after July 26,~~ 24876
~~1991, shall be made by the administrator of the rehabilitation~~ 24877
~~services commission.~~ Terms of office of the appointed members 24878
shall be two years. Members may be reappointed. Vacancies shall be 24879
filled in the manner provided for original appointments. Any 24880
member appointed to fill a vacancy occurring prior to the 24881
expiration date of the term for which the member's predecessor was 24882
appointed shall hold office as a member for the remainder of that 24883
term. 24884

Members of the committee shall serve without compensation, 24885
but shall be reimbursed for actual and necessary expenses incurred 24886
in the performance of their duties. 24887

Sec. 3306.01. This chapter shall be administered by the state 24888
board of education. The superintendent of public instruction shall 24889
calculate the amounts payable to each school district and shall 24890
certify the amounts payable to each eligible district to the 24891
treasurer of the district as determined under this chapter. As 24892
soon as possible after such amounts are calculated, the 24893
superintendent shall certify to the treasurer of each school 24894

district the district's adjusted charge-off increase, as defined 24895
in section 5705.211 of the Revised Code. No moneys shall be 24896
distributed pursuant to this chapter without the approval of the 24897
controlling board. 24898

The state board of education shall, in accordance with 24899
appropriations made by the general assembly, meet the financial 24900
obligations of this chapter. 24901

Annually, the department of education shall calculate and 24902
report to each school district the district's adequacy amount 24903
utilizing the calculations in sections 3306.03 and 3306.13 of the 24904
Revised Code. The department shall calculate and report separately 24905
for each school district the district's total state and local 24906
funds for its students with disabilities, utilizing the 24907
calculations in sections 3306.05, 3306.11, and 3306.13 of the 24908
Revised Code. The department shall calculate and report separately 24909
for each school district the amount of funding calculated for each 24910
factor of the district's adequacy amount. 24911

Not later than the thirty-first day of August of each fiscal 24912
year, the department of education shall provide to each school 24913
district a preliminary estimate of the amount of funding that the 24914
department calculates the district will receive under section 24915
3306.13 of the Revised Code. Not later than the first day of 24916
December of each fiscal year, the department shall update that 24917
preliminary estimate. 24918

Moneys distributed pursuant to this chapter shall be 24919
calculated and paid on a fiscal year basis, beginning with the 24920
first day of July and extending through the thirtieth day of June. 24921
Unless otherwise provided, the moneys appropriated for each fiscal 24922
year shall be distributed at least monthly to each school 24923
district. The state board shall submit a yearly distribution plan 24924
to the controlling board at its first meeting in July. The state 24925

board shall submit any proposed midyear revision of the plan to 24926
the controlling board in January. Any year-end revision of the 24927
plan shall be submitted to the controlling board in June. If 24928
moneys appropriated for each fiscal year are distributed other 24929
than monthly, such distribution shall be on the same basis for 24930
each school district. 24931

The total amounts paid each month shall constitute, as nearly 24932
as possible, one-twelfth of the total amount payable for the 24933
entire year. 24934

Payments shall be calculated to reflect the reporting of 24935
formula ADM. Annualized periodic payments for each school district 24936
shall be based on the district's final student counts verified by 24937
the superintendent of public instruction based on reports under 24938
section 3317.03 of the Revised Code, as adjusted, if so ordered, 24939
under division (K) of that section. 24940

(A) Except as otherwise provided, payments under this chapter 24941
shall be made only to those school districts that comply with 24942
divisions (A)(1) to (3) of this section. 24943

(1) Each city, exempted village, and local school district 24944
shall levy for current operating expenses at least twenty mills. 24945
Levies for joint vocational or cooperative education school 24946
districts or county school financing districts, limited to or to 24947
the extent apportioned to current expenses, shall be included in 24948
this qualification requirement. School district income tax levies 24949
under Chapter 5748. of the Revised Code, limited to or to the 24950
extent apportioned to current operating expenses, shall be 24951
included in this qualification requirement to the extent 24952
determined by the tax commissioner under division (D) of section 24953
3317.021 of the Revised Code. 24954

(2) Each city, exempted village, local, and joint vocational 24955
school district, during the school learning year next preceding 24956

the fiscal year for which payments are calculated under this 24957
chapter, shall meet the requirement of section 3313.48 or 3313.481 24958
of the Revised Code, with regard to the minimum number of days or 24959
hours school must be open for instruction with pupils in 24960
attendance, for individualized parent-teacher conference and 24961
reporting periods, and for professional meetings of teachers. Up 24962
to five learning days shall be waived by the superintendent of 24963
public instruction if it had been necessary for a school to be 24964
closed because of disease epidemic, hazardous weather conditions, 24965
inoperability of school buses or other equipment necessary to the 24966
school's operation, damage to a school building, or other 24967
temporary circumstances due to utility failure rendering the 24968
school building unfit for school use. The state board shall adopt 24969
standards for the superintendent to apply in determining the 24970
waiver of days or hours for schools operating under section 24971
3313.481 of the Revised Code. 24972

A school district shall not be considered to have failed to 24973
comply with this division or section 3313.481 of the Revised Code 24974
because schools were open for instruction but either twelfth grade 24975
students were excused from attendance for up to three days or only 24976
a portion of the kindergarten students were in attendance for up 24977
to three days in order to allow for the gradual orientation to 24978
school of such students. 24979

The superintendent of public instruction shall waive the 24980
requirements of this section with reference to the minimum number 24981
of days or hours a school must be open for instruction with pupils 24982
in attendance for the learning year succeeding the learning year 24983
in which a board of education initiates a plan of operation 24984
pursuant to section 3313.481 of the Revised Code. The minimum 24985
requirements of this section shall again be applicable to the 24986
district beginning with the learning year commencing the second 24987
July succeeding the initiation of the plan, and for each learning 24988

year thereafter. 24989

A school district shall not be considered to have failed to 24990
comply with this division or section 3313.48 or 3313.481 of the 24991
Revised Code because schools were open for instruction but the 24992
length of the regularly scheduled learning day, for any number of 24993
days during the learning year, was reduced by not more than two 24994
hours due to hazardous weather conditions. 24995

(3) Each city, exempted village, local, and joint vocational 24996
school district shall have on file, and shall pay in accordance 24997
with, a teachers' salary schedule which complies with section 24998
3317.13 of the Revised Code. 24999

(B) A school district board of education or educational 25000
service center governing board that has not conformed with other 25001
law, and the rules pursuant thereto, shall not participate in the 25002
distribution of funds authorized by this chapter, except for good 25003
and sufficient reason established to the satisfaction of the state 25004
board of education and the state controlling board. 25005

(C) All funds allocated to school districts under this 25006
chapter, except those specifically allocated for other purposes, 25007
shall be used to pay current operating expenses only. 25008

(D) On or before the third Wednesday of each month, the 25009
department of education shall certify to the director of budget 25010
and management for payment, for each county: 25011

(1)(a) That portion of the allocation of money under section 25012
3306.13 of the Revised Code that is required to be paid in that 25013
month to each school district located wholly within the county 25014
subsequent to the deductions described in division (D)(1)(b) of 25015
this section; 25016

(b) The amounts deducted from such allocation under sections 25017
3307.31 and 3309.51 of the Revised Code for payment directly to 25018
the school employees and state teachers retirement systems under 25019

such sections. 25020

(2) If the district is located in more than one county, an 25021
apportionment of the amounts that would otherwise be certified 25022
under division (D)(1) of this section. The amounts apportioned to 25023
the county shall equal the amounts certified under division (D)(1) 25024
of this section times the percentage of the district's resident 25025
pupils who reside both in the district and in the county. 25026

Sec. 3306.011. Beginning with fiscal year 2010, the payments 25027
prescribed by this chapter supersede and replace the payments 25028
described under sections 3317.012, 3317.013, 3317.014, 3317.022, 25029
3317.029, 3317.0216, 3317.0217, and 3317.16 of the Revised Code, 25030
except as otherwise provided in section 3317.018 of the Revised 25031
Code. 25032

Sec. 3306.02. As used in this chapter: 25033

(A) "Adequacy amount" means the amount described in section 25034
3306.03 of the Revised Code. 25035

(B) "Career-technical education teacher" means an education 25036
professional who provides specialized instruction in career and 25037
technical courses. 25038

(C)(1) "Category one special education ADM" means a school 25039
district's formula ADM of children whose primary or only 25040
identified disability is a speech and language disability, as this 25041
term is defined pursuant to Chapter 3323. of the Revised Code. 25042
Beginning in fiscal year 2010, for any school district for which 25043
formula ADM means the number verified in the previous fiscal year, 25044
the category one special education ADM also shall be as verified 25045
from the previous year. 25046

(2) "Category two special education ADM" means a school 25047
district's formula ADM of children identified as specific learning 25048
disabled or developmentally disabled, as these terms are defined 25049

pursuant to Chapter 3323. of the Revised Code, or as having an 25050
other health impairment-minor, as defined in this section. 25051
Beginning in fiscal year 2010, for any school district for which 25052
formula ADM means the number verified in the previous fiscal year, 25053
the category two special education ADM also shall be as verified 25054
from the previous year. 25055

(3) "Category three special education ADM" means a school 25056
district's formula ADM of children identified as hearing disabled, 25057
vision impaired, or severe behavior disabled, as these terms are 25058
defined pursuant to Chapter 3323. of the Revised Code. Beginning 25059
in fiscal year 2010, for any school district for which formula ADM 25060
means the number verified in the previous fiscal year, the 25061
category three special education ADM also shall be as verified 25062
from the previous year. 25063

(4) "Category four special education ADM" means a school 25064
district's formula ADM of children identified as orthopedically 25065
disabled, as this term is defined pursuant to Chapter 3323. of the 25066
Revised Code, or as having an other health impairment-major, as 25067
defined in this section. Beginning in fiscal year 2010, for any 25068
school district for which formula ADM means the number verified in 25069
the previous fiscal year, the category four special education ADM 25070
also shall be as verified from the previous year. 25071

(5) "Category five special education ADM" means a school 25072
district's formula ADM of children identified as having multiple 25073
disabilities, as this term is defined pursuant to Chapter 3323. of 25074
the Revised Code. Beginning in fiscal year 2010, for any school 25075
district for which formula ADM means the number verified in the 25076
previous fiscal year, the category five special education ADM also 25077
shall be as verified from the previous year. 25078

(6) "Category six special education ADM" means a school 25079
district's formula ADM of children identified as autistic, having 25080
traumatic brain injuries, or as both visually and hearing 25081

impaired, as these terms are defined pursuant to Chapter 3323. of 25082
the Revised Code. Beginning in fiscal year 2010, for any school 25083
district for which formula ADM means the number verified in the 25084
previous fiscal year, the category six special education ADM also 25085
shall be as verified from the previous year. 25086

(D) "Class one effective operating tax rate" of a school 25087
district means the quotient obtained by dividing the district's 25088
class one taxes charged and payable for current expenses by the 25089
district's class one taxable value. 25090

(E) "Core teacher" means an education professional who 25091
provides instruction in English-language arts, mathematics, 25092
science, social studies, or foreign languages. 25093

(F) "Counselor" means a person with a valid educator license 25094
issued pursuant to section 3319.22 of the Revised Code who 25095
provides pre-college and career counseling, general academic 25096
counseling, course planning, and other counseling services that 25097
are not related to a student's individualized education plan, as 25098
defined in section 3323.01 of the Revised Code. 25099

(G)(1) "Formula ADM" means, for a city, local, or exempted 25100
village school district, the average daily membership described in 25101
division (A) of section 3317.03 of the Revised Code, as verified 25102
by the superintendent of public instruction and adjusted if so 25103
ordered under division (K) of that section, further adjusted by 25104
the department of education, as follows: 25105

(a) Count only twenty per cent of the number of joint 25106
vocational school district students counted under division (A)(3) 25107
of section 3317.03 of the Revised Code; 25108

(b) Add twenty per cent of the number of students who are 25109
entitled to attend school in the district under section 3313.64 or 25110
3313.65 of the Revised Code and are enrolled in another school 25111
district under a career-technical educational compact. 25112

(2) In making calculations under this chapter that utilize 25113
formula ADM, the department shall use the formula ADM derived from 25114
the final, verified, and adjusted average daily membership 25115
described under division (A) of section 3317.03 of the Revised 25116
Code for the prior fiscal year, unless such average daily 25117
membership for the current fiscal year exceeds that number by two 25118
per cent or more. In that case, the department shall derive the 25119
formula ADM from such average daily membership for the current 25120
fiscal year. 25121

(3) For fiscal year 2010, the department shall calculate 25122
formula ADM on the basis of the final, verified, and adjusted 25123
average daily membership, described in division (A) of the version 25124
of section 3317.03 of the Revised Code in effect on and after the 25125
effective date of this amendment, for October 2008 unless such 25126
average daily membership for October 2009 exceeds that number by 25127
two per cent or more. In that case, the department shall derive 25128
the formula ADM from such average daily membership for October 25129
2009. 25130

(H) "Internet- or computer-based community school" has the 25131
same meaning as in section 3314.02 of the Revised Code. 25132

(I) "Lead teacher" means a teacher who provides mentoring and 25133
coaching for new teachers. A lead teacher also assists in 25134
coordinating professional development activities, in the 25135
development of professional learning communities, and in common 25136
planning time, and assists teachers in developing project-based, 25137
real-world learning activities for their students. The lead 25138
teacher position shall be a rotating position in which an 25139
individual shall serve no more than three years. After lead 25140
teacher licenses become available under section 3319.22 of the 25141
Revised Code, only teachers who hold that license shall be 25142
appointed as lead teachers. Until that time, each school district 25143
shall designate qualifications for the lead teacher position that 25144

are comparable to the licensing requirements, and shall give 25145
preference for appointment to the position to teachers who are 25146
certified by the national board for professional teaching 25147
standards or who meet the qualifications for a "master teacher" 25148
established by the educator standards board under the former 25149
version of section 3319.61 of the Revised Code. 25150

(J) "Limited English proficiency teacher" means a person who 25151
provides instruction in English as a second language. 25152

(K) "Medically fragile child" means a child to whom all of 25153
the following apply: 25154

(1) The child requires the services of a doctor of medicine 25155
or osteopathic medicine at least once a week due to the 25156
instability of the child's medical condition. 25157

(2) The child requires the services of a registered nurse on 25158
a daily basis. 25159

(3) The child is at risk of institutionalization in a 25160
hospital, skilled nursing facility, or intermediate care facility 25161
for the mentally retarded. 25162

(L) "Ohio instructional quality index" (Ohio IQ index) means 25163
an index applied to the statewide base teacher salary to adjust 25164
the funding amount for each school district to account for student 25165
and community socioeconomic factors affecting teacher recruitment 25166
and retention, professional development, and other factors related 25167
to quality instruction. The Ohio IQ index for each school district 25168
includes the district's college attainment rate of population, 25169
wealth per pupil, and concentration of poverty, and is listed in 25170
section 3306.051 of the Revised Code. 25171

(M) "Organizational unit" means, for the purpose of 25172
calculating a school district's adequacy amount under this 25173
chapter, a unit used to index a school district's formula ADM in 25174
certain grade levels. Calculating the number of organizational 25175

units in a school district functions to allocate the state's 25176
resources in a manner that achieves a thorough, efficient, and 25177
adequate educational system that provides the appropriate services 25178
to students enrolled in that district. In recognition of the fact 25179
that students have different educational needs at each 25180
developmental stage, organizational units group the grade levels 25181
into elementary school units, middle school units, and high school 25182
units. Except as provided in division (C) of section 3306.04 of 25183
the Revised Code, a school district's "organizational units" is 25184
the sum of its elementary school units, middle school units, and 25185
high school units. 25186

(N) A child may be identified as having an "other health 25187
impairment-major" if the child's condition meets the definition of 25188
"other health impaired" established in rules adopted by the state 25189
board of education prior to July 1, 2001, and if either of the 25190
following apply: 25191

(1) The child is identified as having a medical condition 25192
that is among those listed by the superintendent of public 25193
instruction as conditions where a substantial majority of cases 25194
fall within the definition of "medically fragile child." 25195

(2) The child is determined by the superintendent of public 25196
instruction to be a medically fragile child. A school district may 25197
petition the superintendent of public instruction for a 25198
determination that a child is a medically fragile child. 25199

(O) A child may be identified as having an "other health 25200
impairment-minor" if the child's condition meets the definition of 25201
"other health impaired" established in rules adopted by the state 25202
board of education prior to July 1, 2001, but the child's 25203
condition does not meet either of the conditions specified in 25204
division (N)(1) or (2) of this section. 25205

(P) "Principal" means a person who provides management 25206

<u>oversight of building operations, academic leadership for the</u>	25207
<u>teaching professionals, and other administrative duties.</u>	25208
<u>(O) "Property exemption value" means the amount certified for</u>	25209
<u>a school district under divisions (A)(6) and (7) of section</u>	25210
<u>3317.021 of the Revised Code.</u>	25211
<u>(R) "Recognized valuation" means the amount calculated for a</u>	25212
<u>school district pursuant to section 3317.015 of the Revised Code.</u>	25213
<u>(S) "School nurse" means a person who has fulfilled the</u>	25214
<u>requirements for the issuance of a school nurse license under</u>	25215
<u>section 3319.221 of the Revised Code or is otherwise qualified to</u>	25216
<u>be a school nurse under that section.</u>	25217
<u>(T) "Small school district" means a city, local, or exempted</u>	25218
<u>village school district that has a formula ADM of less than eight</u>	25219
<u>hundred students in grades kindergarten through twelve.</u>	25220
<u>(U) "Special education" has the same meaning as in section</u>	25221
<u>3323.01 of the Revised Code.</u>	25222
<u>(V) "Special education teacher" means a teacher who holds the</u>	25223
<u>necessary license issued pursuant to section 3319.22 of the</u>	25224
<u>Revised Code to meet the unique needs of children with</u>	25225
<u>disabilities.</u>	25226
<u>(W) "Special education teacher's aide" means a person</u>	25227
<u>providing support for special education teachers and other</u>	25228
<u>associated duties.</u>	25229
<u>(X) "Specialist teacher" means a person holding a valid</u>	25230
<u>educator's license, issued pursuant to section 3319.22 of the</u>	25231
<u>Revised Code, who provides instruction in art, music, or physical</u>	25232
<u>education.</u>	25233
<u>(Y) "State share percentage" means the quotient of a school</u>	25234
<u>district's state share of the adequacy amount determined under</u>	25235
<u>section 3306.13 of the Revised Code divided by the total adequacy</u>	25236

amount for the district as described in section 3306.03 of the 25237
Revised Code. If the quotient is a negative number, the district's 25238
state share percentage is zero. 25239

(Z) "Student support staff" means individuals who provide 25240
assistance to students and their families and may include 25241
individuals who hold valid licenses as family liaisons, social 25242
workers, and student advocates. 25243

(AA) "Supplemental teacher" means a person holding a valid 25244
educator license issued pursuant to section 3319.22 of the Revised 25245
Code, or qualified to secure such a license and approved by the 25246
school district to provide remedial services, intensive 25247
subject-based instruction, homework help, or other forms of 25248
supplemental instruction. 25249

(BB) "Targeted poverty indicator" means the percentage of a 25250
school district's students who are economically disadvantaged, as 25251
determined for purposes of the report card issued under section 25252
3302.03 of the Revised Code. 25253

(CC) "Total taxable value" means the sum of the amounts 25254
certified for a school district under divisions (A)(1) and (2) of 25255
section 3317.021 of the Revised Code. 25256

Sec. 3306.03. (A) The adequacy amount for each city, local, 25257
and exempted village school district is the sum of the following: 25258

(1) Instructional services support calculated under section 25259
3306.05 of the Revised Code; 25260

(2) Additional services support calculated under section 25261
3306.06 of the Revised Code; 25262

(3) Administrative services support calculated under section 25263
3306.07 of the Revised Code; 25264

(4) Operations and maintenance support calculated under 25265
section 3306.08 of the Revised Code; 25266

<u>(5) Gifted education and enrichment support calculated under section 3306.09 of the Revised Code;</u>	25267 25268
<u>(6) Technology resources support calculated under section 3306.10 of the Revised Code;</u>	25269 25270
<u>(7) The professional development factor, calculated by multiplying the sum of the school district's core teacher, specialist teacher, career-technical education teacher, supplemental teacher, lead teacher, special education teacher, special education teacher's aide, and limited English proficiency teacher positions, all as calculated under sections 3306.05 and 3306.11 of the Revised Code, by \$1,833 in fiscal years 2010 and 2011;</u>	25271 25272 25273 25274 25275 25276 25277 25278
<u>(8) The instructional materials factor, calculated by multiplying the school district's formula ADM by \$165. The instructional materials factor for each city, local, and exempted village school district, except the Cleveland municipal school district, shall be adjusted by multiplying this calculated amount by 0.25 in fiscal years 2010 and 2011, by 0.5 in fiscal years 2012 and 2013, and by 0.75 in fiscal years 2014 and 2015.</u>	25279 25280 25281 25282 25283 25284 25285
<u>(B) The state share of the adequacy amount paid to each school district shall be determined under section 3306.13 of the Revised Code.</u>	25286 25287 25288
<u>(C) Transportation support shall be calculated under section 3306.12 of the Revised Code and is in addition to the state share of the adequacy amount.</u>	25289 25290 25291
Sec. 3306.04. <u>(A) For purposes of calculating the adequacy amount for each city, local, and exempted village school district, the department of education shall calculate the number of the district's organizational units.</u>	25292 25293 25294 25295
<u>(B) Except for a small school district, each school</u>	25296

district's "organizational units" is the sum of its elementary school units, middle school units, and high school units, as follows: 25297
25298
25299

(1) The number of the district's elementary school organizational units is calculated by dividing its formula ADM for grades kindergarten to five by four hundred eighteen. 25300
25301
25302

(2) The number of the district's middle school organizational units is calculated by dividing its formula ADM for grades six to eight by five hundred fifty-seven. 25303
25304
25305

(3) The number of the district's high school organizational units is calculated by dividing its formula ADM for grades nine to twelve by seven hundred thirty-three. 25306
25307
25308

(C) For each small school district, the number of organizational units is one organizational unit. 25309
25310

Sec. 3306.05. (A) The instructional services support component of the adequacy amount for each city, local, and exempted village school district is the sum of the following: 25311
25312
25313

(1) The core teacher factor; 25314

(2) The specialist teacher factor; 25315

(3) The career-technical education teacher factor; 25316

(4) The lead teacher factor; 25317

(5) The special education teacher factor; 25318

(6) The special education teacher's aide factor; 25319

(7) The limited English proficiency teacher factor; 25320

(8) The supplemental teacher factor. 25321

(B) Each factor listed in division (A) of this section shall be calculated by multiplying the Ohio instructional quality index, specified for the district in section 3306.051 of the Revised 25322
25323
25324

Code, times the statewide base teacher salary of \$51,407 in fiscal 25325
year 2010 and \$52,402 in fiscal year 2011, times the number of 25326
positions funded, as follows: 25327

(1) The number of core teacher positions funded shall be 25328
calculated by dividing the district's formula ADM in grades four 25329
to twelve by twenty-five, and then adding that number to the 25330
quotient of the district's formula ADM in grades kindergarten to 25331
three divided by fifteen. 25332

(2) The number of specialist teacher positions funded shall 25333
be calculated by multiplying the number of core teacher positions 25334
determined under division (B)(1) of this section for grades 25335
kindergarten to eight by one-fifth, and by multiplying the number 25336
of core teacher positions determined for grades nine to twelve by 25337
one-fourth. 25338

(3) The number of career-technical education teacher 25339
positions funded shall be calculated by multiplying the number of 25340
core teacher positions determined under division (B)(1) of this 25341
section for grades nine to twelve by one-tenth. 25342

(4) The number of lead teacher positions funded shall equal 25343
the number of the district's organizational units. 25344

(5) The number of special education teacher positions and 25345
special education teacher's aide positions funded shall be 25346
calculated as provided in section 3306.11 of the Revised Code. 25347

(6) The number of limited English proficiency teacher 25348
positions funded shall be calculated by multiplying the district's 25349
formula ADM times the district's percentage of limited English 25350
proficient students, as defined in 20 U.S.C. 7801, and then 25351
dividing that product by one hundred; 25352

(7) The number of supplemental teacher positions funded shall 25353
be calculated by multiplying the district's formula ADM times its 25354
targeted poverty indicator, and then dividing that product by one 25355

hundred. 25356

(C) The Ohio instructional quality index shall have a minimum value of 0.9 and a maximum value of 1.65 in fiscal years 2010 and 2011. The index for each district is listed in section 3306.051 of the Revised Code and is based on the following characteristics: 25357
25358
25359
25360

(1) The college attainment rate of the district's population; 25361

(2) The district's wealth per pupil, based on property valuation and federal adjusted gross income; 25362
25363

(3) The district's concentration of poverty, based on its targeted poverty indicator. 25364
25365

(D) Each school district shall account separately for expenditures of the amounts received for instructional services support under this section and report that information to the department of education. 25366
25367
25368
25369

Sec. 3306.051. The Ohio instructional quality index value for each school district for fiscal years 2010 and 2011 shall equal the following: 25370
25371
25372

<u>School District</u>	<u>County</u>	<u>Index Value</u>	
<u>Ada Ex Vill SD</u>	<u>Hardin</u>	<u>1.38316738407939</u>	25373
<u>Adena Local SD</u>	<u>Ross</u>	<u>1.43553813428764</u>	25374
<u>Akron City SD</u>	<u>Summit</u>	<u>1.55214598095557</u>	25375
<u>Alexander Local SD</u>	<u>Athens</u>	<u>1.43015630472456</u>	25376
<u>Allen East Local SD</u>	<u>Allen</u>	<u>1.57269169950975</u>	25377
<u>Alliance City SD</u>	<u>Stark</u>	<u>1.55377378649335</u>	25378
<u>Amanda-Clearcreek Local SD</u>	<u>Fairfield</u>	<u>1.45137446956102</u>	25379
<u>Amherst Ex Vill SD</u>	<u>Lorain</u>	<u>1.26277474396294</u>	25380
<u>Anna Local SD</u>	<u>Shelby</u>	<u>1.30802644788057</u>	25381
<u>Ansonia Local SD</u>	<u>Darke</u>	<u>1.47254958516085</u>	25382
<u>Anthony Wayne Local SD</u>	<u>Lucas</u>	<u>1.15668482622759</u>	25383
<u>Antwerp Local SD</u>	<u>Paulding</u>	<u>1.34480292336779</u>	25384

<u>Arcadia Local SD</u>	<u>Hancock</u>	<u>1.29249407493999</u>	25386
<u>Arcanum Butler Local SD</u>	<u>Darke</u>	<u>1.32640064122142</u>	25387
<u>Archbold-Area Local SD</u>	<u>Fulton</u>	<u>1.25061423607860</u>	25388
<u>Arlington Local SD</u>	<u>Hancock</u>	<u>1.29910094614466</u>	25389
<u>Ashland City SD</u>	<u>Ashland</u>	<u>1.37797615070599</u>	25390
<u>Ashtabula Area City SD</u>	<u>Ashtabula</u>	<u>1.51877802872340</u>	25391
<u>Athens City SD</u>	<u>Athens</u>	<u>1.31449076237183</u>	25392
<u>Aurora City SD</u>	<u>Portage</u>	<u>1.10734045821710</u>	25393
<u>Austintown Local SD</u>	<u>Mahoning</u>	<u>1.37991786814453</u>	25394
<u>Avon Lake City SD</u>	<u>Lorain</u>	<u>1.08523904301942</u>	25395
<u>Avon Local SD</u>	<u>Lorain</u>	<u>1.14371335782636</u>	25396
<u>Ayersville Local SD</u>	<u>Defiance</u>	<u>1.27249740539908</u>	25397
<u>Barberton City SD</u>	<u>Summit</u>	<u>1.51373365473467</u>	25398
<u>Barnesville Ex Vill SD</u>	<u>Belmont</u>	<u>1.45649517851804</u>	25399
<u>Batavia Local SD</u>	<u>Clermont</u>	<u>1.42311415635436</u>	25400
<u>Bath Local SD</u>	<u>Allen</u>	<u>1.37390782718537</u>	25401
<u>Bay Village City SD</u>	<u>Cuyahoga</u>	<u>1.04169620144073</u>	25402
<u>Beachwood City SD</u>	<u>Cuyahoga</u>	<u>0.94752740903294</u>	25403
<u>Beaver Local SD</u>	<u>Columbiana</u>	<u>1.44663970637407</u>	25404
<u>Beavercreek City SD</u>	<u>Greene</u>	<u>1.10233418952533</u>	25405
<u>Bedford City SD</u>	<u>Cuyahoga</u>	<u>1.38138151793617</u>	25406
<u>Bellaire Local SD</u>	<u>Belmont</u>	<u>1.54814282495971</u>	25407
<u>Bellefontaine City SD</u>	<u>Logan</u>	<u>1.43566043746975</u>	25408
<u>Bellevue City SD</u>	<u>Huron</u>	<u>1.40775954457181</u>	25409
<u>Belpre City SD</u>	<u>Washington</u>	<u>1.41023881963485</u>	25410
<u>Benjamin Logan Local SD</u>	<u>Logan</u>	<u>1.28681097115163</u>	25411
<u>Benton Carroll Salem Local SD</u>	<u>Ottawa</u>	<u>1.25416794146071</u>	25412
<u>Berea City SD</u>	<u>Cuyahoga</u>	<u>1.29309745615398</u>	25413
<u>Berkshire Local SD</u>	<u>Geauga</u>	<u>1.23337868603712</u>	25414
<u>Berlin-Milan Local SD</u>	<u>Erie</u>	<u>1.26903303404587</u>	25415
<u>Berne Union Local SD</u>	<u>Fairfield</u>	<u>1.39141663685448</u>	25416
<u>Bethel Local SD</u>	<u>Miami</u>	<u>1.22696605951354</u>	25417
<u>Bethel-Tate Local SD</u>	<u>Clermont</u>	<u>1.44348412790439</u>	25418

<u>Bettsville Local SD</u>	<u>Seneca</u>	<u>1.45954051086539</u>	25419
<u>Bexley City SD</u>	<u>Franklin</u>	<u>0.97177691910840</u>	25420
<u>Big Walnut Local SD</u>	<u>Delaware</u>	<u>1.15777445294517</u>	25421
<u>Black River Local SD</u>	<u>Medina</u>	<u>1.33125252175806</u>	25422
<u>Blanchester Local SD</u>	<u>Clinton</u>	<u>1.44133156389658</u>	25423
<u>Bloom Carroll Local SD</u>	<u>Fairfield</u>	<u>1.21725736389741</u>	25424
<u>Bloomfield-Mespo Local SD</u>	<u>Trumbull</u>	<u>1.47810342437094</u>	25425
<u>Bloom-Vernon Local SD</u>	<u>Scioto</u>	<u>1.53096151025636</u>	25426
<u>Bluffton Ex Vill SD</u>	<u>Allen</u>	<u>1.26511636832154</u>	25427
<u>Boardman Local SD</u>	<u>Mahoning</u>	<u>1.27242556321390</u>	25428
<u>Botkins Local SD</u>	<u>Shelby</u>	<u>1.32391507325438</u>	25429
<u>Bowling Green City SD</u>	<u>Wood</u>	<u>1.18936100946643</u>	25430
<u>Bradford Ex Vill SD</u>	<u>Miami</u>	<u>1.47668290588311</u>	25431
<u>Brecksville-Broadview Heights SD</u>	<u>Cuyahoga</u>	<u>1.08517333216299</u>	25432
<u>Bridgeport Ex Vill SD</u>	<u>Belmont</u>	<u>1.53955555092516</u>	25433
<u>Bright Local SD</u>	<u>Highland</u>	<u>1.49850029080538</u>	25434
<u>Bristol Local SD</u>	<u>Trumbull</u>	<u>1.42992181224065</u>	25435
<u>Brookfield Local SD</u>	<u>Trumbull</u>	<u>1.44641168039274</u>	25436
<u>Brooklyn City SD</u>	<u>Cuyahoga</u>	<u>1.32088162236318</u>	25437
<u>Brookville Local SD</u>	<u>Montgomery</u>	<u>1.27428760962536</u>	25438
<u>Brown Local SD</u>	<u>Carroll</u>	<u>1.42274988725259</u>	25439
<u>Brunswick City SD</u>	<u>Medina</u>	<u>1.25818142070963</u>	25440
<u>Bryan City SD</u>	<u>Williams</u>	<u>1.35510972451512</u>	25441
<u>Buckeye Central Local SD</u>	<u>Crawford</u>	<u>1.43556609890524</u>	25442
<u>Buckeye Local SD</u>	<u>Medina</u>	<u>1.25024557534983</u>	25443
<u>Buckeye Local SD</u>	<u>Ashtabula</u>	<u>1.42727786511946</u>	25444
<u>Buckeye Local SD</u>	<u>Jefferson</u>	<u>1.49104688372842</u>	25445
<u>Buckeye Valley Local SD</u>	<u>Delaware</u>	<u>1.19663044098474</u>	25446
<u>Bucyrus City SD</u>	<u>Crawford</u>	<u>1.51932379931540</u>	25447
<u>Caldwell Ex Vill SD</u>	<u>Noble</u>	<u>1.44702551299587</u>	25448
<u>Cambridge City SD</u>	<u>Guernsey</u>	<u>1.48763589236089</u>	25449
<u>Campbell City SD</u>	<u>Mahoning</u>	<u>1.59250191980130</u>	25450

<u>Canal Winchester Local SD</u>	<u>Franklin</u>	<u>1.25811337381224</u>	25451
<u>Canfield Local SD</u>	<u>Mahoning</u>	<u>1.13149156287008</u>	25452
<u>Canton City SD</u>	<u>Stark</u>	<u>1.58510056214224</u>	25453
<u>Canton Local SD</u>	<u>Stark</u>	<u>1.41966052743520</u>	25454
<u>Cardinal Local SD</u>	<u>Geauga</u>	<u>1.33455603134067</u>	25455
<u>Cardington-Lincoln Local SD</u>	<u>Morrow</u>	<u>1.44849895394800</u>	25456
<u>Carey Ex Vill SD</u>	<u>Wyandot</u>	<u>1.33384949646612</u>	25457
<u>Carlisle Local SD</u>	<u>Warren</u>	<u>1.33580211776124</u>	25458
<u>Carrollton Ex Vill SD</u>	<u>Carroll</u>	<u>1.46169062269906</u>	25459
<u>Cedar Cliff Local SD</u>	<u>Greene</u>	<u>1.28375128584839</u>	25460
<u>Celina City SD</u>	<u>Mercer</u>	<u>1.38978722105822</u>	25461
<u>Centerburg Local SD</u>	<u>Knox</u>	<u>1.31718289325592</u>	25462
<u>Centerville City SD</u>	<u>Montgomery</u>	<u>1.04534749311330</u>	25463
<u>Central Local SD</u>	<u>Defiance</u>	<u>1.44896788872840</u>	25464
<u>Chagrin Falls Ex Vill SD</u>	<u>Cuyahoga</u>	<u>0.92806339634686</u>	25465
<u>Champion Local SD</u>	<u>Trumbull</u>	<u>1.29828831389434</u>	25466
<u>Chardon Local SD</u>	<u>Geauga</u>	<u>1.16011777810320</u>	25467
<u>Chesapeake Union Ex Vill SD</u>	<u>Lawrence</u>	<u>1.58847985557405</u>	25468
<u>Chillicothe City SD</u>	<u>Ross</u>	<u>1.43763524232520</u>	25469
<u>Chippewa Local SD</u>	<u>Wayne</u>	<u>1.27547606449697</u>	25470
<u>Cincinnati City SD</u>	<u>Hamilton</u>	<u>1.39724805642255</u>	25471
<u>Circleville City SD</u>	<u>Pickaway</u>	<u>1.42853982852450</u>	25472
<u>Clark-Shawnee Local SD</u>	<u>Clark</u>	<u>1.24608765962594</u>	25473
<u>Clay Local SD</u>	<u>Scioto</u>	<u>1.58935803702085</u>	25474
<u>Claymont City SD</u>	<u>Tuscarawas</u>	<u>1.53994952373754</u>	25475
<u>Clear Fork Valley Local SD</u>	<u>Richland</u>	<u>1.43233722358787</u>	25476
<u>Clearview Local SD</u>	<u>Lorain</u>	<u>1.53134193118229</u>	25477
<u>Clermont-Northeastern Local SD</u>	<u>Clermont</u>	<u>1.36825007417610</u>	25478
<u>Cleveland Hts-Univ Hts City SD</u>	<u>Cuyahoga</u>	<u>1.24571831169949</u>	25479
<u>Cleveland Municipal SD</u>	<u>Cuyahoga</u>	<u>1.60289354981704</u>	25480
<u>Clinton-Massie Local SD</u>	<u>Clinton</u>	<u>1.29071273982582</u>	25481
<u>Cloverleaf Local SD</u>	<u>Medina</u>	<u>1.26511723352296</u>	25482
<u>Clyde-Green Springs Ex Vill</u>	<u>Sandusky</u>	<u>1.43282449163555</u>	25483

<u>Coldwater Ex Vill SD</u>	<u>Mercer</u>	<u>1.33214048705060</u>	25484
<u>College Corner Local</u>	<u>Preble</u>	<u>1.43416557601467</u>	25485
<u>Colonel Crawford Local SD</u>	<u>Crawford</u>	<u>1.28266972583038</u>	25486
<u>Columbia Local SD</u>	<u>Lorain</u>	<u>1.23273957214914</u>	25487
<u>Columbiana Ex Vill SD</u>	<u>Columbiana</u>	<u>1.34816729646916</u>	25488
<u>Columbus City SD</u>	<u>Franklin</u>	<u>1.50998831550651</u>	25489
<u>Columbus Grove Local SD</u>	<u>Putnam</u>	<u>1.33992445789154</u>	25490
<u>Conneaut Area City SD</u>	<u>Ashtabula</u>	<u>1.51834676212769</u>	25491
<u>Conotton Valley Union Local SD</u>	<u>Harrison</u>	<u>1.47346528535669</u>	25492
<u>Continental Local SD</u>	<u>Putnam</u>	<u>1.34835504123222</u>	25493
<u>Copley-Fairlawn City SD</u>	<u>Summit</u>	<u>1.08781730755701</u>	25494
<u>Cory-Rawson Local SD</u>	<u>Hancock</u>	<u>1.30745767921531</u>	25495
<u>Coshocton City SD</u>	<u>Coshocton</u>	<u>1.52389546644770</u>	25496
<u>Coventry Local SD</u>	<u>Summit</u>	<u>1.31625562097883</u>	25497
<u>Covington Ex Vill SD</u>	<u>Miami</u>	<u>1.32093103273870</u>	25498
<u>Crestline Ex Vill SD</u>	<u>Crawford</u>	<u>1.50618157718821</u>	25499
<u>Crestview Local SD</u>	<u>Van Wert</u>	<u>1.32416145392487</u>	25500
<u>Crestview Local SD</u>	<u>Columbiana</u>	<u>1.42681221633056</u>	25501
<u>Crestview Local SD</u>	<u>Richland</u>	<u>1.46029096980587</u>	25502
<u>Crestwood Local SD</u>	<u>Portage</u>	<u>1.28915840399508</u>	25503
<u>Crooksville Ex Vill SD</u>	<u>Perry</u>	<u>1.55524713510970</u>	25504
<u>Cuyahoga Falls City SD</u>	<u>Summit</u>	<u>1.29472249957176</u>	25505
<u>Cuyahoga Heights Local SD</u>	<u>Cuyahoga</u>	<u>1.08397065897270</u>	25506
<u>Dalton Local SD</u>	<u>Wayne</u>	<u>1.28474012693261</u>	25507
<u>Danbury Local SD</u>	<u>Ottawa</u>	<u>1.17738813058462</u>	25508
<u>Danville Local SD</u>	<u>Knox</u>	<u>1.47595998856154</u>	25509
<u>Dawson-Bryant Local SD</u>	<u>Lawrence</u>	<u>1.64999999860561</u>	25510
<u>Dayton City SD</u>	<u>Montgomery</u>	<u>1.59882629675223</u>	25511
<u>Deer Park Community City SD</u>	<u>Hamilton</u>	<u>1.22059427909729</u>	25512
<u>Defiance City SD</u>	<u>Defiance</u>	<u>1.44815254657630</u>	25513
<u>Delaware City SD</u>	<u>Delaware</u>	<u>1.31590669314289</u>	25514
<u>Delphos City SD</u>	<u>Allen</u>	<u>1.37291297684486</u>	25515
<u>Dover City SD</u>	<u>Tuscarawas</u>	<u>1.34802082896793</u>	25516

<u>Dublin City SD</u>	<u>Franklin</u>	<u>1.03557869169081</u>	25517
<u>East Cleveland City SD</u>	<u>Cuyahoga</u>	<u>1.57875962905799</u>	25518
<u>East Clinton Local SD</u>	<u>Clinton</u>	<u>1.43884724706681</u>	25519
<u>East Guernsey Local SD</u>	<u>Guernsey</u>	<u>1.50389850636380</u>	25520
<u>East Holmes Local SD</u>	<u>Holmes</u>	<u>1.37084015495185</u>	25521
<u>East Knox Local SD</u>	<u>Knox</u>	<u>1.36747400053643</u>	25522
<u>East Liverpool City SD</u>	<u>Columbiana</u>	<u>1.58704385412617</u>	25523
<u>East Muskingum Local SD</u>	<u>Muskingum</u>	<u>1.38540064669836</u>	25524
<u>East Palestine City SD</u>	<u>Columbiana</u>	<u>1.46693037855365</u>	25525
<u>Eastern Local SD</u>	<u>Brown</u>	<u>1.45183276222165</u>	25526
<u>Eastern Local SD</u>	<u>Meigs</u>	<u>1.49439146282248</u>	25527
<u>Eastern Local SD</u>	<u>Pike</u>	<u>1.56501140713917</u>	25528
<u>Eastwood Local SD</u>	<u>Wood</u>	<u>1.28412114166561</u>	25529
<u>Eaton Community Schools City SD</u>	<u>Preble</u>	<u>1.29800267496843</u>	25530
<u>Egerton Local SD</u>	<u>Williams</u>	<u>1.42293056560928</u>	25531
<u>Edgewood City SD</u>	<u>Butler</u>	<u>1.32839986593760</u>	25532
<u>Edison Local SD</u>	<u>Jefferson</u>	<u>1.42099747437496</u>	25533
<u>Edon-Northwest Local SD</u>	<u>Williams</u>	<u>1.43397933393019</u>	25534
<u>Elgin Local SD</u>	<u>Marion</u>	<u>1.45498743566858</u>	25535
<u>Elida Local SD</u>	<u>Allen</u>	<u>1.38940016011008</u>	25536
<u>Elmwood Local SD</u>	<u>Wood</u>	<u>1.42993297670141</u>	25537
<u>Elyria City SD</u>	<u>Lorain</u>	<u>1.48524463252506</u>	25538
<u>Euclid City SD</u>	<u>Cuyahoga</u>	<u>1.45236276931526</u>	25539
<u>Evergreen Local SD</u>	<u>Fulton</u>	<u>1.29295438360618</u>	25540
<u>Fairbanks Local SD</u>	<u>Union</u>	<u>1.23062333223189</u>	25541
<u>Fairborn City SD</u>	<u>Greene</u>	<u>1.38382906314715</u>	25542
<u>Fairfield City SD</u>	<u>Butler</u>	<u>1.32472719332600</u>	25543
<u>Fairfield Local SD</u>	<u>Highland</u>	<u>1.45221136317333</u>	25544
<u>Fairfield Union Local SD</u>	<u>Fairfield</u>	<u>1.41866061653927</u>	25545
<u>Fairland Local SD</u>	<u>Lawrence</u>	<u>1.41014076823602</u>	25546
<u>Fairlawn Local SD</u>	<u>Shelby</u>	<u>1.42251392255897</u>	25547
<u>Fairless Local SD</u>	<u>Stark</u>	<u>1.46888750000397</u>	25548
<u>Fairport Harbor Ex Vill SD</u>	<u>Lake</u>	<u>1.26463115195593</u>	25549

<u>Fairview Park City SD</u>	<u>Cuyahoga</u>	<u>1.09750947227520</u>	25550
<u>Fayetteville-Perry Local SD</u>	<u>Brown</u>	<u>1.32653257314879</u>	25551
<u>Federal Hocking Local SD</u>	<u>Athens</u>	<u>1.49279976833603</u>	25552
<u>Felicity-Franklin Local SD</u>	<u>Clermont</u>	<u>1.52903530365890</u>	25553
<u>Field Local SD</u>	<u>Portage</u>	<u>1.25075619919269</u>	25554
<u>Findlay City SD</u>	<u>Hancock</u>	<u>1.34187673058970</u>	25555
<u>Finneytown Local SD</u>	<u>Hamilton</u>	<u>1.25811214852114</u>	25556
<u>Firelands Local SD</u>	<u>Lorain</u>	<u>1.27474833123824</u>	25557
<u>Forest Hills Local SD</u>	<u>Hamilton</u>	<u>1.09649616156492</u>	25558
<u>Fort Frye Local SD</u>	<u>Washington</u>	<u>1.43537811535156</u>	25559
<u>Fort Loramie Local SD</u>	<u>Shelby</u>	<u>1.32317520719380</u>	25560
<u>Fort Recovery Local SD</u>	<u>Mercer</u>	<u>1.34574582565514</u>	25561
<u>Fostoria City SD</u>	<u>Seneca</u>	<u>1.53824747839516</u>	25562
<u>Franklin City SD</u>	<u>Warren</u>	<u>1.40014000318357</u>	25563
<u>Franklin Local SD</u>	<u>Muskingum</u>	<u>1.50068569251994</u>	25564
<u>Franklin-Monroe Local SD</u>	<u>Darke</u>	<u>1.31740937162472</u>	25565
<u>Fredericktown Local SD</u>	<u>Knox</u>	<u>1.38453181235125</u>	25566
<u>Fremont City SD</u>	<u>Sandusky</u>	<u>1.44996450292466</u>	25567
<u>Frontier Local SD</u>	<u>Washington</u>	<u>1.53535453981975</u>	25568
<u>Gahanna-Jefferson City SD</u>	<u>Franklin</u>	<u>1.12062807996759</u>	25569
<u>Galion City SD</u>	<u>Crawford</u>	<u>1.46186408377590</u>	25570
<u>Gallia County Local SD</u>	<u>Gallia</u>	<u>1.37843949120302</u>	25571
<u>Gallipolis City SD</u>	<u>Gallia</u>	<u>1.42879451256901</u>	25572
<u>Garaway Local SD</u>	<u>Tuscarawas</u>	<u>1.38338962667883</u>	25573
<u>Garfield Heights City SD</u>	<u>Cuyahoga</u>	<u>1.47037813428889</u>	25574
<u>Geneva Area City SD</u>	<u>Ashtabula</u>	<u>1.42980373575442</u>	25575
<u>Genoa Area Local SD</u>	<u>Ottawa</u>	<u>1.30492934819837</u>	25576
<u>Georgetown Ex Vill SD</u>	<u>Brown</u>	<u>1.45049981190264</u>	25577
<u>Gibsonburg Ex Vill SD</u>	<u>Sandusky</u>	<u>1.41973899028890</u>	25578
<u>Girard City SD</u>	<u>Trumbull</u>	<u>1.45171569796094</u>	25579
<u>Gorham Fayette Local SD</u>	<u>Fulton</u>	<u>1.45276532074211</u>	25580
<u>Goshen Local SD</u>	<u>Clermont</u>	<u>1.45266475692510</u>	25581
<u>Graham Local SD</u>	<u>Champaign</u>	<u>1.32665933360426</u>	25582

<u>Grand Valley Local SD</u>	<u>Ashtabula</u>	<u>1.44443157404406</u>	25583
<u>Grandview Heights City SD</u>	<u>Franklin</u>	<u>1.05715174023419</u>	25584
<u>Granville Ex Vill SD</u>	<u>Licking</u>	<u>1.12546080485330</u>	25585
<u>Green Local SD</u>	<u>Summit</u>	<u>1.20914895485172</u>	25586
<u>Green Local SD</u>	<u>Wayne</u>	<u>1.29697586453035</u>	25587
<u>Green Local SD</u>	<u>Scioto</u>	<u>1.50061918101022</u>	25588
<u>Greeneview Local SD</u>	<u>Greene</u>	<u>1.30983820096443</u>	25589
<u>Greenfield Ex Vill SD</u>	<u>Highland</u>	<u>1.48867200730298</u>	25590
<u>Greenon Local SD</u>	<u>Clark</u>	<u>1.24819339722606</u>	25591
<u>Greenville City SD</u>	<u>Darke</u>	<u>1.39845027178583</u>	25592
<u>Groveport Madison Local SD</u>	<u>Franklin</u>	<u>1.42486561517981</u>	25593
<u>Hamilton City SD</u>	<u>Butler</u>	<u>1.50322080985444</u>	25594
<u>Hamilton Local SD</u>	<u>Franklin</u>	<u>1.50099180565206</u>	25595
<u>Hardin Northern Local SD</u>	<u>Hardin</u>	<u>1.33513845443379</u>	25596
<u>Hardin-Houston Local SD</u>	<u>Shelby</u>	<u>1.33024037937401</u>	25597
<u>Harrison Hills City SD</u>	<u>Harrison</u>	<u>1.48360210640209</u>	25598
<u>Heath City SD</u>	<u>Licking</u>	<u>1.37014207853392</u>	25599
<u>Hicksville Ex Vill SD</u>	<u>Defiance</u>	<u>1.42578343711423</u>	25600
<u>Highland Local SD</u>	<u>Medina</u>	<u>1.15462654956542</u>	25601
<u>Highland Local SD</u>	<u>Morrow</u>	<u>1.43674846694920</u>	25602
<u>Hilliard City SD</u>	<u>Franklin</u>	<u>1.15499737138687</u>	25603
<u>Hillsboro City SD</u>	<u>Highland</u>	<u>1.44784231719139</u>	25604
<u>Hillsdale Local SD</u>	<u>Ashland</u>	<u>1.36744039411471</u>	25605
<u>Holgate Local SD</u>	<u>Henry</u>	<u>1.45908573125797</u>	25606
<u>Hopewell-Loudon Local SD</u>	<u>Seneca</u>	<u>1.28701165411616</u>	25607
<u>Howland Local SD</u>	<u>Trumbull</u>	<u>1.19250395392728</u>	25608
<u>Hubbard Ex Vill SD</u>	<u>Trumbull</u>	<u>1.39953327733513</u>	25609
<u>Huber Heights City SD</u>	<u>Montgomery</u>	<u>1.36444690734240</u>	25610
<u>Hudson Local SD</u>	<u>Summit</u>	<u>1.03459304336645</u>	25611
<u>Huntington Local SD</u>	<u>Ross</u>	<u>1.53889299808252</u>	25612
<u>Huron City SD</u>	<u>Erie</u>	<u>1.14053143129847</u>	25613
<u>Independence Local SD</u>	<u>Cuyahoga</u>	<u>1.05784984319311</u>	25614
<u>Indian Creek Local SD</u>	<u>Jefferson</u>	<u>1.41771842988952</u>	25615

<u>Indian Hill Ex Vill SD</u>	<u>Hamilton</u>	<u>0.92406992241823</u>	25616
<u>Indian Lake Local SD</u>	<u>Logan</u>	<u>1.39541881854353</u>	25617
<u>Indian Valley Local SD</u>	<u>Tuscarawas</u>	<u>1.47381759991295</u>	25618
<u>Ironton City SD</u>	<u>Lawrence</u>	<u>1.50524548028105</u>	25619
<u>Jackson Center Local SD</u>	<u>Shelby</u>	<u>1.40358240379299</u>	25620
<u>Jackson City SD</u>	<u>Jackson</u>	<u>1.46178062136183</u>	25621
<u>Jackson Local SD</u>	<u>Stark</u>	<u>1.12101253666008</u>	25622
<u>Jackson-Milton Local SD</u>	<u>Mahoning</u>	<u>1.34696148443454</u>	25623
<u>James A. Garfield Local SD</u>	<u>Portage</u>	<u>1.40152604498374</u>	25624
<u>Jefferson Area Local SD</u>	<u>Ashtabula</u>	<u>1.41493866864379</u>	25625
<u>Jefferson Local SD</u>	<u>Madison</u>	<u>1.40148468543385</u>	25626
<u>Jefferson Township Local SD</u>	<u>Montgomery</u>	<u>1.57018385664522</u>	25627
<u>Jennings Local SD</u>	<u>Putnam</u>	<u>1.32558049330764</u>	25628
<u>Johnstown-Monroe Local SD</u>	<u>Licking</u>	<u>1.25523129741942</u>	25629
<u>Jonathan Alder Local SD</u>	<u>Madison</u>	<u>1.27929021176620</u>	25630
<u>Joseph Badger Local SD</u>	<u>Trumbull</u>	<u>1.39708420710346</u>	25631
<u>Kalida Local SD</u>	<u>Putnam</u>	<u>1.29369740054305</u>	25632
<u>Kelleys Island Local SD</u>	<u>Erie</u>	<u>1.08230502299516</u>	25633
<u>Kenston Local SD</u>	<u>Geauga</u>	<u>1.06287240007333</u>	25634
<u>Kent City SD</u>	<u>Portage</u>	<u>1.49729859506890</u>	25635
<u>Kenton City SD</u>	<u>Hardin</u>	<u>1.46729840654854</u>	25636
<u>Kettering City SD</u>	<u>Montgomery</u>	<u>1.24782418848630</u>	25637
<u>Keystone Local SD</u>	<u>Lorain</u>	<u>1.29017809063895</u>	25638
<u>Kings Local SD</u>	<u>Warren</u>	<u>1.12863174622437</u>	25639
<u>Kirtland Local SD</u>	<u>Lake</u>	<u>1.04620516114471</u>	25640
<u>La Brae Local SD</u>	<u>Trumbull</u>	<u>1.49647317761581</u>	25641
<u>Lake Local SD</u>	<u>Stark</u>	<u>1.25836714962696</u>	25642
<u>Lake Local SD</u>	<u>Wood</u>	<u>1.28628008451984</u>	25643
<u>Lakeview Local SD</u>	<u>Trumbull</u>	<u>1.23344387557478</u>	25644
<u>Lakewood City SD</u>	<u>Cuyahoga</u>	<u>1.30035140259187</u>	25645
<u>Lakewood Local SD</u>	<u>Licking</u>	<u>1.37664352289462</u>	25646
<u>Lakota Local SD</u>	<u>Butler</u>	<u>1.16253549078882</u>	25647
<u>Lakota Local SD</u>	<u>Sandusky</u>	<u>1.45821728366788</u>	25648

<u>Lancaster City SD</u>	<u>Fairfield</u>	<u>1.40000480601313</u>	25649
<u>Lebanon City SD</u>	<u>Warren</u>	<u>1.24243768869632</u>	25650
<u>Ledgemont Local SD</u>	<u>Geauga</u>	<u>1.28251430910369</u>	25651
<u>Leetonia Ex Vill SD</u>	<u>Columbiana</u>	<u>1.47419919132852</u>	25652
<u>Leipsic Local SD</u>	<u>Putnam</u>	<u>1.48401763299302</u>	25653
<u>Lexington Local SD</u>	<u>Richland</u>	<u>1.23861187034631</u>	25654
<u>Liberty Benton Local SD</u>	<u>Hancock</u>	<u>1.25251792602453</u>	25655
<u>Liberty Center Local SD</u>	<u>Henry</u>	<u>1.33874295127239</u>	25656
<u>Liberty Local SD</u>	<u>Trumbull</u>	<u>1.35494329580515</u>	25657
<u>Liberty Union-Thurston Local SD</u>	<u>Fairfield</u>	<u>1.31461315587788</u>	25658
<u>Licking Heights Local SD</u>	<u>Licking</u>	<u>1.30052530524400</u>	25659
<u>Licking Valley Local SD</u>	<u>Licking</u>	<u>1.42974069158643</u>	25660
<u>Lima City SD</u>	<u>Allen</u>	<u>1.60649936578338</u>	25661
<u>Lincolnview Local SD</u>	<u>Van Wert</u>	<u>1.41723212774063</u>	25662
<u>Lisbon Ex Vill SD</u>	<u>Columbiana</u>	<u>1.46864084437860</u>	25663
<u>Little Miami Local SD</u>	<u>Warren</u>	<u>1.19556638334455</u>	25664
<u>Lockland City SD</u>	<u>Hamilton</u>	<u>1.50045983329169</u>	25665
<u>Logan Elm Local SD</u>	<u>Pickaway</u>	<u>1.30665345651578</u>	25666
<u>Logan-Hocking Local SD</u>	<u>Hocking</u>	<u>1.47983166679027</u>	25667
<u>London City SD</u>	<u>Madison</u>	<u>1.38084828535402</u>	25668
<u>Lorain City SD</u>	<u>Lorain</u>	<u>1.61256677660609</u>	25669
<u>Lordstown Local SD</u>	<u>Trumbull</u>	<u>1.23128931208007</u>	25670
<u>Loudonville-Perrysville Ex Vill</u>	<u>Ashland</u>	<u>1.42841823327191</u>	25671
<u>Louisville City SD</u>	<u>Stark</u>	<u>1.30559677642750</u>	25672
<u>Loveland City SD</u>	<u>Hamilton</u>	<u>1.13582901010035</u>	25673
<u>Lowellville Local SD</u>	<u>Mahoning</u>	<u>1.41486390678796</u>	25674
<u>Lucas Local SD</u>	<u>Richland</u>	<u>1.31178011603497</u>	25675
<u>Lynchburg-Clay Local SD</u>	<u>Highland</u>	<u>1.45755733882412</u>	25676
<u>Mad River Local SD</u>	<u>Montgomery</u>	<u>1.49973777649270</u>	25677
<u>Madeira City SD</u>	<u>Hamilton</u>	<u>1.07899517333408</u>	25678
<u>Madison Local SD</u>	<u>Butler</u>	<u>1.31044343462609</u>	25679
<u>Madison Local SD</u>	<u>Lake</u>	<u>1.39133776676901</u>	25680
<u>Madison Local SD</u>	<u>Richland</u>	<u>1.45647798777116</u>	25681

<u>Madison-Plains Local SD</u>	<u>Madison</u>	<u>1.30694510304857</u>	25682
<u>Manchester Local SD</u>	<u>Summit</u>	<u>1.25884906723888</u>	25683
<u>Manchester Local SD</u>	<u>Adams</u>	<u>1.31578004997000</u>	25684
<u>Mansfield City SD</u>	<u>Richland</u>	<u>1.55542960557540</u>	25685
<u>Maple Heights City SD</u>	<u>Cuyahoga</u>	<u>1.50471719453901</u>	25686
<u>Mapleton Local SD</u>	<u>Ashland</u>	<u>1.43200231858381</u>	25687
<u>Maplewood Local SD</u>	<u>Trumbull</u>	<u>1.41857425536058</u>	25688
<u>Margaretta Local SD</u>	<u>Erie</u>	<u>1.29523469031687</u>	25689
<u>Mariemont City SD</u>	<u>Hamilton</u>	<u>1.06110876511185</u>	25690
<u>Marietta City SD</u>	<u>Washington</u>	<u>1.35176636066394</u>	25691
<u>Marion City SD</u>	<u>Marion</u>	<u>1.55376555932893</u>	25692
<u>Marion Local SD</u>	<u>Mercer</u>	<u>1.34951343622925</u>	25693
<u>Marlington Local SD</u>	<u>Stark</u>	<u>1.37678852578012</u>	25694
<u>Martins Ferry City SD</u>	<u>Belmont</u>	<u>1.61233842372056</u>	25695
<u>Marysville Ex Vill SD</u>	<u>Union</u>	<u>1.27445748535558</u>	25696
<u>Mason City SD</u>	<u>Warren</u>	<u>1.16306909348840</u>	25697
<u>Massillon City SD</u>	<u>Stark</u>	<u>1.48702260687656</u>	25698
<u>Mathews Local SD</u>	<u>Trumbull</u>	<u>1.23252658370017</u>	25699
<u>Maumee City SD</u>	<u>Lucas</u>	<u>1.18955061610873</u>	25700
<u>Mayfield City SD</u>	<u>Cuyahoga</u>	<u>1.02517998195582</u>	25701
<u>Maysville Local SD</u>	<u>Muskingum</u>	<u>1.50385434050518</u>	25702
<u>McComb Local SD</u>	<u>Hancock</u>	<u>1.41233357149632</u>	25703
<u>McDonald Local SD</u>	<u>Trumbull</u>	<u>1.39428909954499</u>	25704
<u>Mechanicsburg Ex Vill SD</u>	<u>Champaign</u>	<u>1.33832384908865</u>	25705
<u>Medina City SD</u>	<u>Medina</u>	<u>1.18066025337530</u>	25706
<u>Meigs Local SD</u>	<u>Meigs</u>	<u>1.57970287109533</u>	25707
<u>Mentor Ex Vill SD</u>	<u>Lake</u>	<u>1.15510863440019</u>	25708
<u>Miami East Local SD</u>	<u>Miami</u>	<u>1.27980839642415</u>	25709
<u>Miami Trace Local SD</u>	<u>Fayette</u>	<u>1.41269619039896</u>	25710
<u>Miamisburg City SD</u>	<u>Montgomery</u>	<u>1.31945929552668</u>	25711
<u>Middletown City SD</u>	<u>Butler</u>	<u>1.49384833319230</u>	25712
<u>Midview Local SD</u>	<u>Lorain</u>	<u>1.28428970303335</u>	25713
<u>Milford Ex Vill SD</u>	<u>Clermont</u>	<u>1.19618209377345</u>	25714

<u>Millcreek-West Unity Local SD</u>	<u>Williams</u>	<u>1.47576126314099</u>	25715
<u>Miller City-New Cleveland Local SD</u>	<u>Putnam</u>	<u>1.33443263163743</u>	25716
<u>Milton-Union Ex Vill SD</u>	<u>Miami</u>	<u>1.40270169080301</u>	25717
<u>Minerva Local SD</u>	<u>Stark</u>	<u>1.44612050505363</u>	25718
<u>Minford Local SD</u>	<u>Scioto</u>	<u>1.47969204555607</u>	25719
<u>Minster Local SD</u>	<u>Auglaize</u>	<u>1.25565264187320</u>	25720
<u>Mississinawa Valley Local SD</u>	<u>Darke</u>	<u>1.49728843160629</u>	25721
<u>Mogadore Local SD</u>	<u>Summit</u>	<u>1.27173514637847</u>	25722
<u>Mohawk Local SD</u>	<u>Wyandot</u>	<u>1.30975547108812</u>	25723
<u>Monroe Local SD</u>	<u>Butler</u>	<u>1.13602266308716</u>	25724
<u>Monroeville Local SD</u>	<u>Huron</u>	<u>1.30062077836075</u>	25725
<u>Montpelier Ex Vill SD</u>	<u>Williams</u>	<u>1.46413635784012</u>	25726
<u>Morgan Local SD</u>	<u>Morgan</u>	<u>1.50275119196326</u>	25727
<u>Mount Gilead Ex Vill SD</u>	<u>Morrow</u>	<u>1.42086131087090</u>	25728
<u>Mount Healthy City SD</u>	<u>Hamilton</u>	<u>1.52315767768570</u>	25729
<u>Mount Vernon City SD</u>	<u>Knox</u>	<u>1.40884636653792</u>	25730
<u>Napoleon City SD</u>	<u>Henry</u>	<u>1.40455886661965</u>	25731
<u>National Trail Local SD</u>	<u>Preble</u>	<u>1.46139017182383</u>	25732
<u>Nelsonville-York City SD</u>	<u>Athens</u>	<u>1.54092941711638</u>	25733
<u>New Albany-Plain Local SD</u>	<u>Franklin</u>	<u>1.03377201962010</u>	25734
<u>New Boston Local SD</u>	<u>Scioto</u>	<u>1.59789891678054</u>	25735
<u>New Bremen Local SD</u>	<u>Auglaize</u>	<u>1.28580647759066</u>	25736
<u>New Knoxville Local SD</u>	<u>Auglaize</u>	<u>1.30763943696637</u>	25737
<u>New Lebanon Local SD</u>	<u>Montgomery</u>	<u>1.44031003765327</u>	25738
<u>New Lexington City SD</u>	<u>Perry</u>	<u>1.52873428529166</u>	25739
<u>New London Local SD</u>	<u>Huron</u>	<u>1.45140415440656</u>	25740
<u>New Miami Local SD</u>	<u>Butler</u>	<u>1.56431878470740</u>	25741
<u>New Philadelphia City SD</u>	<u>Tuscarawas</u>	<u>1.40271079105552</u>	25742
<u>New Richmond Ex Vill SD</u>	<u>Clermont</u>	<u>1.34813366047689</u>	25743
<u>New Riegel Local SD</u>	<u>Seneca</u>	<u>1.35036999047471</u>	25744
<u>Newark City SD</u>	<u>Licking</u>	<u>1.44467081345443</u>	25745
<u>Newbury Local SD</u>	<u>Geauga</u>	<u>1.13442375000143</u>	25746

<u>Newcomerstown Ex Vill SD</u>	<u>Tuscarawas</u>	<u>1.52053086693829</u>	25747
<u>Newton Falls Ex Vill SD</u>	<u>Trumbull</u>	<u>1.42869237226506</u>	25748
<u>Newton Local SD</u>	<u>Miami</u>	<u>1.31981070088781</u>	25749
<u>Niles City SD</u>	<u>Trumbull</u>	<u>1.45763500208460</u>	25750
<u>Noble Local SD</u>	<u>Noble</u>	<u>1.46319900869326</u>	25751
<u>Nordonia Hills City SD</u>	<u>Summit</u>	<u>1.11980000205486</u>	25752
<u>North Baltimore Local SD</u>	<u>Wood</u>	<u>1.42022606589024</u>	25753
<u>North Canton City SD</u>	<u>Stark</u>	<u>1.17706377052912</u>	25754
<u>North Central Local SD</u>	<u>Wayne</u>	<u>1.40456579814660</u>	25755
<u>North Central Local SD</u>	<u>Williams</u>	<u>1.44470998692728</u>	25756
<u>North College Hill City SD</u>	<u>Hamilton</u>	<u>1.51479081294116</u>	25757
<u>North Fork Local SD</u>	<u>Licking</u>	<u>1.40936916155681</u>	25758
<u>North Olmsted City SD</u>	<u>Cuyahoga</u>	<u>1.26762567636982</u>	25759
<u>North Ridgeville City SD</u>	<u>Lorain</u>	<u>1.23784735736884</u>	25760
<u>North Royalton City SD</u>	<u>Cuyahoga</u>	<u>1.13055382348273</u>	25761
<u>North Union Local SD</u>	<u>Union</u>	<u>1.44378179489146</u>	25762
<u>Northeastern Local SD</u>	<u>Defiance</u>	<u>1.27166476944818</u>	25763
<u>Northeastern Local SD</u>	<u>Clark</u>	<u>1.27698255868997</u>	25764
<u>Northern Local SD</u>	<u>Perry</u>	<u>1.44327611303190</u>	25765
<u>Northmont City SD</u>	<u>Montgomery</u>	<u>1.25126708734838</u>	25766
<u>Northmor Local SD</u>	<u>Morrow</u>	<u>1.41909513128927</u>	25767
<u>Northridge Local SD</u>	<u>Licking</u>	<u>1.30898249532764</u>	25768
<u>Northridge Local SD</u>	<u>Montgomery</u>	<u>1.51938683969556</u>	25769
<u>Northwest Local SD</u>	<u>Hamilton</u>	<u>1.31763010344235</u>	25770
<u>Northwest Local SD</u>	<u>Stark</u>	<u>1.36310223997416</u>	25771
<u>Northwest Local SD</u>	<u>Scioto</u>	<u>1.57225373978038</u>	25772
<u>Northwestern Local SD</u>	<u>Clark</u>	<u>1.28159449488714</u>	25773
<u>Northwestern Local SD</u>	<u>Wayne</u>	<u>1.46350375566228</u>	25774
<u>Northwood Local SD</u>	<u>Wood</u>	<u>1.38665937013933</u>	25775
<u>Norton City SD</u>	<u>Summit</u>	<u>1.26624812000846</u>	25776
<u>Norwalk City SD</u>	<u>Huron</u>	<u>1.42526140794601</u>	25777
<u>Norwood City SD</u>	<u>Hamilton</u>	<u>1.43042280433679</u>	25778
<u>Oak Hill Union Local SD</u>	<u>Jackson</u>	<u>1.50136392136325</u>	25779

<u>Oak Hills Local SD</u>	<u>Hamilton</u>	<u>1.20645681283487</u>	25780
<u>Oakwood City SD</u>	<u>Montgomery</u>	<u>1.05550139486519</u>	25781
<u>Oberlin City SD</u>	<u>Lorain</u>	<u>1.36363038835065</u>	25782
<u>Ohio Valley Local SD</u>	<u>Adams</u>	<u>1.53899528176444</u>	25783
<u>Old Fort Local SD</u>	<u>Seneca</u>	<u>1.31570055515559</u>	25784
<u>Olentangy Local SD</u>	<u>Delaware</u>	<u>1.04410931955603</u>	25785
<u>Olmsted Falls City SD</u>	<u>Cuyahoga</u>	<u>1.21501275804368</u>	25786
<u>Ontario Local SD</u>	<u>Richland</u>	<u>1.21668786865445</u>	25787
<u>Orange City SD</u>	<u>Cuyahoga</u>	<u>0.92224563202400</u>	25788
<u>Oregon City SD</u>	<u>Lucas</u>	<u>1.36117922231253</u>	25789
<u>Orrville City SD</u>	<u>Wayne</u>	<u>1.40594049629586</u>	25790
<u>Osnaburg Local SD</u>	<u>Stark</u>	<u>1.32482904274894</u>	25791
<u>Otsego Local SD</u>	<u>Wood</u>	<u>1.27552792448191</u>	25792
<u>Ottawa Hills Local SD</u>	<u>Lucas</u>	<u>0.96518450479310</u>	25793
<u>Ottawa-Glandorf Local SD</u>	<u>Putnam</u>	<u>1.28891369029830</u>	25794
<u>Ottoville Local SD</u>	<u>Putnam</u>	<u>1.31873535364125</u>	25795
<u>Painsville City Local SD</u>	<u>Lake</u>	<u>1.57785063117407</u>	25796
<u>Painsville Township Local SD</u>	<u>Lake</u>	<u>1.17226189126569</u>	25797
<u>Paint Valley Local SD</u>	<u>Ross</u>	<u>1.48710332585820</u>	25798
<u>Pandora-Gilboa Local SD</u>	<u>Putnam</u>	<u>1.29649111368511</u>	25799
<u>Parkway Local SD</u>	<u>Mercer</u>	<u>1.42618026901591</u>	25800
<u>Parma City SD</u>	<u>Cuyahoga</u>	<u>1.31753144270117</u>	25801
<u>Patrick Henry Local SD</u>	<u>Henry</u>	<u>1.42802395254931</u>	25802
<u>Paulding Ex Vill SD</u>	<u>Paulding</u>	<u>1.43087043609773</u>	25803
<u>Perkins Local SD</u>	<u>Erie</u>	<u>1.20405000776929</u>	25804
<u>Perry Local SD</u>	<u>Lake</u>	<u>1.21475048763876</u>	25805
<u>Perry Local SD</u>	<u>Stark</u>	<u>1.36564162902254</u>	25806
<u>Perry Local SD</u>	<u>Allen</u>	<u>1.48987162794805</u>	25807
<u>Perrysburg Ex Vill SD</u>	<u>Wood</u>	<u>1.12255971816278</u>	25808
<u>Pettisville Local SD</u>	<u>Fulton</u>	<u>1.30583691497713</u>	25809
<u>Pickerington Local SD</u>	<u>Fairfield</u>	<u>1.22167321946178</u>	25810
<u>Pike-Delta-York Local SD</u>	<u>Fulton</u>	<u>1.40955998424456</u>	25811
<u>Piqua City SD</u>	<u>Miami</u>	<u>1.44421091113277</u>	25812

<u>Plain Local SD</u>	<u>Stark</u>	<u>1.30265245808387</u>	25813
<u>Pleasant Local SD</u>	<u>Marion</u>	<u>1.25276916800899</u>	25814
<u>Plymouth-Shiloh Local SD</u>	<u>Richland</u>	<u>1.52895216663444</u>	25815
<u>Poland Local SD</u>	<u>Mahoning</u>	<u>1.16502381899213</u>	25816
<u>Port Clinton City SD</u>	<u>Ottawa</u>	<u>1.26486787996629</u>	25817
<u>Portsmouth City SD</u>	<u>Scioto</u>	<u>1.56048277844082</u>	25818
<u>Preble-Shawnee Local SD</u>	<u>Preble</u>	<u>1.44186406812072</u>	25819
<u>Princeton City SD</u>	<u>Hamilton</u>	<u>1.20121434958457</u>	25820
<u>Put-In-Bay Local SD</u>	<u>Ottawa</u>	<u>1.04982580391402</u>	25821
<u>Pymatuning Valley Local SD</u>	<u>Ashtabula</u>	<u>1.48305328295089</u>	25822
<u>Ravenna City SD</u>	<u>Portage</u>	<u>1.45005558684007</u>	25823
<u>Reading Community City SD</u>	<u>Hamilton</u>	<u>1.34673980809425</u>	25824
<u>Revere Local SD</u>	<u>Summit</u>	<u>0.97673848343844</u>	25825
<u>Reynoldsburg City SD</u>	<u>Franklin</u>	<u>1.35946840057837</u>	25826
<u>Richmond Heights Local SD</u>	<u>Cuyahoga</u>	<u>1.18869066718261</u>	25827
<u>Ridgedale Local SD</u>	<u>Marion</u>	<u>1.41774708161996</u>	25828
<u>Ridgemont Local SD</u>	<u>Hardin</u>	<u>1.42901565812017</u>	25829
<u>Ridgewood Local SD</u>	<u>Coshocton</u>	<u>1.48577995002241</u>	25830
<u>Ripley-Union-Lewis Local SD</u>	<u>Brown</u>	<u>1.50552194434714</u>	25831
<u>Rittman Ex Vill SD</u>	<u>Wayne</u>	<u>1.46714026012185</u>	25832
<u>River Valley Local SD</u>	<u>Marion</u>	<u>1.35284724055792</u>	25833
<u>River View Local SD</u>	<u>Coshocton</u>	<u>1.44977923243954</u>	25834
<u>Riverdale Local SD</u>	<u>Hardin</u>	<u>1.44101435178682</u>	25835
<u>Riverside Local SD</u>	<u>Logan</u>	<u>1.45108428664792</u>	25836
<u>Rock Hill Local SD</u>	<u>Lawrence</u>	<u>1.58124485632057</u>	25837
<u>Rocky River City SD</u>	<u>Cuyahoga</u>	<u>1.00746775805733</u>	25838
<u>Rolling Hills Local SD</u>	<u>Guernsey</u>	<u>1.50552690971033</u>	25839
<u>Rootstown Local SD</u>	<u>Portage</u>	<u>1.27436263449976</u>	25840
<u>Ross Local SD</u>	<u>Butler</u>	<u>1.28739410491976</u>	25841
<u>Rossford Ex Vill SD</u>	<u>Wood</u>	<u>1.29930042159072</u>	25842
<u>Russia Local SD</u>	<u>Shelby</u>	<u>1.32787420753985</u>	25843
<u>Salem City SD</u>	<u>Columbiana</u>	<u>1.39832517893728</u>	25844
<u>Sandusky City SD</u>	<u>Erie</u>	<u>1.50784543597818</u>	25845

<u>Sandy Valley Local SD</u>	<u>Stark</u>	<u>1.45202201956798</u>	25846
<u>Scioto Valley Local SD</u>	<u>Pike</u>	<u>1.50280403385752</u>	25847
<u>Sebring Local SD</u>	<u>Mahoning</u>	<u>1.48214570379974</u>	25848
<u>Seneca East Local SD</u>	<u>Seneca</u>	<u>1.32833485358350</u>	25849
<u>Shadyside Local SD</u>	<u>Belmont</u>	<u>1.38725285800421</u>	25850
<u>Shaker Heights City SD</u>	<u>Cuyahoga</u>	<u>1.11613519343228</u>	25851
<u>Shawnee Local SD</u>	<u>Allen</u>	<u>1.20540692267392</u>	25852
<u>Sheffield-Sheffield Lake City SD</u>	<u>Lorain</u>	<u>1.34958548778537</u>	25853
<u>Shelby City SD</u>	<u>Richland</u>	<u>1.43593597980319</u>	25854
<u>Sidney City SD</u>	<u>Shelby</u>	<u>1.42960538545388</u>	25855
<u>Solon City SD</u>	<u>Cuyahoga</u>	<u>1.06998714717343</u>	25856
<u>South Central Local SD</u>	<u>Huron</u>	<u>1.47338765061532</u>	25857
<u>South Euclid-Lyndhurst City</u>	<u>Cuyahoga</u>	<u>1.20584690807365</u>	25858
<u>South Point Local SD</u>	<u>Lawrence</u>	<u>1.50762846775871</u>	25859
<u>South Range Local SD</u>	<u>Mahoning</u>	<u>1.26423062462303</u>	25860
<u>Southeast Local SD</u>	<u>Portage</u>	<u>1.33365023559197</u>	25861
<u>Southeast Local SD</u>	<u>Wayne</u>	<u>1.40040430835532</u>	25862
<u>Southeastern Local SD</u>	<u>Clark</u>	<u>1.32415318035004</u>	25863
<u>Southeastern Local SD</u>	<u>Ross</u>	<u>1.49028938210905</u>	25864
<u>Southern Local SD</u>	<u>Columbiana</u>	<u>1.52275649828426</u>	25865
<u>Southern Local SD</u>	<u>Meigs</u>	<u>1.54826401799243</u>	25866
<u>Southern Local SD</u>	<u>Perry</u>	<u>1.58755846440978</u>	25867
<u>Southington Local SD</u>	<u>Trumbull</u>	<u>1.32326257762160</u>	25868
<u>Southwest Licking Local SD</u>	<u>Licking</u>	<u>1.25254571293431</u>	25869
<u>Southwest Local SD</u>	<u>Hamilton</u>	<u>1.28617672507260</u>	25870
<u>South-Western City SD</u>	<u>Franklin</u>	<u>1.46004010438826</u>	25871
<u>Spencerville Local SD</u>	<u>Allen</u>	<u>1.41233609047827</u>	25872
<u>Springboro Community City SD</u>	<u>Warren</u>	<u>1.14581585982772</u>	25873
<u>Springfield City SD</u>	<u>Clark</u>	<u>1.54970476494903</u>	25874
<u>Springfield Local SD</u>	<u>Lucas</u>	<u>1.26983889925260</u>	25875
<u>Springfield Local SD</u>	<u>Mahoning</u>	<u>1.36925886388047</u>	25876
<u>Springfield Local SD</u>	<u>Summit</u>	<u>1.41847666334604</u>	25877

<u>St Bernard-Elmwood Place City</u>	<u>Hamilton</u>	<u>1.48193724951365</u>	25878
<u>SD</u>			
<u>St Clairsville-Richland City</u>	<u>Belmont</u>	<u>1.39072135466141</u>	25879
<u>St Henry Consolidated Local SD</u>	<u>Mercer</u>	<u>1.33575987450919</u>	25880
<u>St Marys City SD</u>	<u>Auglaize</u>	<u>1.31118051676534</u>	25881
<u>Steubenville City SD</u>	<u>Jefferson</u>	<u>1.49696082394872</u>	25882
<u>Stow-Munroe Falls City SD</u>	<u>Summit</u>	<u>1.16232687239334</u>	25883
<u>Strasburg-Franklin Local SD</u>	<u>Tuscarawas</u>	<u>1.30937739421464</u>	25884
<u>Streetsboro City SD</u>	<u>Portage</u>	<u>1.22334778770430</u>	25885
<u>Strongsville City SD</u>	<u>Cuyahoga</u>	<u>1.12632597104234</u>	25886
<u>Struthers City SD</u>	<u>Mahoning</u>	<u>1.52293037746619</u>	25887
<u>Stryker Local SD</u>	<u>Williams</u>	<u>1.33474967324778</u>	25888
<u>Sugarcreek Local SD</u>	<u>Greene</u>	<u>1.12911516415192</u>	25889
<u>Swanton Local SD</u>	<u>Fulton</u>	<u>1.26789917263553</u>	25890
<u>Switzerland of Ohio Local SD</u>	<u>Monroe</u>	<u>1.49527555087764</u>	25891
<u>Sycamore Community City SD</u>	<u>Hamilton</u>	<u>0.96739912140113</u>	25892
<u>Sylvania City SD</u>	<u>Lucas</u>	<u>1.09972533003734</u>	25893
<u>Symmes Valley Local SD</u>	<u>Lawrence</u>	<u>1.53428834115267</u>	25894
<u>Talawanda City SD</u>	<u>Butler</u>	<u>1.30997369297992</u>	25895
<u>Tallmadge City SD</u>	<u>Summit</u>	<u>1.22180777059873</u>	25896
<u>Teays Valley Local SD</u>	<u>Pickaway</u>	<u>1.32560958783351</u>	25897
<u>Tecumseh Local SD</u>	<u>Clark</u>	<u>1.43446215693432</u>	25898
<u>Three Rivers Local SD</u>	<u>Hamilton</u>	<u>1.18861501638264</u>	25899
<u>Tiffin City SD</u>	<u>Seneca</u>	<u>1.38014461375719</u>	25900
<u>Tipp City Ex Vill SD</u>	<u>Miami</u>	<u>1.24135129388559</u>	25901
<u>Toledo City SD</u>	<u>Lucas</u>	<u>1.49033200834745</u>	25902
<u>Toronto City SD</u>	<u>Jefferson</u>	<u>1.47620866537342</u>	25903
<u>Triad Local SD</u>	<u>Champaign</u>	<u>1.34419530335349</u>	25904
<u>Tri-County North Local SD</u>	<u>Preble</u>	<u>1.40139434101787</u>	25905
<u>Trimble Local SD</u>	<u>Athens</u>	<u>1.59517634407425</u>	25906
<u>Tri-Valley Local SD</u>	<u>Muskingum</u>	<u>1.41560344458979</u>	25907
<u>Tri-Village Local SD</u>	<u>Darke</u>	<u>1.44224454152257</u>	25908
<u>Triway Local SD</u>	<u>Wayne</u>	<u>1.37996561753832</u>	25909

<u>Trotwood-Madison City SD</u>	<u>Montgomery</u>	<u>1.53053787443886</u>	25910
<u>Troy City SD</u>	<u>Miami</u>	<u>1.33347889555835</u>	25911
<u>Tuscarawas Valley Local SD</u>	<u>Tuscarawas</u>	<u>1.29245096700620</u>	25912
<u>Tuslaw Local SD</u>	<u>Stark</u>	<u>1.31240470833757</u>	25913
<u>Twin Valley Community Local SD</u>	<u>Preble</u>	<u>1.32154433472104</u>	25914
<u>Twinsburg City SD</u>	<u>Summit</u>	<u>1.13990040285881</u>	25915
<u>Union Local SD</u>	<u>Belmont</u>	<u>1.45398996155402</u>	25916
<u>Union Scioto Local SD</u>	<u>Ross</u>	<u>1.43617724025422</u>	25917
<u>United Local SD</u>	<u>Columbiana</u>	<u>1.43312947819727</u>	25918
<u>Upper Arlington City SD</u>	<u>Franklin</u>	<u>0.91478908109031</u>	25919
<u>Upper Sandusky Ex Vill SD</u>	<u>Wyandot</u>	<u>1.39426316670500</u>	25920
<u>Upper Scioto Valley Local SD</u>	<u>Hardin</u>	<u>1.45105683588911</u>	25921
<u>Urbana City SD</u>	<u>Champaign</u>	<u>1.43415176824251</u>	25922
<u>Valley Local SD</u>	<u>Scioto</u>	<u>1.52632129567212</u>	25923
<u>Valley View Local SD</u>	<u>Montgomery</u>	<u>1.29278246657511</u>	25924
<u>Van Buren Local SD</u>	<u>Hancock</u>	<u>1.18080317965535</u>	25925
<u>Van Wert City SD</u>	<u>Van Wert</u>	<u>1.42015258130739</u>	25926
<u>Vandalia-Butler City SD</u>	<u>Montgomery</u>	<u>1.17596271856827</u>	25927
<u>Vanlue Local SD</u>	<u>Hancock</u>	<u>1.32105650897466</u>	25928
<u>Vermilion Local SD</u>	<u>Erie</u>	<u>1.32242988021023</u>	25929
<u>Versailles Ex Vill SD</u>	<u>Darke</u>	<u>1.32812565074277</u>	25930
<u>Vinton County Local SD</u>	<u>Vinton</u>	<u>1.57627143140618</u>	25931
<u>Wadsworth City SD</u>	<u>Medina</u>	<u>1.45110529213587</u>	25932
<u>Walnut Township Local SD</u>	<u>Fairfield</u>	<u>1.38733610024679</u>	25933
<u>Wapakoneta City SD</u>	<u>Auclair</u>	<u>1.39739180670099</u>	25934
<u>Warren City SD</u>	<u>Trumbull</u>	<u>1.54932096511622</u>	25935
<u>Warren Local SD</u>	<u>Washington</u>	<u>1.41011840742609</u>	25936
<u>Warrensville Heights City SD</u>	<u>Cuyahoga</u>	<u>1.45748742741098</u>	25937
<u>Washington Court House City SD</u>	<u>Fayette</u>	<u>1.45462307240112</u>	25938
<u>Washington Local SD</u>	<u>Lucas</u>	<u>1.38917045929774</u>	25939
<u>Washington-Nile Local SD</u>	<u>Scioto</u>	<u>1.52477636502775</u>	25940
<u>Waterloo Local SD</u>	<u>Portage</u>	<u>1.31264361568002</u>	25941
<u>Wauseon Ex Vill SD</u>	<u>Fulton</u>	<u>1.41213989555580</u>	25942

<u>Waverly City SD</u>	<u>Pike</u>	<u>1.44793155618693</u>	25943
<u>Wayne Local SD</u>	<u>Warren</u>	<u>1.24168511826871</u>	25944
<u>Wayne Trace Local SD</u>	<u>Paulding</u>	<u>1.44393816370902</u>	25945
<u>Waynesfield-Goshen Local SD</u>	<u>Auglaize</u>	<u>1.35111839431615</u>	25946
<u>Weathersfield Local SD</u>	<u>Trumbull</u>	<u>1.38805680457379</u>	25947
<u>Wellington Ex Vill SD</u>	<u>Lorain</u>	<u>1.40211610790239</u>	25948
<u>Wellston City SD</u>	<u>Jackson</u>	<u>1.54065269674323</u>	25949
<u>Wellsville Local SD</u>	<u>Columbiana</u>	<u>1.55452674940466</u>	25950
<u>West Branch Local SD</u>	<u>Mahoning</u>	<u>1.41033954145976</u>	25951
<u>West Carrollton City SD</u>	<u>Montgomery</u>	<u>1.40590584747126</u>	25952
<u>West Clermont Local SD</u>	<u>Clermont</u>	<u>1.24566121784444</u>	25953
<u>West Geauga Local SD</u>	<u>Gauga</u>	<u>1.03255853962337</u>	25954
<u>West Holmes Local SD</u>	<u>Holmes</u>	<u>1.43219922636759</u>	25955
<u>West Liberty-Salem Local SD</u>	<u>Champaign</u>	<u>1.30990916229660</u>	25956
<u>West Muskingum Local SD</u>	<u>Muskingum</u>	<u>1.34712100121841</u>	25957
<u>Western Brown Local SD</u>	<u>Brown</u>	<u>1.48608643643912</u>	25958
<u>Western Local SD</u>	<u>Pike</u>	<u>1.60488600233136</u>	25959
<u>Western Reserve Local SD</u>	<u>Mahoning</u>	<u>1.28299148776626</u>	25960
<u>Western Reserve Local SD</u>	<u>Huron</u>	<u>1.42301032839121</u>	25961
<u>Westerville City SD</u>	<u>Franklin</u>	<u>1.14922362470245</u>	25962
<u>Westfall Local SD</u>	<u>Pickaway</u>	<u>1.42988569748827</u>	25963
<u>Westlake City SD</u>	<u>Cuyahoga</u>	<u>0.98710108402476</u>	25964
<u>Wheelersburg Local SD</u>	<u>Scioto</u>	<u>1.42066089726885</u>	25965
<u>Whitehall City SD</u>	<u>Franklin</u>	<u>1.54117797859475</u>	25966
<u>Wickliffe City SD</u>	<u>Lake</u>	<u>1.19193306724392</u>	25967
<u>Willard City SD</u>	<u>Huron</u>	<u>1.48714752265980</u>	25968
<u>Williamsburg Local SD</u>	<u>Clermont</u>	<u>1.40792373294414</u>	25969
<u>Willoughby-Eastlake City SD</u>	<u>Lake</u>	<u>1.28448462172170</u>	25970
<u>Wilmington City SD</u>	<u>Clinton</u>	<u>1.38455571162358</u>	25971
<u>Windham Ex Vill SD</u>	<u>Portage</u>	<u>1.57843284700073</u>	25972
<u>Winton Woods City SD</u>	<u>Hamilton</u>	<u>1.32308474872446</u>	25973
<u>Wolf Creek Local SD</u>	<u>Washington</u>	<u>1.37312081471354</u>	25974
<u>Woodmore Local SD</u>	<u>Sandusky</u>	<u>1.27254143831618</u>	25975

<u>Woodridge Local SD</u>	<u>Summit</u>	<u>1.15280513379223</u>	25976
<u>Wooster City SD</u>	<u>Wayne</u>	<u>1.35726343685029</u>	25977
<u>Worthington City SD</u>	<u>Franklin</u>	<u>1.06916446579514</u>	25978
<u>Wynford Local SD</u>	<u>Crawford</u>	<u>1.41563195385499</u>	25979
<u>Wyoming City SD</u>	<u>Hamilton</u>	<u>1.03473001065689</u>	25980
<u>Xenia Community City SD</u>	<u>Greene</u>	<u>1.40900536951839</u>	25981
<u>Yellow Springs Ex Vill SD</u>	<u>Greene</u>	<u>1.14540943043323</u>	25982
<u>Youngstown City SD</u>	<u>Mahoning</u>	<u>1.63953181371287</u>	25983
<u>Zane Trace Local SD</u>	<u>Ross</u>	<u>1.40251704114754</u>	25984
<u>Zanesville City SD</u>	<u>Muskingum</u>	<u>1.52554841594022</u>	25985

Sec. 3306.06. (A) The additional services support component 25987
of the adequacy amount for each city, local, and exempted village 25988
school district is the sum of the following: 25989

(1) The student support staff factor; 25990

(2) The counselor factor; 25991

(3) The summer remediation factor; 25992

(4) The school nurse factor; 25993

(5) The registered nurse factor. 25994

(B)(1) The student support staff factor shall be calculated 25995
by multiplying the school district's formula ADM times its 25996
targeted poverty indicator and dividing the product by 25997
seventy-five, and then multiplying the quotient by \$38,633 in 25998
fiscal year 2010 and \$39,381 in fiscal year 2011. 25999

(2) The counselor factor shall be calculated by dividing the 26000
district's formula ADM for grades six to twelve by two hundred 26001
fifty, and then multiplying the quotient by \$66,375 in fiscal year 26002
2010 and \$67,660 in fiscal year 2011. 26003

(3) The summer remediation program factor shall be calculated 26004
by multiplying the district's formula ADM times its targeted 26005
poverty indicator times fifty per cent, which represents the 26006

anticipated participation rate, dividing that product by thirty, 26007
which is the assumed student-to-teacher ratio for summer 26008
remediation, and multiplying that quotient by \$3,000. 26009

(4) The school nurse factor shall be calculated by 26010
multiplying the number of the district's organizational units 26011
times \$28,009 in fiscal year 2010 and \$28,551 in fiscal year 2011, 26012
except that in a small school district, the school nurse factor 26013
shall be zero. 26014

(5) The registered nurse factor for each district equals 26015
\$51,407 in fiscal year 2010 and \$52,402 in fiscal year 2011. 26016

(C) Each school district shall account separately for 26017
expenditures of the amounts received for additional services 26018
support under this section and report that information to the 26019
department of education. 26020

Sec. 3306.07. (A) The administrative services support 26021
component of the adequacy amount for each city, local, and 26022
exempted village school district is the sum of the following: 26023

(1) The superintendent factor; 26024

(2) The treasurer factor; 26025

(3) The principal factor; 26026

(4) The administrative support personnel factor. 26027

(B)(1) The superintendent factor equals \$108,758 in fiscal 26028
year 2010 and \$110,864 in fiscal year 2011. 26029

(2) The treasurer factor equals \$78,418 in fiscal year 2010 26030
and \$79,937 in fiscal year 2011. 26031

(3) The principal factor shall be calculated by multiplying 26032
the number of the district's organizational units times \$89,563 in 26033
fiscal year 2010 and \$91,297 in fiscal year 2011. 26034

(4) The administrative support personnel factor is funding 26035

determined for building managers, secretaries, and 26036
noninstructional aides. 26037

(a) The funding for building managers shall be calculated by 26038
multiplying \$33,624 in fiscal year 2010 and \$34,275 in fiscal year 26039
2011 times the number of the district's organizational units. 26040

(b) The funding for secretaries shall be calculated by 26041
multiplying \$33,624 in fiscal year 2010 and \$34,275 in fiscal year 26042
2011 times the number of the district's organizational units, 26043
where two additional secretaries shall be funded for each high 26044
school organizational unit. 26045

(c) The funding for noninstructional aides shall be 26046
calculated by multiplying \$19,966 in fiscal year 2010 and \$20,353 26047
in fiscal year 2011 times the number of the district's 26048
organizational units, where the organizational units are 26049
multiplied by two in the case of elementary school and middle 26050
school organizational units and by three in case of high school 26051
organizational units. 26052

However, each small school district shall receive funding for 26053
one building manager, one secretary, and one noninstructional 26054
aide. 26055

(C) The superintendent factor and the treasurer factor for 26056
each city, local, and exempted village school district, except the 26057
Cleveland municipal school district, shall be adjusted by 26058
multiplying the calculated amount by 0.25 in fiscal years 2010 and 26059
2011, by 0.5 in fiscal years 2012 and 2013, and by 0.75 in fiscal 26060
years 2014 and 2015. 26061

(D) Each school district shall account separately for the 26062
amounts received for administrative services support under this 26063
section and report that information to the department of 26064
education. 26065

Sec. 3306.08. (A) The operations and maintenance support component of the adequacy amount for each city, local, and exempted village school district shall be calculated by multiplying the district's formula ADM times \$902. 26066
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(B) The operations and maintenance support for each city, local, and exempted village school district, except the Cleveland municipal school district, shall be adjusted by multiplying the calculated amount by 0.25 in fiscal years 2010 and 2011, by 0.5 in fiscal years 2012 and 2013, and by 0.75 in fiscal years 2014 and 2015. 26070
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(C) Each school district shall account separately for expenditures of the amounts received for operations and maintenance support under this section and report that information to the department of education. 26076
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Sec. 3306.09. (A) The gifted education support component of the adequacy amount for each city, local, and exempted village school district shall be calculated by multiplying the district's formula ADM times \$25. 26080
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(B) Each school district shall spend the entire gifted education support component to provide instruction, activities, materials, and supplies for students identified as gifted under Chapter 3324. of the Revised Code. 26084
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(C) The enrichment support component of the adequacy amount for each city, local, and exempted village school district shall be calculated by multiplying the district's formula ADM times \$200. 26088
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(D) The enrichment support for each city, local, and exempted village school district, except the Cleveland municipal school district, shall be adjusted by multiplying the calculated amount by 0.25 in fiscal years 2010 and 2011, by 0.5 in fiscal years 2012 26092
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and 2013, and by 0.75 in fiscal years 2014 and 2015. 26096

(E) A district may spend enrichment support to pay for 26097
enrichment activities that may encourage the intellectual pursuits 26098
of all students, including postsecondary courses pursuant to 26099
agreements established under rules adopted under section 3365.12 26100
of the Revised Code, advanced placement opportunities, and other 26101
resources, or to provide instruction, activities, materials, and 26102
supplies for students identified as gifted under Chapter 3324. of 26103
the Revised Code. 26104

(F) Each school district shall account separately for 26105
expenditures of the amounts received for gifted education support 26106
and enrichment support under this section and report that 26107
information to the department of education. 26108

Sec. 3306.10. (A) The technology resources support component 26109
of the adequacy amount for each city, local, and exempted village 26110
school district is the sum of the following: 26111

(1) The media services factor; 26112

(2) The technical equipment factor. 26113

(B)(1) The media services factor shall be calculated by 26114
multiplying the number of the district's organizational units 26115
times \$60,000. 26116

(2) The technical equipment factor shall be calculated by 26117
multiplying the district's formula ADM times \$250. 26118

(C) The media services factor and the technical equipment 26119
factor for each city, local, and exempted village school district, 26120
except the Cleveland municipal school district, shall be adjusted 26121
by multiplying the calculated amounts by 0.25 in fiscal years 2010 26122
and 2011, by 0.5 in fiscal years 2012 and 2013, and by 0.75 in 26123
fiscal years 2014 and 2015. 26124

(D) Each school district shall account separately for the 26125

amounts received for technology resources support under this 26126
section and report that information to the department of 26127
education. 26128

Sec. 3306.11. (A) For the purpose of calculating a school 26129
district's instructional services support under section 3306.05 of 26130
the Revised Code, the number of special education teacher 26131
positions used in calculating the special education teacher 26132
factor, and the number of special education teacher's aide 26133
positions used in calculating the special education teacher's aide 26134
factor shall be calculated as set forth in this section. 26135

(B)(1) The number of special education teacher positions 26136
shall be calculated by multiplying the sum of the weighted number 26137
of children with disabilities calculated under division (C) of 26138
this section times nine-tenths, and then dividing that product by 26139
twenty. 26140

(2) The number of special education teacher's aide positions 26141
shall be calculated by dividing the number of special education 26142
teacher positions calculated under division (B)(1) of this section 26143
by two. 26144

(C) The weighted number of children with disabilities for a 26145
school district is the sum of: 26146

(1) 0.2906 times the district's category one special 26147
education ADM; 26148

(2) 0.3613 times the district's category two special 26149
education ADM; 26150

(3) 1.7809 times the district's category three special 26151
education ADM; 26152

(4) 2.3143 times the district's category four special 26153
education ADM; 26154

(5) 3.5071 times the district's category five special 26155

<u>education ADM;</u>	26156
<u>(6) 5.3543 times the district's category six special</u>	26157
<u>education ADM.</u>	26158
<u>(D) Each school district shall account separately for</u>	26159
<u>expenditures of the amounts received for resources for children</u>	26160
<u>with disabilities under this section and section 3306.05 of the</u>	26161
<u>Revised Code and report that information to the department of</u>	26162
<u>education.</u>	26163
<u>Sec. 3306.12. (A) As used in this section:</u>	26164
<u>(1) "Assigned bus" means a school bus used to transport</u>	26165
<u>qualifying riders.</u>	26166
<u>(2) "Nontraditional ridership" means the average number of</u>	26167
<u>qualifying riders who are enrolled in a community school</u>	26168
<u>established under Chapter 3314. of the Revised Code, in a STEM</u>	26169
<u>school established under Chapter 3326. of the Revised Code, or in</u>	26170
<u>a nonpublic school and are provided school bus service by a school</u>	26171
<u>district during the first full week of October.</u>	26172
<u>(3) "Qualifying riders" means resident students enrolled in</u>	26173
<u>regular education in grades kindergarten to twelve who are</u>	26174
<u>provided school bus service by a school district and who live more</u>	26175
<u>than one mile from the school they attend, including students with</u>	26176
<u>dual enrollment in a joint vocational school district or a</u>	26177
<u>cooperative education school district, and students enrolled in a</u>	26178
<u>community school, STEM school, or nonpublic school.</u>	26179
<u>(4) "Qualifying ridership" means the average number of</u>	26180
<u>qualifying riders who are provided school bus service by a school</u>	26181
<u>district during the first full week of October.</u>	26182
<u>(5) "Rider density" means the number of qualifying riders per</u>	26183
<u>square mile of a school district.</u>	26184
<u>(6) "School bus service" means a school district's</u>	26185

<u>transportation of qualifying riders in any of the following types</u>	26186
<u>of vehicles:</u>	26187
<u>(a) School buses owned or leased by the district;</u>	26188
<u>(b) School buses operated by a private contractor hired by</u> <u>the district;</u>	26189 26190
<u>(c) School buses operated by another school district or</u> <u>entity with which the district has contracted, either as part of a</u> <u>consortium for the provision of transportation or otherwise.</u>	26191 26192 26193
<u>(B) Not later than the fifteenth day of October each year,</u> <u>each city, local, and exempted village school district shall</u> <u>report to the department of education its qualifying ridership,</u> <u>nontraditional ridership, number of qualifying riders per assigned</u> <u>bus, and any other information requested by the department.</u> <u>Subsequent adjustments to the reported numbers shall be made only</u> <u>in accordance with rules adopted by the department.</u>	26194 26195 26196 26197 26198 26199 26200
<u>(C) The department shall calculate the statewide</u> <u>transportation cost per student as follows:</u>	26201 26202
<u>(1) Determine each city, local, and exempted village school</u> <u>district's transportation cost per student by dividing the</u> <u>district's total costs for school bus service in the previous</u> <u>fiscal year by its qualifying ridership in the previous fiscal</u> <u>year.</u>	26203 26204 26205 26206 26207
<u>(2) After excluding districts that do not provide school bus</u> <u>service and the ten districts with the highest transportation</u> <u>costs per student and the ten districts with the lowest</u> <u>transportation costs per student, divide the aggregate cost for</u> <u>school bus service for the remaining districts in the previous</u> <u>fiscal year by the aggregate qualifying ridership of those</u> <u>districts in the previous fiscal year.</u>	26208 26209 26210 26211 26212 26213 26214
<u>(D) The department shall calculate the statewide</u>	26215

transportation cost per mile as follows: 26216

(1) Determine each city, local, and exempted village school district's transportation cost per mile by dividing the district's total costs for school bus service in the previous fiscal year by its total number of miles driven for school bus service in the previous fiscal year. 26217
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(2) After excluding districts that do not provide school bus service and the ten districts with the highest transportation costs per mile and the ten districts with the lowest transportation costs per mile, divide the aggregate cost for school bus service for the remaining districts in the previous fiscal year by the aggregate miles driven for school bus service in those districts in the previous fiscal year. 26222
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(E) The department shall calculate each city, local, and exempted village school district's transportation base payment as follows: 26229
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(1) Multiply the statewide transportation cost per student by the district's qualifying ridership for the current fiscal year. 26232
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(2) Multiply the statewide transportation cost per mile by the district's total number of miles driven for school bus service in the current fiscal year. 26234
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(3) Multiply the greater of the amounts calculated under divisions (E)(1) and (2) of this section by the greater of sixty per cent or the district's state share percentage. 26237
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(F) The department shall calculate each city, local, and exempted village school district's nontraditional ridership adjustment according to the following formula: 26240
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(nontraditional ridership for the current fiscal year / qualifying ridership for the current fiscal year) X 0.1 X transportation base payment 26243
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(G) If a city, local, and exempted village school district offers school bus service to all resident students who are enrolled in regular education in district schools in grades nine to twelve and who live more than one mile from the school they attend, the department shall calculate the district's high school ridership adjustment according to the following formula:

0.025 X transportation base payment

(H) If a city, local, and exempted village school district offers school bus service to students enrolled in grades kindergarten to eight who live more than one mile, but two miles or less, from the school they attend, the department shall calculate an additional adjustment according to the following formula:

0.025 X transportation base payment

(I)(1) The department annually shall establish a target number of qualifying riders per assigned bus for each city, local, and exempted village school district. The department shall use the most recently available data in establishing the target number. The target number shall be based on the statewide median number of qualifying riders per assigned bus as adjusted to reflect the district's rider density in comparison to the rider density of all other districts. The department shall post on the department's web site each district's target number of qualifying riders per assigned bus and a description of how the target number was determined.

(2) The department shall determine each school district's efficiency index by dividing the district's median number of qualifying riders per assigned bus by its target number of qualifying riders per assigned bus.

(3) The department shall determine each city, local, and exempted village school district's efficiency adjustment as follows:

(a) If the district's efficiency index is equal to or greater than 1.5, the efficiency adjustment shall be calculated according to the following formula: 26278
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26280

0.1 X transportation base payment 26281

(b) If the district's efficiency index is less than 1.5 but equal to or greater than 1.0, the efficiency adjustment shall be calculated according to the following formula: 26282
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[(efficiency index - 1) / 5] X transportation base payment 26285

(c) If the district's efficiency index is less than 1.0, the efficiency adjustment shall be zero. 26286
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(J) The department shall pay each city, local, and exempted village school district the lesser of the following: 26288
26289

(1) The sum of the amounts calculated under divisions (E) to (H) and (I)(3) of this section; 26290
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(2) The district's total costs for school bus service for the prior fiscal year. 26292
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(K) In addition to funds paid under division (J) of this section, each city, local, and exempted village district shall receive in accordance with rules adopted by the state board of education a payment for students transported by means other than school bus service and whose transportation is not funded under division (G) of section 3317.024 of the Revised Code. The rules shall include provisions for school district reporting of such students. 26294
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(L) In fiscal years 2010 and 2011, the department shall pay each district a pro rata portion of the amounts calculated under division (J) of this section and described in division (K) of this section, based on state appropriations. 26302
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Sec. 3306.13. (A) The department of education shall compute and distribute to each city, local, and exempted village school 26306
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district the state share of the adequacy amount for the fiscal 26308
year by subtracting the district's charge-off amount calculated 26309
under division (B) of this section from its adequacy amount 26310
calculated under section 3306.03 of the Revised Code. 26311

(B)(1) For districts with a class one effective operating tax 26312
rate that is less than twenty and one-tenth effective mills as of 26313
the first day of July of the current fiscal year, the charge-off 26314
amount equals two per cent of the sum of the district's total 26315
taxable value plus its property exemption value. 26316

(2) For districts with a class one effective operating tax 26317
rate that is greater than or equal to twenty and one-tenth class 26318
one effective mills as of the first day of July of the current 26319
fiscal year, the charge-off amount equals two per cent of the sum 26320
of the district's recognized valuation plus its property exemption 26321
value. 26322

If the difference obtained from the calculation is a negative 26323
number, the state share shall be zero. 26324

(C) The department shall use the information obtained under 26325
section 3317.021 of the Revised Code during the calendar year in 26326
which the fiscal year begins to calculate the district state 26327
shares under this section. 26328

Sec. 3306.14. (A) The partnership for continued learning 26329
shall establish a joint vocational school district funding 26330
committee. The committee shall study the extent to which current 26331
joint vocational school district programming and funding are 26332
responsive to state, regional, and local business and industry 26333
needs. In addition to members of the partnership for continued 26334
learning, the committee shall include business leaders and 26335
representatives of joint vocational school districts, selected by 26336
the superintendent of public instruction and the chancellor of the 26337

Ohio board of regents and approved by the partnership for 26338
continued learning. The committee shall operate under the 26339
direction of the superintendent and the chancellor. 26340

(B) Not later than September 1, 2010, the committee shall 26341
issue a report to the partnership for continued learning and the 26342
general assembly containing its findings and recommendations for 26343
revisions to joint vocational school district programming and 26344
funding. After the committee issues the report, the committee 26345
shall cease to exist. 26346

(C) The general assembly shall enact laws implementing 26347
revisions to joint vocational school district programming and 26348
funding not later than July 1, 2011. 26349

(D) The department of education shall continue to evaluate 26350
the efficacy of the joint vocational school district system and 26351
its programmatic offerings. 26352

Sec. 3306.15. (A) In fiscal years 2010 and 2011, each 26353
educational service center shall undergo a performance audit 26354
conducted by the auditor of state or a vendor contracted by the 26355
department of education. 26356

(B) Not later than one hundred eighty days after the 26357
effective date of this section, the department, the office of 26358
budget and management, and the auditor of state shall agree on the 26359
structure of performance audits to be conducted under division (A) 26360
of this section by determining the scope of the audits and setting 26361
metrics for each of the following: 26362

(1) Operational standards utilized by each service center; 26363

(2) The utilization of services by school districts; 26364

(3) The quality of educational and professional development 26365
services. 26366

(C) The educational service center study committee is hereby 26367
established. The committee shall study the extent to which the 26368
current educational service center system supports school 26369
districts in academic achievement, teacher quality, shared 26370
educational services, and the purchasing of services and 26371
commodities. The committee shall consist of the following members: 26372

(1) The superintendent of public instruction, the chancellor 26373
of the Ohio board of regents, the auditor of state or a designee 26374
of the auditor of state, and the director of budget and management 26375
or a designee of the director; 26376

(2) The following members appointed by the governor: 26377

(a) A representative of educational service centers; 26378

(b) A superintendent of a city school district; 26379

(c) A representative of parents or community representatives; 26380

(d) A representative of the business community; 26381

(e) A representative of county boards of mental retardation 26382
and developmental disabilities. 26383

(3) The following members appointed by the speaker of the 26384
house of representatives: 26385

(a) A representative of educational service centers; 26386

(b) A superintendent of an exempted village school district; 26387

(c) A representative of school district treasurers or 26388
business managers; 26389

(d) A representative of higher education institutions. 26390

(4) The following members appointed by the president of the 26391
senate: 26392

(a) A representative of educational service centers; 26393

(b) A superintendent of a local school district; 26394

<u>(c) A representative of higher education institutions;</u>	26395
<u>(d) A representative of the special education community.</u>	26396
<u>The committee shall be co-chaired by the superintendent of</u>	26397
<u>public instruction and the chancellor of the Ohio board of</u>	26398
<u>regents. The governor, speaker of the house of representatives,</u>	26399
<u>and president of the senate shall appoint members no later than</u>	26400
<u>September 1, 2009, and the committee shall hold its first meeting</u>	26401
<u>no later than October 15, 2009.</u>	26402
<u>(D) Based on the performance audits conducted under this</u>	26403
<u>section, the committee shall make recommendations regarding the</u>	26404
<u>following:</u>	26405
<u>(1) A new regional service delivery system;</u>	26406
<u>(2) Educational service system governance structure;</u>	26407
<u>(3) Accountability metrics for educational service centers.</u>	26408
<u>Not later than July 1, 2010, the committee shall issue to the</u>	26409
<u>governor a status report of its progress. The committee shall</u>	26410
<u>issue a final report containing its findings and recommendations</u>	26411
<u>to the governor not later than October 1, 2010, at which time the</u>	26412
<u>committee shall cease to exist.</u>	26413
<u>(E) The department of education and the office of budget and</u>	26414
<u>management shall provide the committee with any information and</u>	26415
<u>assistance required by the committee to carry out its duties.</u>	26416
Sec. 3306.16. <u>(A) The department of education shall calculate</u>	26417
<u>and pay the adequacy amount for each community school established</u>	26418
<u>under Chapter 3314. of the Revised Code, other than internet- or</u>	26419
<u>computer-based community schools, in the manner set forth in</u>	26420
<u>sections 3306.02 to 3306.11 of the Revised Code, with the</u>	26421
<u>following exceptions:</u>	26422
<u>(1) The number of organizational units attributed to each</u>	26423

community school shall be one organizational unit, regardless of the number of students enrolled in the school. 26424
26425

(2) The calculation of instructional services support shall not utilize the Ohio instructional quality index. 26426
26427

(3) The number of lead teacher positions shall equal one. 26428

(4) The counselor factor shall equal \$66,375 in fiscal year 2010 and \$67,660 in fiscal year 2011. 26429
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(5) The school nurse factor and the registered nurse factor shall be calculated as follows: 26431
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(a) Each community school with ADM of less than eight hundred shall receive only the school nurse factor; 26433
26434

(b) Each community school with ADM of eight hundred or more shall receive only the registered nurse factor. 26435
26436

(6) Administrative services support shall include only the following: 26437
26438

(a) The principal factor; 26439

(b) The administrative services support personnel factor, except that a community school shall receive funding for only one building manager, one secretary, and one noninstructional aide. 26440
26441
26442

(7) The superintendent factor and treasurer factor each shall equal zero. 26443
26444

(B) The department of education shall calculate and pay the adequacy amount for each internet- or computer-based community school in the manner set forth in sections 3306.02 to 3306.11 of the Revised Code, with the following exceptions: 26445
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(1) The number of organizational units attributed to each internet- or computer-based community school shall be one organizational unit, regardless of the number of students enrolled in the school. 26449
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26451
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<u>(2) The calculation of instructional services support shall not utilize the Ohio instructional quality index.</u>	26453
	26454
<u>(3) The number of core teacher positions shall equal the school's ADM divided by one hundred twenty-five.</u>	26455
	26456
<u>(4) The number of specialist teacher positions shall equal zero.</u>	26457
	26458
<u>(5) The number of career-technical education teacher positions shall equal zero.</u>	26459
	26460
<u>(6) The number of lead teacher positions shall equal zero.</u>	26461
<u>(7) The number of supplemental teacher positions shall equal zero.</u>	26462
	26463
<u>(8) The student support staff factor shall equal zero.</u>	26464
<u>(9) The counselor factor shall equal \$66,375 in fiscal year 2010 and \$67,660 in fiscal year 2011.</u>	26465
	26466
<u>(10) The summer remediation factor shall equal zero.</u>	26467
<u>(11) The school nurse factor and registered nurse factor each shall equal zero.</u>	26468
	26469
<u>(12) Administrative services support shall equal zero.</u>	26470
<u>(13) Operations and maintenance support shall equal zero.</u>	26471
<u>(14) Gifted education support and enrichment support each shall equal zero.</u>	26472
	26473
<u>(15) Technology resources support shall equal the school's ADM multiplied by \$1,037.</u>	26474
	26475
<u>(16) The professional development factor shall equal zero.</u>	26476
<u>(C) Each community school shall track its expenditure of the amount received under this section and report that information to the department of education.</u>	26477
	26478
	26479

Sec. 3306.17. For each STEM school established under Chapter 26480
3326. of the Revised Code, the governing body of which is not a 26481
city, local, or exempted village school district board of 26482
education pursuant to section 3326.51 of the Revised Code, the 26483
department of education shall calculate and pay the adequacy 26484
amount in the manner set forth in sections 3306.02 to 3306.11 of 26485
the Revised Code, with the following exceptions: 26486

(A) The adequacy amount shall be calculated as if the STEM 26487
school were a small school district, regardless of the number of 26488
students enrolled in the school. 26489

(B) The calculation of instructional services support shall 26490
not utilize the Ohio instructional quality index. 26491

Sec. 3306.18. On or before the fifteenth day of July of each 26492
year, the superintendent of public instruction shall certify to 26493
the state board of education the amount each city, local, and 26494
exempted village school district expended in the previous fiscal 26495
year on each factor of the district's adequacy amount. 26496

Sec. 3306.19. (A) The department of education shall calculate 26497
and pay transitional aid in fiscal years 2010 and 2011 to each 26498
city, local, and exempted village school district that receives 26499
less from the combination of its state share of the adequacy 26500
amount calculated under section 3306.13 of the Revised Code plus 26501
the prorated transportation funding calculated under section 26502
3306.12 of the Revised Code than its transitional aid guarantee 26503
base for the fiscal year. The amount of the transitional aid 26504
payment shall equal the difference of the district's transitional 26505
aid guarantee base for the current fiscal year minus the sum of 26506
its calculated state share of the adequacy amount plus its 26507
prorated transportation funding for the current fiscal year. 26508

(1) The transitional aid guarantee base for each city, local, 26509

and exempted village school district for fiscal year 2010 equals 26510
the sum of the following computed for fiscal year 2009, as 26511
reconciled by the department, less any amounts attributable to 26512
community school students included in the calculations and net of 26513
any additions or deductions attributable to open enrollment 26514
students and less any general revenue fund spending reductions 26515
ordered by the governor under section 126.05 of the Revised Code: 26516

(a) Base-cost funding under division (A) of section 3317.022 26517
of the Revised Code; 26518

(b) Special education and related services additional 26519
weighted funding under division (C)(1) of section 3317.022 of the 26520
Revised Code; 26521

(c) Speech services funding under division (C)(4) of section 26522
3317.022 of the Revised Code; 26523

(d) Vocational education additional weighted funding under 26524
division (E) of section 3317.022 of the Revised Code; 26525

(e) GRADS funding under division (N) of section 3317.024 of 26526
the Revised Code; 26527

(f) Adjustments for classroom teachers and educational 26528
service personnel under divisions (B), (C), and (D) of section 26529
3317.023 of the Revised Code; 26530

(g) Gifted education units under division (L) of section 26531
3317.024 and section 3317.05 of the Revised Code; 26532

(h) Transportation under Section 269.20.80 of Am. Sub. H.B. 26533
119 of the 127th general assembly; 26534

(i) The excess cost supplement under division (F) of section 26535
3317.022 of the Revised Code; 26536

(j) The charge-off supplement under section 3317.0216 of the 26537
Revised Code; 26538

(k) Transitional aid under Section 269.30.80 of Am. Sub. H.B. 26539

119 of the 127th general assembly. 26540

(2) The transitional aid guarantee base for each city, local, and exempted village school district for fiscal year 2011 equals ninety-eight per cent of the following difference: 26541
26542
26543

(a) The sum of the district's state share of the adequacy amount calculated under section 3306.13 of the Revised Code plus the district's prorated transportation funding calculated under section 3306.12 of the Revised Code plus any transitional aid payment under this section for fiscal year 2010; minus 26544
26545
26546
26547
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(b) Any general revenue fund spending reductions ordered by the governor for fiscal year 2010 under section 126.05 of the Revised Code. 26549
26550
26551

(B) Notwithstanding any provision of this chapter to the contrary: 26552
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(1) The combination of the state share of the adequacy amount plus the prorated transportation funding for any city, local, or exempted village school district for fiscal year 2010 shall not exceed one hundred fifteen per cent of its transitional aid guarantee base for fiscal year 2010. 26554
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(2) The combination of the state share of the adequacy amount plus the prorated transportation funding for any city, local, or exempted village school, district for fiscal year 2011 shall not exceed one hundred sixteen per cent of its transitional aid guarantee base for fiscal year 2011. 26559
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Sec. 3306.29. (A) The Ohio research-based funding model advisory council is hereby established. The council shall consist of the following members: 26564
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(1) The superintendent of public instruction, or the superintendent's designee; 26567
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(2) The chancellor of the Ohio board of regents, or the 26569

<u>chancellor's designee;</u>	26570
<u>(3) Two school district teachers, appointed by the governor;</u>	26571
<u>(4) Two nonteaching, nonadministrative school district employees, appointed by the governor;</u>	26572 26573
<u>(5) One school district principal, appointed by the governor;</u>	26574
<u>(6) One school district superintendent, appointed by the governor;</u>	26575 26576
<u>(7) One school district treasurer, appointed by the governor;</u>	26577
<u>(8) One representative of an institution of higher education, appointed by the governor;</u>	26578 26579
<u>(9) One member representing the business community, appointed by the governor;</u>	26580 26581
<u>(10) One member representing the general public, appointed by the governor;</u>	26582 26583
<u>(11) One member representing educational service centers, appointed by the governor;</u>	26584 26585
<u>(12) One parent of a student attending a school operated by a school district, appointed by the governor;</u>	26586 26587
<u>(13) One member representing community schools established under Chapter 3314. of the Revised Code, appointed by the governor;</u>	26588 26589 26590
<u>(14) One member representing early childhood education providers, appointed by the governor;</u>	26591 26592
<u>(15) Two members of the house of representatives appointed by the speaker of the house of representatives, one of whom shall be from the minority party and recommended by the minority leader of the house of representatives;</u>	26593 26594 26595 26596
<u>(16) Two members of the senate appointed by the president of the senate, one of whom shall be from the minority party and</u>	26597 26598

recommended by the minority leader of the senate. 26599

The council shall reflect the diversity of this state in 26600
terms of gender, race, ethnic background, and geographic 26601
distribution. The members shall serve without compensation. 26602

(B) The superintendent of public instruction, or the 26603
superintendent's designee to the council, shall be the chairperson 26604
of the council. 26605

The office of school resource management in the department of 26606
education shall provide staffing assistance to the council. 26607

The council shall meet at least quarterly, beginning in 26608
August 2009. 26609

(C) Not later than the first day of September of each 26610
even-numbered year, the council shall present to the governor, the 26611
state board of education, the general assembly, in accordance with 26612
section 101.68 of the Revised Code, and the public recommendations 26613
for revisions to the educational adequacy components of the 26614
research-based school funding model established under this 26615
chapter. The recommendations shall be based on current, high 26616
quality research, information provided by school districts, and 26617
best practices in operational efficiencies identified in the 26618
performance audits required by section 3306.32 of the Revised 26619
Code. 26620

Sec. 3306.30. (A) The board of education of each city, local, 26621
and exempted village school district, the governing authority of 26622
each community school established under Chapter 3314. of the 26623
Revised Code, and the governing body of each STEM school 26624
established under Chapter 3326. of the Revised Code annually shall 26625
submit to the department of education, by the date and in the 26626
manner prescribed by the superintendent of public instruction, a 26627
plan describing how the district or school will deploy the funds 26628

received under this chapter. The plan shall deploy the funds 26629
received for each component of the adequacy amount for the 26630
purposes designated by that component and shall comply with the 26631
operational standards adopted under division (E) of section 26632
3301.07 of the Revised Code and any directive of the 26633
superintendent of public instruction, unless a waiver has been 26634
granted under section 3306.40 of the Revised Code. 26635

(B) The department annually shall reconcile each spending 26636
plan submitted under this section with the actual spending of the 26637
district, community school, or STEM school. If the department 26638
finds that a district, community school, or STEM school has not 26639
complied with its spending plan, the department shall proceed to 26640
take action under section 3306.33 of the Revised Code. 26641

Sec. 3306.31. (A) This section applies to any city, local, or 26642
exempted village school district that has a high school with a 26643
graduation rate, as defined in section 3301.0711 of the Revised 26644
Code, of seventy per cent or less. 26645

(B) The board of education of each school district to which 26646
this section applies shall work with the department of education 26647
and the governor's closing the achievement gap initiative in 26648
developing its annual spending plan prior to submitting the plan 26649
under section 3306.30 of the Revised Code. 26650

(C) The board of each district to which this section applies 26651
shall create and staff, in each high school organizational unit 26652
having a graduation rate of seventy per cent or less, at least one 26653
position funded under division (A)(1) of section 3306.06 of the 26654
Revised Code. Each such position shall function as a linkage 26655
coordinator for closing the achievement gap and increasing the 26656
graduation rate. A linkage coordinator is a person who is the 26657
primary mentor, coach, and motivator for students identified as 26658

potential nongraduates and who coordinates those students' 26659
participation in academic programs, social service programs, 26660
out-of-school cultural and work-related experiences, and in-school 26661
and out-of-school mentoring programs, based on the students' 26662
needs. The linkage coordinator shall coordinate remedial 26663
disciplinary plans as needed and work with school personnel to 26664
gather student academic information and to engage parents of 26665
targeted students. The linkage coordinator shall serve as a 26666
liaison between the school and the governor's closing the 26667
achievement gap initiative and shall participate in all 26668
professional development activities as directed by the closing the 26669
achievement gap initiative. The linkage coordinator shall 26670
establish and coordinate the work of academic promotion teams, 26671
which shall address the academic and social needs of the 26672
identified students. The membership of teams in different schools 26673
may vary and may include the linkage coordinator, parents, 26674
teachers, principals, school nurses, school counselors, probation 26675
officers, or other school personnel or members of the community. 26676

(D) The spending plan submitted under section 3306.30 of the 26677
Revised Code by a school district to which this section applies is 26678
subject to the approval of the superintendent of public 26679
instruction and the governor's closing the achievement gap 26680
initiative. If they disapprove a plan, the state superintendent 26681
shall do one of the following: 26682

(1) Modify the plan as the state superintendent considers 26683
appropriate and notify the district board of the modifications. 26684
The district board shall comply with the plan as modified by the 26685
state superintendent. 26686

(2) Return the spending plan and require the district board 26687
to modify the plan according to the state superintendent's 26688
instructions or recommendations. The district board shall modify 26689
the plan according to the state superintendent's instructions or 26690

recommendations and return the modified plan by a date specified 26691
by the state superintendent. 26692

(E) The department shall work with the governor's closing the 26693
achievement gap initiative in reconciling, under division (B) of 26694
section 3306.30 of the Revised Code, the spending plan submitted 26695
by a district to which this section applies with the district's 26696
actual spending. 26697

Sec. 3306.32. (A) Each city, local, exempted village, and 26698
joint vocational school district, each community school 26699
established under Chapter 3314. of the Revised Code, and each STEM 26700
school established under Chapter 3326. of the Revised Code shall 26701
undergo a performance audit under this section at least once every 26702
five fiscal years under the direction of the department of 26703
education. If a school district board of education governs and 26704
controls a STEM school as described in section 3326.51 of the 26705
Revised Code, the performance audit of that STEM school under this 26706
section shall be conducted at the time of and as part of the 26707
school district's performance audit. 26708

(B) The office of school resource management of the 26709
department shall determine the order in which performance audits 26710
shall be conducted under this section. After receiving 26711
recommendations from the office of school resource management, the 26712
state board of education and the auditor of state jointly shall 26713
adopt rules in accordance with Chapter 119. of the Revised Code 26714
prescribing the scope of the performance audits. 26715

(C) The department may contract with the auditor of state, 26716
any other governmental entity, or any private entity to conduct 26717
performance audits under this section. 26718

(D) Upon the conclusion of a performance audit under this 26719
section, the contractor conducting the performance audit shall 26720
submit a final audit report to the state board, the office of 26721

school resource management, and the board, governing authority, or 26722
governing body of the district, community school, or STEM school. 26723

(E) Not later than ninety days after the date of the final 26724
audit report, the board, governing authority, or governing body of 26725
the district, community school, or STEM school shall submit to the 26726
office of school resource management a response to the report. The 26727
response shall address the findings and recommendations specified 26728
in the final audit report and shall specify a timeline for 26729
implementing recommendations listed in the report. 26730

(F) At the end of the timeline specified in the response, the 26731
board, governing authority, or governing body shall submit a 26732
report to the office of school resource management. The report 26733
shall explain the progress made in implementing each 26734
recommendation of the audit report, specify the steps taken to 26735
implement each recommendation, and indicate for each 26736
recommendation whether and to what extent the recommendation has 26737
been implemented. 26738

(G) If a district, community school, or STEM school fails to 26739
cooperate with a performance audit under this section, or fails 26740
timely to submit a response or report under division (E) or (F) of 26741
this section that the office of school resource management finds 26742
satisfactory, the department shall proceed to take action under 26743
section 3306.33 of the Revised Code. 26744

(H) The department shall pay the cost of each performance 26745
audit under this section. 26746

Sec. 3306.33. (A) The department of education shall take 26747
action under this section with respect to a school district, 26748
community school established under Chapter 3314. of the Revised 26749
Code, or STEM school established under Chapter 3326. of the 26750
Revised Code in any of the following circumstances: 26751

(1) The department determines, based on its reconciliation under section 3306.30 of the Revised Code of a spending plan with actual spending, a site visit under section 3301.83 or 3314.39 of the Revised Code, or a determination under section 117.54 of the Revised Code that the school district, community school, or STEM school has failed to allocate state funds received for five or more of the twenty-four components of the adequacy amount for the purposes designated by those components.

(2) The district, community school, or STEM school fails to submit a spending plan under section 3306.30 and, if applicable, section 3306.31 of the Revised Code, or the department determines that the district or school has failed to comply with its spending plan.

(3) The district, community school, or STEM school fails to cooperate with a performance audit under section 3306.31 of the Revised Code, fails timely to submit a response or report under division (E) or (F) of that section that the office of school resource management finds satisfactory, or fails to implement a recommendation set forth in a performance audit report.

(B) When a circumstance described in division (A) of this section applies, the department shall provide the school district, community school, or STEM school with technical assistance to bring the district or school into compliance with the spending model and other requirements of this chapter. In addition, the board of the district, the governing authority of the community school, or the governing body of the STEM school shall take all of the following actions:

(1) Develop and submit to the department a three-year operations improvement plan containing all of the following:

(a) An analysis of the reasons for the failure to meet the spending and other requirements of this chapter;

(b) Specific strategies the board, governing authority, or governing body will use to address the problems in meeting the requirements; 26783
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(c) Identification of the resources the board, governing authority, or governing body will use to meet the requirements; 26786
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(d) A description of how the board, governing authority, or governing body will measure its progress in meeting the requirements. 26788
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If the district or school is required to have a continuous improvement plan under section 3302.04 of the Revised Code, the three-year operations improvement plan required by this section shall be aligned with the continuous improvement plan. 26791
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(2) Notify the parent or guardian of each student served by the district, community school, or STEM school, either in writing or by electronic means, of the requirements that were not met, the actions being taken to meet the requirements, and any progress achieved in the immediately preceding school year toward meeting the requirements. 26795
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(3) Present the plan, and take public testimony with respect to it, in a public hearing before the board, governing authority, or governing body. 26801
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(C) When a circumstance described in division (A) of this section applies to a school district, community school, or STEM school for a second consecutive year, whether it is the same or a different circumstance, the department shall provide the district, community school, or STEM school with technical assistance to bring the district or school into compliance with the requirements of this chapter. In addition, both of the following apply: 26804
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(1) The board, governing authority of the community school, or the governing body of the STEM school shall take all of the actions prescribed in divisions (B)(1) to (3) of this section; 26811
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(2) The department shall establish a state intervention team to evaluate all aspects of the district's or school's operations, including, but not limited to, management, instructional methods, resource allocation, and scheduling. The intervention team shall include teachers and administrators recognized as outstanding in their fields. The team shall make recommendations regarding methods for bringing the district or school into compliance with the requirements of this chapter. The superintendent of public instruction shall establish guidelines for the intervention teams. The district or school shall pay the costs of the intervention team.

(D) When a circumstance described in division (A) of this section applies to a school district, community school, or STEM school for a third consecutive year, whether it is the same or a different circumstance as in the preceding years, the superintendent of public instruction shall either:

(1) Establish an accountability compliance commission under section 3306.34 of the Revised Code;

(2) Appoint a trustee who shall govern the district, community school, or STEM school in place of the board of education of the school district, the governing authority of the community school, or the governing body of the STEM school until the beginning of the first year that none of the circumstances described in division (A) of section 3306.32 of the Revised Code apply to the district, community school, or STEM school.

(E) When a circumstance described in division (A) of this section applies to a school district, community school, or STEM school for a fourth consecutive year, whether it is the same or a different circumstance as in the preceding years:

(1) With respect to a school district, the state board of education shall proceed under section 3301.16 of the Revised Code

to revoke the district's charter. 26845

(2) With respect to a community school or a STEM school, the 26846
department of education shall order the school to close, and the 26847
governing authority or the governing body shall permanently close 26848
the school. 26849

(F)(1) At any time, the state board may proceed under section 26850
3301.16 of the Revised Code to revoke the charter of a school 26851
district that fails to meet the operating standards established 26852
under division (E) of section 3301.07 of the Revised Code or fails 26853
to comply with this section. 26854

(2) At any time, the department may order a community school 26855
or a STEM school to close if the school fails to comply with this 26856
section. In that case, the governing authority or the governing 26857
body shall permanently close the school. 26858

Sec. 3306.34. (A) Each accountability compliance commission 26859
appointed under division (D) of section 3306.33 of the Revised 26860
Code is a body both corporate and politic, constituting an agency 26861
and instrumentality of the state and performing essential 26862
governmental functions of the state. A commission shall be known 26863
as the "accountability compliance commission for 26864
(name of school district, community school, or STEM school)," and, 26865
in that name, may exercise all authority vested in such a 26866
commission by this section. A separate commission shall be 26867
established for each school district, community school, or STEM 26868
school for which the superintendent of public instruction opts to 26869
establish a commission under division (D) of section 3306.33 of 26870
the Revised Code. 26871

(B) Each accountability commission shall consist of three 26872
members, one of whom shall be appointed by the governor, one of 26873
whom shall be appointed by the superintendent of public 26874
instruction, and one of whom shall be appointed by the auditor of 26875

state. 26876

All members shall serve at the pleasure of the appointing authority during the life of the commission. In the event of the death, resignation, incapacity, removal, or ineligibility to serve of a member, the appointing authority shall appoint a successor within fifteen days after the vacancy occurs. Members shall serve without compensation, but shall be paid by the commission their necessary and actual expenses incurred while engaged in the business of the commission. 26877
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(C) Immediately after appointment of the initial members of an accountability compliance commission, the state superintendent shall call the first meeting of the commission and shall cause written notice of the time, date, and place of that meeting to be given to each member of the commission at least forty-eight hours in advance of the meeting. The first meeting shall include an overview of the commission's roles and responsibilities, the requirements of section 2921.42 and Chapter 102. of the Revised Code as they pertain to commission members, the requirements of section 121.22 of the Revised Code, and the provisions of division (F) of this section. At its first meeting, the commission shall adopt temporary bylaws in accordance with division (D) of this section to govern its operations until the adoption of permanent bylaws. 26885
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The state superintendent shall designate a chairperson for the commission from among the members. The chairperson shall call and conduct meetings, set meeting agendas, and serve as a liaison between the commission and the district board of education, the community school governing authority, or STEM school governing body. The chairperson also shall appoint a secretary, who shall not be a member of the commission. 26899
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The department of education shall provide administrative support for the commission, provide data requested by the 26906
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commission, and inform the commission of available state resources 26908
that could assist the commission in its work. 26909

(D) Each accountability compliance commission may adopt and 26910
alter bylaws and rules, which shall not be subject to section 26911
111.15 or Chapter 119. of the Revised Code, for the conduct of its 26912
affairs and for the manner, subject to this section, in which its 26913
powers and functions shall be exercised and embodied. 26914

(E) Two members of an accountability compliance commission 26915
constitute a quorum of the commission. The affirmative vote of two 26916
members of the commission is necessary for any action taken by 26917
vote of the commission. No vacancy in the membership of the 26918
commission shall impair the rights of a quorum by such vote to 26919
exercise all the rights and perform all the duties of the 26920
commission. Members of the commission are not disqualified from 26921
voting by reason of the functions of any other office they hold 26922
and are not disqualified from exercising the functions of the 26923
other office with respect to the school district or community 26924
school or STEM school, its officers, or the commission. 26925

(F) The members of an accountability compliance commission, 26926
the state superintendent, and any person authorized to act on 26927
behalf of or assist them shall not be personally liable or subject 26928
to any suit, judgment, or claim for damages resulting from the 26929
exercise of or failure to exercise the powers, duties, and 26930
functions granted to them in regard to their functioning under 26931
this section, but the commission, state superintendent, and such 26932
other persons shall be subject to mandamus proceedings to compel 26933
performance of their duties under this section. 26934

(G) Each member of an accountability compliance commission 26935
shall file the statement described in section 102.02 of the 26936
Revised Code with the Ohio ethics commission. The statement shall 26937
be confidential, subject to review, as described in division (B) 26938
of that section. 26939

(H) Meetings of each accountability compliance commission shall be subject to section 121.22 of the Revised Code. 26940
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(I) Each accountability compliance commission shall seek input from the district board of education, community school governing authority, or STEM school governing body regarding ways to improve the district's or school's operations and compliance with the requirements of this chapter, but any decision of the commission related to any authority granted to the commission under this section shall be final. 26942
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The commission may do any of the following: 26949

(1) Prepare and submit the school district's, community school's, or STEM school's spending plan required under section 3306.30 and, if applicable, section 3306.31 of the Revised Code; 26950
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(2) Appoint school building administrators and reassign administrative personnel; 26953
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(3) Terminate the contracts of administrators or administrative personnel. The commission shall not be required to comply with section 3319.16 of the Revised Code with respect to any contract terminated under this division. 26955
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(4) Contract with a private entity to perform school or district management functions; 26959
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(5) Establish a budget for the district or school and approve district or school appropriations and expenditures, unless, in the case of a school district, a financial planning and supervision commission has been established for the district pursuant to section 3316.05 of the Revised Code; 26961
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(6) Exercise the powers, duties, and functions with respect to the district, community school, or STEM school as are granted to a financial planning and supervision commission with respect to a school district under divisions (A)(1) to (4) of section 3316.07 26966
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of the Revised Code, unless a financial planning and supervision 26970
commission has been established for the district. 26971

(J) If the board of education of a school district, governing 26972
authority of a community school, or governing body of a STEM 26973
school for which an accountability compliance commission has been 26974
established renews any collective bargaining agreement under 26975
Chapter 4117. of the Revised Code during the existence of the 26976
commission, the board, governing authority, or governing body 26977
shall not enter into any agreement that would render any decision 26978
of the commission unenforceable. 26979

(K) An accountability compliance commission shall cease to 26980
exist at the beginning of the first year that none of the 26981
circumstances described in division (A) of section 3306.33 of the 26982
Revised Code apply to the district, community school, or STEM 26983
school. 26984

Sec. 3306.40. The board of education of a school district, 26985
the governing authority of a community school established under 26986
Chapter 3314. of the Revised Code, or the governing body of a STEM 26987
school established under Chapter 3326. of the Revised Code may 26988
apply to the superintendent of public instruction for a waiver of 26989
any standard or requirement of this chapter. The board of 26990
education of any school district also may apply to the state 26991
superintendent for a waiver of any operating standard adopted 26992
under division (E) of section 3301.07 of the Revised Code. 26993

The state board of education shall adopt standards for the 26994
approval or disapproval of waivers under this section. The state 26995
superintendent shall consider every application for a waiver, and 26996
shall determine whether to grant or deny a waiver in accordance 26997
with the state board's standards. For each waiver granted, the 26998
state superintendent shall specify the period of time during which 26999
the waiver is in effect, which shall not exceed five years. A 27000

district, community school, or STEM school may apply to renew a 27001
waiver. 27002

Sec. 3307.31. (A) Payments by boards of education and 27003
governing authorities of community schools to the state teachers 27004
retirement system, as provided in sections 3307.29 and 3307.291 of 27005
the Revised Code, shall be made from the amount allocated under 27006
section 3314.08, Chapter 3306., or Chapter 3317. of the Revised 27007
Code prior to its distribution to the individual school districts 27008
or community schools. The amount due from each school district or 27009
community school shall be certified by the secretary of the system 27010
to the superintendent of public instruction monthly, or at such 27011
times as may be determined by the state teachers retirement board. 27012
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The superintendent shall deduct, from the amount allocated to 27014
each district or community school under section 3314.08, Chapter 27015
3306., or Chapter 3317. of the Revised Code, the entire amounts 27016
due to the system from such district or school upon the 27017
certification to the superintendent by the secretary thereof. 27018

The superintendent shall certify to the director of budget 27019
and management the amounts thus due the system for payment. 27020

(B) Payments to the state teachers retirement system by a 27021
science, technology, engineering, and mathematics school shall be 27022
deducted from the amount allocated under section 3326.33 of the 27023
Revised Code and shall be made in the same manner as payments by 27024
boards of education under this section. 27025

Sec. 3307.64. A disability benefit recipient, notwithstanding 27026
section 3319.13 of the Revised Code, shall retain membership in 27027
the state teachers retirement system and shall be considered on 27028
leave of absence during the first five years following the 27029
effective date of a disability benefit. 27030

The state teachers retirement board shall require any 27031
disability benefit recipient to submit to an annual medical 27032
examination by a physician selected by the board, except that the 27033
board may waive the medical examination if the board's physician 27034
certifies that the recipient's disability is ongoing. If a 27035
disability benefit recipient refuses to submit to a medical 27036
examination, the recipient's disability benefit shall be suspended 27037
until the recipient withdraws the refusal. If the refusal 27038
continues for one year, all the recipient's rights under and to 27039
the disability benefit shall be terminated as of the effective 27040
date of the original suspension. 27041

After the examination, the examiner shall report and certify 27042
to the board whether the disability benefit recipient is no longer 27043
physically and mentally incapable of resuming the service from 27044
which the recipient was found disabled. If the board concurs in a 27045
report by the examining physician that the disability benefit 27046
recipient is no longer incapable, the payment of a disability 27047
benefit shall be terminated not later than the following 27048
thirty-first day of August or upon employment as a teacher prior 27049
thereto. If the leave of absence has not expired, the board shall 27050
so certify to the disability benefit recipient's last employer 27051
before being found disabled that the recipient is no longer 27052
physically and mentally incapable of resuming service that is the 27053
same or similar to that from which the recipient was found 27054
disabled. If the recipient was under contract at the time the 27055
recipient was found disabled, the employer by the first day of the 27056
next succeeding year shall restore the recipient to the 27057
recipient's previous position and salary or to a position and 27058
salary similar thereto, unless the recipient was dismissed or 27059
resigned in lieu of dismissal for dishonesty, misfeasance, 27060
malfeasance, or conviction of a felony. 27061

A disability benefit shall terminate if the disability 27062

benefit recipient becomes employed as a teacher in any public or 27063
private school or institution in this state or elsewhere. An 27064
individual receiving a disability benefit from the system shall be 27065
ineligible for any employment as a teacher and it shall be 27066
unlawful for any employer to employ the individual as a teacher. 27067
If any employer should employ or reemploy the individual prior to 27068
the termination of a disability benefit, the employer shall file 27069
notice of employment with the board designating the date of the 27070
employment. If the individual should be paid both a disability 27071
benefit and also compensation for teaching service for all or any 27072
part of the same month, the secretary of the board shall certify 27073
to the employer or to the superintendent of public instruction the 27074
amount of the disability benefit received by the individual during 27075
the employment, which amount shall be deducted from any amount due 27076
the employing district under ~~Chapter~~ Chapters 3306. and 3317. of 27077
the Revised Code or shall be paid by the employer to the annuity 27078
and pension reserve fund. 27079

Each disability benefit recipient shall file with the board 27080
an annual statement of earnings, current medical information on 27081
the recipient's condition, and any other information required in 27082
rules adopted by the board. The board may waive the requirement 27083
that a disability benefit recipient file an annual statement of 27084
earnings or current medical information if the board's physician 27085
certifies that the recipient's disability is ongoing. 27086

The board shall annually examine the information submitted by 27087
the recipient. If a disability benefit recipient refuses to file 27088
the statement or information, the disability benefit shall be 27089
suspended until the statement and information are filed. If the 27090
refusal continues for one year, the recipient's right to the 27091
disability benefit shall be terminated as of the effective date of 27092
the original suspension. 27093

A disability benefit also may be terminated by the board at 27094

the request of the disability benefit recipient. 27095

If disability retirement under section 3307.63 of the Revised 27096
Code is terminated for any reason, the annuity and pension 27097
reserves at that time in the annuity and pension reserve fund 27098
shall be transferred to the teachers' savings fund and the 27099
employers' trust fund, respectively. If the total disability 27100
benefit paid was less than the amount of the accumulated 27101
contributions of the member transferred to the annuity and pension 27102
reserve fund at the time of the member's disability retirement, 27103
then the difference shall be transferred from the annuity and 27104
pension reserve fund to another fund as required. In determining 27105
the amount of a member's account following the termination of 27106
disability retirement for any reason, the total amount paid shall 27107
be charged against the member's refundable account. 27108

If a disability allowance paid under section 3307.631 of the 27109
Revised Code is terminated for any reason, the reserve on the 27110
allowance at that time in the annuity and pension reserve fund 27111
shall be transferred from that fund to the employers' trust fund. 27112

If a former disability benefit recipient again becomes a 27113
contributor, other than as an other system retirant under section 27114
3307.35 of the Revised Code, to this retirement system, the school 27115
employees retirement system, or the public employees retirement 27116
system, and completes at least two additional years of service 27117
credit, the former disability benefit recipient shall receive 27118
credit for the period as a disability benefit recipient. 27119

Sec. 3309.41. (A) A disability benefit recipient shall retain 27120
membership status and shall be considered on leave of absence from 27121
employment during the first five years following the effective 27122
date of a disability benefit, notwithstanding any contrary 27123
provisions in Chapter 124. or 3319. of the Revised Code. 27124

(B) The school employees retirement board shall require a 27125

disability benefit recipient to undergo an annual medical 27126
examination, except that the board may waive the medical 27127
examination if the board's physician or physicians certify that 27128
the recipient's disability is ongoing. Should any disability 27129
benefit recipient refuse to submit to a medical examination, the 27130
recipient's disability benefit shall be suspended until withdrawal 27131
of the refusal. Should the refusal continue for one year, all the 27132
recipient's rights in and to the disability benefit shall be 27133
terminated as of the effective date of the original suspension. 27134

(C) On completion of the examination by an examining 27135
physician or physicians selected by the board, the physician or 27136
physicians shall report and certify to the board whether the 27137
disability benefit recipient is no longer physically and mentally 27138
incapable of resuming the service from which the recipient was 27139
found disabled. If the board concurs in the report that the 27140
disability benefit recipient is no longer incapable, the payment 27141
of the disability benefit shall be terminated not later than three 27142
months after the date of the board's concurrence or upon 27143
employment as an employee. If the leave of absence has not 27144
expired, the retirement board shall certify to the disability 27145
benefit recipient's last employer before being found disabled that 27146
the recipient is no longer physically and mentally incapable of 27147
resuming service that is the same or similar to that from which 27148
the recipient was found disabled. The employer shall restore the 27149
recipient to the recipient's previous position and salary or to a 27150
position and salary similar thereto not later than the first day 27151
of the first month following termination of the disability 27152
benefit, unless the recipient was dismissed or resigned in lieu of 27153
dismissal for dishonesty, misfeasance, malfeasance, or conviction 27154
of a felony. 27155

(D) Each disability benefit recipient shall file with the 27156
board an annual statement of earnings, current medical information 27157

on the recipient's condition, and any other information required 27158
in rules adopted by the board. The board may waive the requirement 27159
that a disability benefit recipient file an annual statement of 27160
earnings or current medical information on the recipient's 27161
condition if the board's physician or physicians certify that the 27162
recipient's disability is ongoing. 27163

The board shall annually examine the information submitted by 27164
the recipient. If a disability benefit recipient refuses to file 27165
the statement or information, the disability benefit shall be 27166
suspended until the statement and information are filed. If the 27167
refusal continues for one year, the recipient's right to the 27168
disability benefit shall be terminated as of the effective date of 27169
the original suspension. 27170

(E) If a disability benefit recipient is employed by an 27171
employer covered by this chapter, the recipient's disability 27172
benefit shall cease. 27173

(F) If disability retirement under section 3309.40 of the 27174
Revised Code is terminated for any reason, the annuity and pension 27175
reserves at that time in the annuity and pension reserve fund 27176
shall be transferred to the employees' savings fund and the 27177
employers' trust fund, respectively. If the total disability 27178
benefit paid is less than the amount of the accumulated 27179
contributions of the member transferred into the annuity and 27180
pension reserve fund at the time of the member's disability 27181
retirement, the difference shall be transferred from the annuity 27182
and pension reserve fund to another fund as may be required. In 27183
determining the amount of a member's account following the 27184
termination of disability retirement for any reason, the amount 27185
paid shall be charged against the member's refundable account. 27186

If a disability allowance paid under section 3309.401 of the 27187
Revised Code is terminated for any reason, the reserve on the 27188
allowance at that time in the annuity and pension reserve fund 27189

shall be transferred from that fund to the employers' trust fund. 27190

The board may terminate a disability benefit at the request 27191
of the recipient. 27192

(G) If a disability benefit is terminated and a former 27193
disability benefit recipient again becomes a contributor, other 27194
than as an other system retirant as defined in section 3309.341 of 27195
the Revised Code, to this system, the public employees retirement 27196
system, or the state teachers retirement system, and completes an 27197
additional two years of service credit after the termination of 27198
the disability benefit, the former disability benefit recipient 27199
shall be entitled to full service credit for the period as a 27200
disability benefit recipient. 27201

(H) If any employer employs any member who is receiving a 27202
disability benefit, the employer shall file notice of employment 27203
with the retirement board, designating the date of employment. In 27204
case the notice is not filed, the total amount of the benefit paid 27205
during the period of employment prior to notice shall be paid from 27206
amounts allocated under ~~Chapter~~ Chapters 3306. and 3317. of the 27207
Revised Code prior to its distribution to the school district in 27208
which the disability benefit recipient was so employed. 27209

Sec. 3309.48. Any employee who left the service of an 27210
employer after attaining age sixty-five or over and such employer 27211
had failed or refused to deduct and transmit to the school 27212
employees retirement system the employee contributions as required 27213
by section 3309.47 of the Revised Code during any year for which 27214
membership was compulsory as determined by the school employees 27215
retirement board, shall be granted service credit without cost, 27216
which shall be considered as total service credit for the purposes 27217
of meeting the qualifications for service retirement provided by 27218
the law in effect on and retroactive to the first eligible 27219
retirement date following the date such employment terminated, but 27220

shall not be paid until formal application for such allowance on a 27221
form provided by the retirement board is received in the office of 27222
the retirement system. The total service credit granted under this 27223
section shall not exceed ten years for any such employee. 27224

The liability incurred by the retirement board because of the 27225
service credit granted under this section shall be determined by 27226
the retirement board, the cost of which shall be equal to an 27227
amount that is determined by applying the combined employee and 27228
employer rates of contribution against the compensation of such 27229
employee at the rates of contribution and maximum salary 27230
provisions in effect during such employment for each year for 27231
which credit is granted, together with interest at the rate to be 27232
credited accumulated contributions at retirement, compounded 27233
annually from the first day of the month payment was due the 27234
retirement system to and including the month of deposit, the total 27235
amount of which shall be collected from the employer. Such amounts 27236
shall be certified by the retirement board to the superintendent 27237
of public instruction, who shall deduct the amount due the system 27238
from any funds due the affected school district under ~~Chapter~~ 27239
Chapters 3306. and 3317. of the Revised Code. The superintendent 27240
shall certify to the director of budget and management the amount 27241
due the system for payment. The total amount paid shall be 27242
deposited into the employers' trust fund, and shall not be 27243
considered as accumulated contributions of the employee in the 27244
event of ~~his~~ the employee's death or withdrawal of funds. 27245

Sec. 3309.51. (A) Each employer shall pay annually into the 27246
employers' trust fund, in such monthly or less frequent 27247
installments as the school employees retirement board requires, an 27248
amount certified by the school employees retirement board, which 27249
shall be as required by Chapter 3309. of the Revised Code. 27250

Payments by school district boards of education to the 27251

employers' trust fund of the school employees retirement system 27252
may be made from the amounts allocated under ~~Chapter~~ Chapters 27253
3306. and 3317. of the Revised Code prior to their distribution to 27254
the individual school districts. The amount due from each school 27255
district may be certified by the secretary of the system to the 27256
superintendent of public instruction monthly, or at such times as 27257
is determined by the school employees retirement board. 27258

Payments by governing authorities of community schools to the 27259
employers' trust fund of the school employees retirement system 27260
shall be made from the amounts allocated under ~~section~~ sections 27261
3306.16 and 3314.08 of the Revised Code prior to their 27262
distribution to the individual community schools. The amount due 27263
from each community school shall be certified by the secretary of 27264
the system to the superintendent of public instruction monthly, or 27265
at such times as determined by the school employees retirement 27266
board. 27267

Payments by a science, technology, engineering, and 27268
mathematics school, other than one governed as provided in section 27269
3326.51 of the Revised Code, to the employers' trust fund of the 27270
school employees retirement system shall be made from the amounts 27271
allocated under ~~section~~ sections 3306.17, 3326.33, and 3326.34 of 27272
the Revised Code prior to their distribution to the school. The 27273
amount due from a science, technology, engineering, and 27274
mathematics school shall be certified by the secretary of the 27275
school employees retirement system to the superintendent of public 27276
instruction monthly, or at such times as determined by the school 27277
employees retirement board. 27278

(B) The superintendent shall deduct from the amount allocated 27279
to each community school under ~~section~~ sections 3306.16 and 27280
3314.08 of the Revised Code, to each school district under ~~Chapter~~ 27281
Chapters 3306. and 3317. of the Revised Code, or to each science, 27282
technology, engineering, and mathematics school under ~~section~~ 27283

sections 3306.17, 3326.33, and 3326.34 of the Revised Code the 27284
entire amounts due to the school employees retirement system from 27285
such school or school district upon the certification to the 27286
superintendent by the secretary thereof. 27287

(C) Where an employer fails or has failed or refuses to make 27288
payments to the employers' trust fund, as provided for under 27289
Chapter 3309. of the Revised Code, the secretary of the school 27290
employees retirement system may certify to the state 27291
superintendent of public instruction, monthly or at such times as 27292
is determined by the school employees retirement board, the amount 27293
due from such employer, and the superintendent shall deduct from 27294
the amount allocated to the employer under section 3314.08 ~~or~~ 27295
3326.33, or 3326.34 or Chapter 3306. or 3317. of the Revised Code, 27296
as applicable, the entire amounts due to the system from the 27297
employer upon the certification to the superintendent by the 27298
secretary of the school employees retirement system. 27299

(D) The superintendent shall certify to the director of 27300
budget and management the amounts thus due the system for payment. 27301
27302

Sec. 3310.03. (A) A student is an "eligible student" for 27303
purposes of the educational choice scholarship pilot program if 27304
the student's resident district is not a school district in which 27305
the pilot project scholarship program is operating under sections 27306
3313.974 to 3313.979 of the Revised Code; the student is not 27307
enrolled, for any portion of the school year in which the student 27308
submits an application for the scholarship, in a nonpublic school; 27309
and the student satisfies one of the following conditions: 27310

(1) The student is enrolled in a school building that is 27311
operated by the student's resident district and to which both of 27312
the following apply: 27313

(a) The building was declared, in at least two of the three 27314

most recent ratings of school buildings published prior to the 27315
first day of July of the school year for which a scholarship is 27316
sought, to be in a state of academic emergency or academic watch 27317
under section 3302.03 of the Revised Code; 27318

(b) The building was not declared to be excellent or 27319
effective under that section in the most recent rating published 27320
prior to the first day of July of the school year for which a 27321
scholarship is sought. 27322

(2) The student is eligible to enroll in kindergarten in the 27323
school year for which a scholarship is sought and otherwise would 27324
be assigned under section 3319.01 of the Revised Code to a school 27325
building described in division (A)(1) of this section. 27326

(3) The student is enrolled in a community school established 27327
under Chapter 3314. of the Revised Code but otherwise would be 27328
assigned under section 3319.01 of the Revised Code to a building 27329
described in division (A)(1) of this section. 27330

(4) The student is enrolled in a school building that is 27331
operated by the student's resident district or in a community 27332
school established under Chapter 3314. of the Revised Code and 27333
otherwise would be assigned under section 3319.01 of the Revised 27334
Code to a school building described in division (A)(1) of this 27335
section in the school year for which the scholarship is sought. 27336

(5) The student is eligible to enroll in kindergarten in the 27337
school year for which a scholarship is sought, or is enrolled in a 27338
community school established under Chapter 3314. of the Revised 27339
Code, and all of the following apply to the student's resident 27340
district: 27341

(a) The district has in force an intradistrict open 27342
enrollment policy under which no student in kindergarten or the 27343
community school student's grade level, respectively, is 27344
automatically assigned to a particular school building; 27345

(b) In at least two of the three most recent ratings of school districts published prior to the first day of July of the school year for which a scholarship is sought, the district was declared to be in a state of academic emergency under section 3302.03 of the Revised Code;

(c) The district was not declared to be excellent or effective under that section in the most recent rating published prior to the first day of July of the school year for which a scholarship is sought.

(B) A student who receives a scholarship under the educational choice scholarship pilot program remains an eligible student and may continue to receive scholarships in subsequent school years until the student completes grade twelve, so long as all of the following apply:

(1) The student's resident district remains the same, or the student transfers to a new resident district and otherwise would be assigned in the new resident district to a school building described in division (A)(1) of this section;

(2) The student takes each ~~state test~~ assessment prescribed for the student's grade level under section 3301.0710 or 3301.0712 of the Revised Code while enrolled in a chartered nonpublic school;

(3) In each school year that the student is enrolled in a chartered nonpublic school, the student is absent from school for not more than twenty days that the school is open for instruction, not including excused absences.

(C) The department shall cease awarding first-time scholarships pursuant to divisions (A)(1) to (4) of this section with respect to a school building that, in the most recent ratings of school buildings published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to

meet the criteria in division (A)(1) of this section. The 27377
department shall cease awarding first-time scholarships pursuant 27378
to division (A)(5) of this section with respect to a school 27379
district that, in the most recent ratings of school districts 27380
published under section 3302.03 of the Revised Code prior to the 27381
first day of July of the school year, ceases to meet the criteria 27382
in division (A)(5) of this section. However, students who have 27383
received scholarships in the prior school year remain eligible 27384
students pursuant to division (B) of this section. 27385

(D) The state board of education shall adopt rules defining 27386
excused absences for purposes of division (B)(3) of this section. 27387

Sec. 3310.08. (A) The amount paid for an eligible student 27388
under the educational choice scholarship pilot program shall be 27389
the lesser of the tuition of the chartered nonpublic school in 27390
which the student is enrolled or the maximum amount prescribed in 27391
section 3310.09 of the Revised Code. 27392

(B)(1) The department shall pay to the parent of each 27393
eligible student for whom a scholarship is awarded under the 27394
program, or to the student if at least eighteen years of age, 27395
periodic partial payments of the scholarship. 27396

(2) The department shall proportionately reduce or terminate 27397
the payments for any student who withdraws from a chartered 27398
nonpublic school prior to the end of the school year. 27399

(C)(1) The department shall deduct five thousand two hundred 27400
dollars from the payments made to each school district under 27401
~~Chapter Chapters~~ Chapters 3306. and 3317. and, if necessary, sections 27402
321.24 and 323.156 of the Revised Code ~~one of the following~~ 27403
~~amounts, as applicable,~~ for each eligible student awarded a 27404
scholarship under the educational choice scholarship pilot program 27405
who is entitled under section 3313.64 or 3313.65 of the Revised 27406
Code to attend school in the district+ 27407

~~(a) For each scholarship student enrolled in kindergarten,~~ 27408
~~two thousand seven hundred dollars;~~ 27409

~~(b) For each scholarship student enrolled in grades one to~~ 27410
~~twelve, five thousand two hundred dollars.~~ 27411

The amount deducted under division (C)(1) of this section 27412
funds scholarships for students under both the educational choice 27413
scholarship pilot program and the pilot project scholarship 27414
program under sections 3313.974 to 3313.979 of the Revised Code. 27415

(2) If the department reduces or terminates payments to a 27416
parent or a student, as prescribed in division (B)(2) of this 27417
section, and the student enrolls in the schools of the student's 27418
resident district ~~or in a community school, established under~~ 27419
~~Chapter 3314. of the Revised Code,~~ before the end of the school 27420
year, the department shall proportionally restore to the resident 27421
district the amount deducted for that student under division 27422
(C)(1) of this section. 27423

(D) In the case of any school district from which a deduction 27424
is made under division (C) of this section, the department shall 27425
disclose on the district's SF-3 form, or any successor to that 27426
form used to calculate a district's state funding for operating 27427
expenses, a comparison of the following: 27428

(1) The district's ~~state base cost~~ state share of the 27429
adequacy amount payment, as calculated under ~~division (A)(1) of~~ 27430
section ~~3317.022~~ 3306.13 of the Revised Code ~~prior to making the~~ 27431
~~adjustments under divisions (A)(2) and (3) of that section,~~ with 27432
the scholarship students included in the district's formula ADM; 27433

(2) What the district's state ~~base cost~~ share of the adequacy 27434
amount payment would have been, as calculated under ~~division~~ 27435
~~(A)(1) of that section prior to making the adjustments under~~ 27436
~~divisions (A)(2) and (3) of that section,~~ if the scholarship 27437
students were not included in the district's formula ADM. 27438

This comparison shall display both the aggregate difference 27439
between the amounts described in divisions (D)(1) and (2) of this 27440
section, and the quotient of that aggregate difference divided by 27441
the number of eligible students for whom deductions are made under 27442
division (C) of this section. 27443

Sec. 3310.09. ~~(A)~~ The maximum amount awarded to an eligible 27444
student ~~in fiscal year 2007~~ under the educational choice 27445
scholarship pilot program shall be as follows: 27446

~~(1)~~(A) For grades kindergarten through eight, four thousand 27447
~~two~~ five hundred ~~fifty~~ dollars; 27448

~~(2)~~(B) For grades nine through twelve, five thousand three 27449
hundred dollars. 27450

~~(B) In fiscal year 2008 and in each fiscal year thereafter,~~ 27451
~~the maximum amount awarded under the program shall be the~~ 27452
~~applicable maximum amount awarded in the previous fiscal year~~ 27453
~~increased by the same percentage by which the general assembly~~ 27454
~~increased the formula amount, as defined in section 3317.02 of the~~ 27455
~~Revised Code, from the previous fiscal year.~~ 27456

Sec. 3310.11. (A) Only for the purpose of administering the 27457
educational choice scholarship pilot program, the department of 27458
education may request from any of the following entities the data 27459
verification code assigned under division (D)(2) of section 27460
3301.0714 of the Revised Code to any student who is seeking a 27461
scholarship under the program: 27462

(1) The student's resident district; 27463

(2) If applicable, the community school in which that student 27464
is enrolled; 27465

(3) The independent contractor engaged to create and maintain 27466
student data verification codes. 27467

(B) Upon a request by the department under division (A) of 27468
this section for the data verification code of a student seeking a 27469
scholarship or a request by the student's parent for that code, 27470
the school district or community school shall submit that code to 27471
the department or parent in the manner specified by the 27472
department. If the student has not been assigned a code, because 27473
the student will be entering kindergarten during the school year 27474
for which the scholarship is sought, the district shall assign a 27475
code to that student and submit the code to the department or 27476
parent by a date specified by the department. If the district does 27477
not assign a code to the student by the specified date, the 27478
department shall assign a code to that student. 27479

The department annually shall submit to each school district 27480
the name and data verification code of each student residing in 27481
the district who is entering kindergarten, who has been awarded a 27482
scholarship under the program, and for whom the department has 27483
assigned a code under this division. 27484

(C) For the purpose of administering the applicable ~~tests~~ 27485
assessments prescribed under sections 3301.0710 and 3301.0712 of 27486
the Revised Code, as required by section 3310.14 of the Revised 27487
Code, the department shall provide to each chartered nonpublic 27488
school that enrolls a scholarship student the data verification 27489
code for that student. 27490

(D) The department and each chartered nonpublic school that 27491
receives a data verification code under this section shall not 27492
release that code to any person except as provided by law. 27493

Any document relative to this program that the department 27494
holds in its files that contains both a student's name or other 27495
personally identifiable information and the student's data 27496
verification code shall not be a public record under section 27497
149.43 of the Revised Code. 27498

Sec. 3310.14. Notwithstanding division (K) of section 27499
3301.0711 of the Revised Code, each chartered nonpublic school 27500
that enrolls students awarded scholarships under sections 3310.01 27501
to 3310.17 of the Revised Code annually shall administer the ~~tests~~ 27502
assessments prescribed by section 3301.0710 or 3301.0712 of the 27503
Revised Code to each ~~scholarship~~ student enrolled in the school in 27504
accordance with section 3301.0711 of the Revised Code. Each 27505
chartered nonpublic school shall report to the department of 27506
education the results of each ~~test~~ assessment administered to each 27507
~~scholarship~~ student under this section. 27508

~~Nothing in this section requires a chartered nonpublic school 27509
to administer any achievement test, except for an Ohio graduation 27510
test prescribed by division (B) of section 3301.0710 of the 27511
Revised Code, as required by section 3313.612 of the Revised Code, 27512
to any student enrolled in the school who is not a scholarship 27513
student. 27514~~

Sec. 3310.41. (A) As used in this section: 27515

(1) "Alternative public provider" means either of the 27516
following providers that agrees to enroll a child in the 27517
provider's special education program to implement the child's 27518
individualized education program and to which the child's parent 27519
owes fees for the services provided to the child: 27520

(a) A school district that is not the school district in 27521
which the child is entitled to attend school; 27522

(b) A public entity other than a school district. 27523

(2) "Entitled to attend school" means entitled to attend 27524
school in a school district under section 3313.64 or 3313.65 of 27525
the Revised Code. 27526

(3) "Formula ADM" and "category six special education ADM" 27527
have the same meanings as in section 3317.02 of the Revised Code. 27528

(4) "Preschool child with a disability" and "individualized education program" have the same meanings as in section 3323.01 of the Revised Code. 27529
27530
27531

(5) "Parent" has the same meaning as in section 3313.64 of the Revised Code, except that "parent" does not mean a parent whose custodial rights have been terminated. 27532
27533
27534

(6) "Preschool scholarship ADM" means the number of preschool children with disabilities reported under division (B)(3)(h) of section 3317.03 of the Revised Code. 27535
27536
27537

(7) "Qualified special education child" is a child for whom all of the following conditions apply: 27538
27539

(a) The school district in which the child is entitled to attend school has identified the child as autistic. A child who has been identified as having a "pervasive developmental disorder - not otherwise specified (PPD-NOS)" shall be considered to be an autistic child for purposes of this section. 27540
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(b) The school district in which the child is entitled to attend school has developed an individualized education program under Chapter 3323. of the Revised Code for the child. 27545
27546
27547

(c) The child either: 27548

(i) Was enrolled in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in which a scholarship under this section is first sought for the child; or 27549
27550
27551
27552

(ii) Is eligible to enter school in any grade preschool through twelve in the school district in which the child is entitled to attend school in the school year in which a scholarship under this section is first sought for the child. 27553
27554
27555
27556

(8) "Registered private provider" means a nonpublic school or other nonpublic entity that has been approved by the department of 27557
27558

education to participate in the program established under this 27559
section. 27560

(9) "Special education program" means a school or facility 27561
that provides special education and related services to children 27562
with disabilities. 27563

(B) There is hereby established the autism scholarship 27564
program. Under the program, the department of education shall pay 27565
a scholarship to the parent of each qualified special education 27566
child upon application of that parent pursuant to procedures and 27567
deadlines established by rule of the state board of education. 27568
Each scholarship shall be used only to pay tuition for the child 27569
on whose behalf the scholarship is awarded to attend a special 27570
education program that implements the child's individualized 27571
education program and that is operated by an alternative public 27572
provider or by a registered private provider. Each scholarship 27573
shall be in an amount not to exceed the lesser of the tuition 27574
charged for the child by the special education program or twenty 27575
thousand dollars. The purpose of the scholarship is to permit the 27576
parent of a qualified special education child the choice to send 27577
the child to a special education program, instead of the one 27578
operated by or for the school district in which the child is 27579
entitled to attend school, to receive the services prescribed in 27580
the child's individualized education program once the 27581
individualized education program is finalized. A scholarship under 27582
this section shall not be awarded to the parent of a child while 27583
the child's individualized education program is being developed by 27584
the school district in which the child is entitled to attend 27585
school, or while any administrative or judicial mediation or 27586
proceedings with respect to the content of the child's 27587
individualized education program are pending. A scholarship under 27588
this section shall not be used for a child to attend a public 27589
special education program that operates under a contract, compact, 27590

or other bilateral agreement between the school district in which 27591
the child is entitled to attend school and another school district 27592
or other public provider, or for a child to attend a community 27593
school established under Chapter 3314. of the Revised Code. 27594
However, nothing in this section or in any rule adopted by the 27595
state board shall prohibit a parent whose child attends a public 27596
special education program under a contract, compact, or other 27597
bilateral agreement, or a parent whose child attends a community 27598
school, from applying for and accepting a scholarship under this 27599
section so that the parent may withdraw the child from that 27600
program or community school and use the scholarship for the child 27601
to attend a special education program for which the parent is 27602
required to pay for services for the child. A child attending a 27603
special education program with a scholarship under this section 27604
shall continue to be entitled to transportation to and from that 27605
program in the manner prescribed by law. 27606

(C)(1) As prescribed in divisions (A)(2)(h), (B)(3)(g), and 27607
(B)(10) of section 3317.03 of the Revised Code, a child who is not 27608
a preschool child with a disability for whom a scholarship is 27609
awarded under this section shall be counted in the formula ADM and 27610
the category six special education ADM of the district in which 27611
the child is entitled to attend school and not in the formula ADM 27612
and the category six special education ADM of any other school 27613
district. As prescribed in divisions (B)(3)(h) and (B)(10) of 27614
section 3317.03 of the Revised Code, a child who is a preschool 27615
child with a disability for whom a scholarship is awarded under 27616
this section shall be counted in the preschool scholarship ADM and 27617
category six special education ADM of the school district in which 27618
the child is entitled to attend school and not in the preschool 27619
scholarship ADM or category six special education ADM of any other 27620
school district. 27621

(2) In each fiscal year, the department shall deduct from the 27622

amounts paid to each school district under ~~Chapter~~ Chapters 3306. 27623
and 3317. of the Revised Code, and, if necessary, sections 321.24 27624
and 323.156 of the Revised Code, the aggregate amount of 27625
scholarships awarded under this section for qualified special 27626
education children included in the formula ADM, or preschool 27627
scholarship ADM, and in the category six special education ADM of 27628
that school district as provided in division (C)(1) of this 27629
section. ~~The~~ When computing the school district's instructional 27630
services support under section 3306.05 of the Revised Code, the 27631
department shall add the district's preschool scholarship ADM to 27632
the district's formula ADM. 27633

The scholarships deducted shall be considered as an approved 27634
special education and related services expense ~~for the purpose of~~ 27635
the school ~~district's compliance with division (C)(5) of section~~ 27636
~~3317.022 of the Revised Code~~ district. 27637

(3) From time to time, the department shall make a payment to 27638
the parent of each qualified special education child for whom a 27639
scholarship has been awarded under this section. The scholarship 27640
amount shall be proportionately reduced in the case of any such 27641
child who is not enrolled in the special education program for 27642
which a scholarship was awarded under this section for the entire 27643
school year. The department shall make no payments to the parent 27644
of a child while any administrative or judicial mediation or 27645
proceedings with respect to the content of the child's 27646
individualized education program are pending. 27647

(D) A scholarship shall not be paid to a parent for payment 27648
of tuition owed to a nonpublic entity unless that entity is a 27649
registered private provider. The department shall approve entities 27650
that meet the standards established by rule of the state board for 27651
the program established under this section. 27652

(E) The state board shall adopt rules under Chapter 119. of 27653
the Revised Code prescribing procedures necessary to implement 27654

this section, including, but not limited to, procedures and 27655
deadlines for parents to apply for scholarships, standards for 27656
registered private providers, and procedures for approval of 27657
entities as registered private providers. 27658

Sec. 3311.06. (A) As used in this section: 27659

(1) "Annexation" and "annexed" mean annexation for municipal 27660
purposes under sections 709.02 to 709.37 of the Revised Code. 27661

(2) "Annexed territory" means territory that has been annexed 27662
for municipal purposes to a city served by an urban school 27663
district, but on September 24, 1986, has not been transferred to 27664
the urban school district. 27665

(3) "Urban school district" means a city school district with 27666
an average daily membership for the 1985-1986 school year in 27667
excess of twenty thousand that is the school district of a city 27668
that contains annexed territory. 27669

(4) "Annexation agreement" means an agreement entered into 27670
under division (F) of this section that has been approved by the 27671
state board of education or an agreement entered into prior to 27672
September 24, 1986, that meets the requirements of division (F) of 27673
this section and has been filed with the state board. 27674

(B) The territory included within the boundaries of a city, 27675
local, exempted village, or joint vocational school district shall 27676
be contiguous except where a natural island forms an integral part 27677
of the district, where the state board of education authorizes a 27678
noncontiguous school district, as provided in division (E)(1) of 27679
this section, or where a local school district is created pursuant 27680
to section 3311.26 of the Revised Code from one or more local 27681
school districts, one of which has entered into an agreement under 27682
section 3313.42 of the Revised Code. 27683

(C)(1) When all of the territory of a school district is 27684

annexed to a city or village, such territory thereby becomes a 27685
part of the city school district or the school district of which 27686
the village is a part, and the legal title to school property in 27687
such territory for school purposes shall be vested in the board of 27688
education of the city school district or the school district of 27689
which the village is a part. 27690

(2) When the territory so annexed to a city or village 27691
comprises part but not all of the territory of a school district, 27692
the said territory becomes part of the city school district or the 27693
school district of which the village is a part only upon approval 27694
by the state board of education, unless the district in which the 27695
territory is located is a party to an annexation agreement with 27696
the city school district. 27697

Any urban school district that has not entered into an 27698
annexation agreement with any other school district whose 27699
territory would be affected by any transfer under this division 27700
and that desires to negotiate the terms of transfer with any such 27701
district shall conduct any negotiations under division (F) of this 27702
section as part of entering into an annexation agreement with such 27703
a district. 27704

Any school district, except an urban school district, 27705
desiring state board approval of a transfer under this division 27706
shall make a good faith effort to negotiate the terms of transfer 27707
with any other school district whose territory would be affected 27708
by the transfer. Before the state board may approve any transfer 27709
of territory to a school district, except an urban school 27710
district, under this section, it must receive the following: 27711

(a) A resolution requesting approval of the transfer, passed 27712
by at least one of the school districts whose territory would be 27713
affected by the transfer; 27714

(b) Evidence determined to be sufficient by the state board 27715

to show that good faith negotiations have taken place or that the district requesting the transfer has made a good faith effort to hold such negotiations;

(c) If any negotiations took place, a statement signed by all boards that participated in the negotiations, listing the terms agreed on and the points on which no agreement could be reached.

(D) The state board of education shall adopt rules governing negotiations held by any school district except an urban school district pursuant to division (C)(2) of this section. The rules shall encourage the realization of the following goals:

(1) A discussion by the negotiating districts of the present and future educational needs of the pupils in each district;

(2) The educational, financial, and territorial stability of each district affected by the transfer;

(3) The assurance of appropriate educational programs, services, and opportunities for all the pupils in each participating district, and adequate planning for the facilities needed to provide these programs, services, and opportunities.

Districts involved in negotiations under such rules may agree to share revenues from the property included in the territory to be transferred, establish cooperative programs between the participating districts, and establish mechanisms for the settlement of any future boundary disputes.

(E)(1) If territory annexed after September 24, 1986, is part of a school district that is a party to an annexation agreement with the urban school district serving the annexing city, the transfer of such territory shall be governed by the agreement. If the agreement does not specify how the territory is to be dealt with, the boards of education of the district in which the territory is located and the urban school district shall negotiate with regard to the transfer of the territory which shall be

transferred to the urban school district unless, not later than 27747
ninety days after the effective date of municipal annexation, the 27748
boards of education of both districts, by resolution adopted by a 27749
majority of the members of each board, agree that the territory 27750
will not be transferred and so inform the state board of 27751
education. 27752

If territory is transferred under this division the transfer 27753
shall take effect on the first day of July occurring not sooner 27754
than ninety-one days after the effective date of the municipal 27755
annexation. Territory transferred under this division need not be 27756
contiguous to the district to which it is transferred. 27757

(2) Territory annexed prior to September 24, 1986, by a city 27758
served by an urban school district shall not be subject to 27759
transfer under this section if the district in which the territory 27760
is located is a party to an annexation agreement or becomes a 27761
party to such an agreement not later than ninety days after 27762
September 24, 1986. If the district does not become a party to an 27763
annexation agreement within the ninety-day period, transfer of 27764
territory shall be governed by division (C)(2) of this section. If 27765
the district subsequently becomes a party to an agreement, 27766
territory annexed prior to September 24, 1986, other than 27767
territory annexed under division (C)(2) of this section prior to 27768
the effective date of the agreement, shall not be subject to 27769
transfer under this section. 27770

(F) An urban school district may enter into a comprehensive 27771
agreement with one or more school districts under which transfers 27772
of territory annexed by the city served by the urban school 27773
district after September 24, 1986, shall be governed by the 27774
agreement. Such agreement must provide for the establishment of a 27775
cooperative education program under section 3313.842 of the 27776
Revised Code in which all the parties to the agreement are 27777
participants and must be approved by resolution of the majority of 27778

the members of each of the boards of education of the school 27779
districts that are parties to it. An agreement may provide for 27780
interdistrict payments based on local revenue growth resulting 27781
from development in any territory annexed by the city served by 27782
the urban school district. 27783

An agreement entered into under this division may be altered, 27784
modified, or terminated only by agreement, by resolution approved 27785
by the majority of the members of each board of education, of all 27786
school districts that are parties to the agreement, except that 27787
with regard to any provision that affects only the urban school 27788
district and one of the other districts that is a party, that 27789
district and the urban district may modify or alter the agreement 27790
by resolution approved by the majority of the members of the board 27791
of that district and the urban district. Alterations, 27792
modifications, terminations, and extensions of an agreement 27793
entered into under this division do not require approval of the 27794
state board of education, but shall be filed with the board after 27795
approval and execution by the parties. 27796

If an agreement provides for interdistrict payments, each 27797
party to the agreement, except any school district specifically 27798
exempted by the agreement, shall agree to make an annual payment 27799
to the urban school district with respect to any of its territory 27800
that is annexed territory in an amount not to exceed the amount 27801
certified for that year under former section 3317.029 of the 27802
Revised Code as that section existed prior to July 1, 1998; except 27803
that such limitation of annual payments to amounts certified under 27804
former section 3317.029 of the Revised Code does not apply to 27805
agreements or extensions of agreements entered into on or after 27806
June 1, 1992, unless such limitation is expressly agreed to by the 27807
parties. The agreement may provide that all or any part of the 27808
payment shall be waived if the urban school district receives its 27809
payment with respect to such annexed territory under former 27810

section 3317.029 of the Revised Code and that all or any part of 27811
such payment may be waived if the urban school district does not 27812
receive its payment with respect to such annexed territory under 27813
such section. 27814

With respect to territory that is transferred to the urban 27815
school district after September 24, 1986, the agreement may 27816
provide for annual payments by the urban school district to the 27817
school district whose territory is transferred to the urban school 27818
district subsequent to annexation by the city served by the urban 27819
school district. 27820

(G) In the event territory is transferred from one school 27821
district to another under this section, an equitable division of 27822
the funds and indebtedness between the districts involved shall be 27823
made under the supervision of the state board of education and 27824
that board's decision shall be final. Such division shall not 27825
include funds payable to or received by a school district under 27826
Chapter 3306. or 3317. of the Revised Code or payable to or 27827
received by a school district from the United States or any 27828
department or agency thereof. In the event such transferred 27829
territory includes real property owned by a school district, the 27830
state board of education, as part of such division of funds and 27831
indebtedness, shall determine the true value in money of such real 27832
property and all buildings or other improvements thereon. The 27833
board of education of the school district receiving such territory 27834
shall forthwith pay to the board of education of the school 27835
district losing such territory such true value in money of such 27836
real property, buildings, and improvements less such percentage of 27837
the true value in money of each school building located on such 27838
real property as is represented by the ratio of the total 27839
enrollment in day classes of the pupils residing in the territory 27840
transferred enrolled at such school building in the school year in 27841
which such annexation proceedings were commenced to the total 27842

enrollment in day classes of all pupils residing in the school 27843
district losing such territory enrolled at such school building in 27844
such school year. The school district receiving such payment shall 27845
place the proceeds thereof in its sinking fund or bond retirement 27846
fund. 27847

(H) The state board of education, before approving such 27848
transfer of territory, shall determine that such payment has been 27849
made and shall apportion to the acquiring school district such 27850
percentage of the indebtedness of the school district losing the 27851
territory as is represented by the ratio that the assessed 27852
valuation of the territory transferred bears to the total assessed 27853
valuation of the entire school district losing the territory as of 27854
the effective date of the transfer, provided that in ascertaining 27855
the indebtedness of the school district losing the territory the 27856
state board of education shall disregard such percentage of the 27857
par value of the outstanding and unpaid bonds and notes of said 27858
school district issued for construction or improvement of the 27859
school building or buildings for which payment was made by the 27860
acquiring district as is equal to the percentage by which the true 27861
value in money of such building or buildings was reduced in fixing 27862
the amount of said payment. 27863

(I) No transfer of school district territory or division of 27864
funds and indebtedness incident thereto, pursuant to the 27865
annexation of territory to a city or village shall be completed in 27866
any other manner than that prescribed by this section regardless 27867
of the date of the commencement of such annexation proceedings, 27868
and this section applies to all proceedings for such transfers and 27869
divisions of funds and indebtedness pending or commenced on or 27870
after October 2, 1959. 27871

Sec. 3311.19. (A) The management and control of a joint 27872
vocational school district shall be vested in the joint vocational 27873

school district board of education. Where a joint vocational 27874
school district is composed only of two or more local school 27875
districts located in one county, or when all the participating 27876
districts are in one county and the boards of such participating 27877
districts so choose, the educational service center governing 27878
board of the county in which the joint vocational school district 27879
is located shall serve as the joint vocational school district 27880
board of education. Where a joint vocational school district is 27881
composed of local school districts of more than one county, or of 27882
any combination of city, local, or exempted village school 27883
districts or educational service centers, unless administration by 27884
the educational service center governing board has been chosen by 27885
all the participating districts in one county pursuant to this 27886
section, the board of education of the joint vocational school 27887
district shall be composed of one or more persons who are members 27888
of the boards of education from each of the city or exempted 27889
village school districts or members of the educational service 27890
centers' governing boards affected to be appointed by the boards 27891
of education or governing boards of such school districts and 27892
educational service centers. In such joint vocational school 27893
districts the number and terms of members of the joint vocational 27894
school district board of education and the allocation of a given 27895
number of members to each of the city and exempted village 27896
districts and educational service centers shall be determined in 27897
the plan for such district, provided that each such joint 27898
vocational school district board of education shall be composed of 27899
an odd number of members. 27900

(B) Notwithstanding division (A) of this section, a governing 27901
board of an educational service center that has members of its 27902
governing board serving on a joint vocational school district 27903
board of education may make a request to the joint vocational 27904
district board that the joint vocational school district plan be 27905
revised to provide for one or more members of boards of education 27906

of local school districts that are within the territory of the 27907
educational service district and within the joint vocational 27908
school district to serve in the place of or in addition to its 27909
educational service center governing board members. If agreement 27910
is obtained among a majority of the boards of education and 27911
governing boards that have a member serving on the joint 27912
vocational school district board of education and among a majority 27913
of the local school district boards of education included in the 27914
district and located within the territory of the educational 27915
service center whose board requests the substitution or addition, 27916
the state board of education may revise the joint vocational 27917
school district plan to conform with such agreement. 27918

(C) If the board of education of any school district or 27919
educational service center governing board included within a joint 27920
vocational district that has had its board or governing board 27921
membership revised under division (B) of this section requests the 27922
joint vocational school district board to submit to the state 27923
board of education a revised plan under which one or more joint 27924
vocational board members chosen in accordance with a plan revised 27925
under such division would again be chosen in the manner prescribed 27926
by division (A) of this section, the joint vocational board shall 27927
submit the revised plan to the state board of education, provided 27928
the plan is agreed to by a majority of the boards of education 27929
represented on the joint vocational board, a majority of the local 27930
school district boards included within the joint vocational 27931
district, and each educational service center governing board 27932
affected by such plan. The state board of education may revise the 27933
joint vocational school district plan to conform with the revised 27934
plan. 27935

(D) The vocational schools in such joint vocational school 27936
district shall be available to all youth of school age within the 27937
joint vocational school district subject to the rules adopted by 27938

the joint vocational school district board of education in regard 27939
to the standards requisite to admission. A joint vocational school 27940
district board of education shall have the same powers, duties, 27941
and authority for the management and operation of such joint 27942
vocational school district as is granted by law, except by this 27943
chapter and Chapters 124., 3306., 3317., 3323., and 3331. of the 27944
Revised Code, to a board of education of a city school district, 27945
and shall be subject to all the provisions of law that apply to a 27946
city school district, except such provisions in this chapter and 27947
Chapters 124., 3306., 3317., 3323., and 3331. of the Revised Code. 27948

(E) Where a governing board of an educational service center 27949
has been designated to serve as the joint vocational school 27950
district board of education, the educational service center 27951
superintendent shall be the executive officer for the joint 27952
vocational school district, and the governing board may provide 27953
for additional compensation to be paid to the educational service 27954
center superintendent by the joint vocational school district, but 27955
the educational service center superintendent shall have no 27956
continuing tenure other than that of educational service center 27957
superintendent. The superintendent of schools of a joint 27958
vocational school district shall exercise the duties and authority 27959
vested by law in a superintendent of schools pertaining to the 27960
operation of a school district and the employment and supervision 27961
of its personnel. The joint vocational school district board of 27962
education shall appoint a treasurer of the joint vocational school 27963
district who shall be the fiscal officer for such district and who 27964
shall have all the powers, duties, and authority vested by law in 27965
a treasurer of a board of education. Where a governing board of an 27966
educational service center has been designated to serve as the 27967
joint vocational school district board of education, such board 27968
may appoint the educational service center superintendent as the 27969
treasurer of the joint vocational school district. 27970

(F) Each member of a joint vocational school district board of education may be paid such compensation as the board provides by resolution, but it shall not exceed one hundred twenty-five dollars per member for each meeting attended plus mileage, at the rate per mile provided by resolution of the board, to and from meetings of the board.

The board may provide by resolution for the deduction of amounts payable for benefits under section 3313.202 of the Revised Code.

Each member of a joint vocational school district board may be paid such compensation as the board provides by resolution for attendance at an approved training program, provided that such compensation shall not exceed sixty dollars per day for attendance at a training program three hours or fewer in length and one hundred twenty-five dollars a day for attendance at a training program longer than three hours in length. However, no board member shall be compensated for the same training program under this section and section 3313.12 of the Revised Code.

Sec. 3311.21. (A) In addition to the resolutions authorized by sections 5705.194, 5705.199, 5705.21, 5705.212, and 5705.213 of the Revised Code, the board of education of a joint vocational or cooperative education school district by a vote of two-thirds of its full membership may at any time adopt a resolution declaring the necessity to levy a tax in excess of the ten-mill limitation for a period not to exceed ten years to provide funds for any one or more of the following purposes, which may be stated in the following manner in such resolution, the ballot, and the notice of election: purchasing a site or enlargement thereof and for the erection and equipment of buildings; for the purpose of enlarging, improving, or rebuilding thereof; for the purpose of providing for the current expenses of the joint vocational or cooperative school

district; or for a continuing period for the purpose of providing 28002
for the current expenses of the joint vocational or cooperative 28003
education school district. The resolution shall specify the amount 28004
of the proposed rate and, if a renewal, whether the levy is to 28005
renew all, or a portion of, the existing levy, and shall specify 28006
the first year in which the levy will be imposed. If the levy 28007
provides for but is not limited to current expenses, the 28008
resolution shall apportion the annual rate of the levy between 28009
current expenses and the other purpose or purposes. Such 28010
apportionment may but need not be the same for each year of the 28011
levy, but the respective portions of the rate actually levied each 28012
year for current expenses and the other purpose or purposes shall 28013
be limited by such apportionment. The portion of any such rate 28014
actually levied for current expenses of a joint vocational or 28015
cooperative education school district shall be used in applying 28016
division (A)(1) of section 3306.01 and division (A) of section 28017
3317.01 of the Revised Code. The portion of any such rate not 28018
apportioned to the current expenses of a joint vocational or 28019
cooperative education school district shall be used in applying 28020
division (B) of this section. On the adoption of such resolution, 28021
the joint vocational or cooperative education school district 28022
board of education shall certify the resolution to the board of 28023
elections of the county containing the most populous portion of 28024
the district, which board shall receive resolutions for filing and 28025
send them to the boards of elections of each county in which 28026
territory of the district is located, furnish all ballots for the 28027
election as provided in section 3505.071 of the Revised Code, and 28028
prepare the election notice; and the board of elections of each 28029
county in which the territory of such district is located shall 28030
make the other necessary arrangements for the submission of the 28031
question to the electors of the joint vocational or cooperative 28032
education school district at the next primary or general election 28033
occurring not less than seventy-five days after the resolution was 28034

received from the joint vocational or cooperative education school 28035
district board of education, or at a special election to be held 28036
at a time designated by the district board of education consistent 28037
with the requirements of section 3501.01 of the Revised Code, 28038
which date shall not be earlier than seventy-five days after the 28039
adoption and certification of the resolution. 28040

The board of elections of the county or counties in which 28041
territory of the joint vocational or cooperative education school 28042
district is located shall cause to be published in one or more 28043
newspapers of general circulation in that district an 28044
advertisement of the proposed tax levy question together with a 28045
statement of the amount of the proposed levy once a week for two 28046
consecutive weeks, prior to the election at which the question is 28047
to appear on the ballot, and, if the board of elections operates 28048
and maintains a web site, the board also shall post a similar 28049
advertisement on its web site for thirty days prior to that 28050
election. 28051

If a majority of the electors voting on the question of 28052
levying such tax vote in favor of the levy, the joint vocational 28053
or cooperative education school district board of education shall 28054
annually make the levy within the district at the rate specified 28055
in the resolution and ballot or at any lesser rate, and the county 28056
auditor of each affected county shall annually place the levy on 28057
the tax list and duplicate of each school district in the county 28058
having territory in the joint vocational or cooperative education 28059
school district. The taxes realized from the levy shall be 28060
collected at the same time and in the same manner as other taxes 28061
on the duplicate, and the taxes, when collected, shall be paid to 28062
the treasurer of the joint vocational or cooperative education 28063
school district and deposited to a special fund, which shall be 28064
established by the joint vocational or cooperative education 28065
school district board of education for all revenue derived from 28066

any tax levied pursuant to this section and for the proceeds of 28067
anticipation notes which shall be deposited in such fund. After 28068
the approval of the levy, the joint vocational or cooperative 28069
education school district board of education may anticipate a 28070
fraction of the proceeds of the levy and from time to time, during 28071
the life of the levy, but in any year prior to the time when the 28072
tax collection from the levy so anticipated can be made for that 28073
year, issue anticipation notes in an amount not exceeding fifty 28074
per cent of the estimated proceeds of the levy to be collected in 28075
each year up to a period of five years after the date of the 28076
issuance of the notes, less an amount equal to the proceeds of the 28077
levy obligated for each year by the issuance of anticipation 28078
notes, provided that the total amount maturing in any one year 28079
shall not exceed fifty per cent of the anticipated proceeds of the 28080
levy for that year. Each issue of notes shall be sold as provided 28081
in Chapter 133. of the Revised Code, and shall, except for such 28082
limitation that the total amount of such notes maturing in any one 28083
year shall not exceed fifty per cent of the anticipated proceeds 28084
of the levy for that year, mature serially in substantially equal 28085
installments, during each year over a period not to exceed five 28086
years after their issuance. 28087

(B) Prior to the application of section 319.301 of the 28088
Revised Code, the rate of a levy that is limited to, or to the 28089
extent that it is apportioned to, purposes other than current 28090
expenses shall be reduced in the same proportion in which the 28091
district's total valuation increases during the life of the levy 28092
because of additions to such valuation that have resulted from 28093
improvements added to the tax list and duplicate. 28094

(C) The form of ballot cast at an election under division (A) 28095
of this section shall be as prescribed by section 5705.25 of the 28096
Revised Code. 28097

Sec. 3311.29. (A) Except as provided under division (B) or 28098
(C) of this section, no school district shall be created and no 28099
school district shall exist which does not maintain within such 28100
district public schools consisting of grades kindergarten through 28101
twelve and any such existing school district not maintaining such 28102
schools shall be dissolved and its territory joined with another 28103
school district or districts by order of the state board of 28104
education if no agreement is made among the surrounding districts 28105
voluntarily, which order shall provide an equitable division of 28106
the funds, property, and indebtedness of the dissolved school 28107
district among the districts receiving its territory. The state 28108
board of education may authorize exceptions to school districts 28109
where topography, sparsity of population, and other factors make 28110
compliance impracticable. 28111

The superintendent of public instruction is without authority 28112
to distribute funds under ~~sections 3317.022 to 3317.025~~ Chapter 28113
3306. or 3317. of the Revised Code to any school district that 28114
does not maintain schools with grades kindergarten through twelve 28115
and to which no exception has been granted by the state board of 28116
education. 28117

(B) Division (A) of this section does not apply to any joint 28118
vocational school district or any cooperative education school 28119
district established pursuant to divisions (A) to (C) of section 28120
3311.52 of the Revised Code. 28121

(C)(1)(a) Except as provided in division (C)(3) of this 28122
section, division (A) of this section does not apply to any 28123
cooperative education school district established pursuant to 28124
section 3311.521 of the Revised Code nor to the city, exempted 28125
village, or local school districts that have territory within such 28126
a cooperative education district. 28127

(b) The cooperative district and each city, exempted village, 28128

or local district with territory within the cooperative district 28129
shall maintain the grades that the resolution adopted or amended 28130
pursuant to section 3311.521 of the Revised Code specifies. 28131

(2) Any cooperative education school district described under 28132
division (C)(1) of this section that fails to maintain the grades 28133
it is specified to operate shall be dissolved by order of the 28134
state board of education unless prior to such an order the 28135
cooperative district is dissolved pursuant to section 3311.54 of 28136
the Revised Code. Any such order shall provide for the equitable 28137
adjustment, division, and disposition of the assets, property, 28138
debts, and obligations of the district among each city, local, and 28139
exempted village school district whose territory is in the 28140
cooperative district and shall provide that the tax duplicate of 28141
each city, local, and exempted village school district whose 28142
territory is in the cooperative district shall be bound for and 28143
assume its share of the outstanding indebtedness of the 28144
cooperative district. 28145

(3) If any city, exempted village, or local school district 28146
described under division (C)(1) of this section fails to maintain 28147
the grades it is specified to operate the cooperative district 28148
within which it has territory shall be dissolved in accordance 28149
with division (C)(2) of this section and upon that dissolution any 28150
city, exempted village, or local district failing to maintain 28151
grades kindergarten through twelve shall be subject to the 28152
provisions for dissolution in division (A) of this section. 28153

Sec. 3311.52. A cooperative education school district may be 28154
established pursuant to divisions (A) to (C) of this section or 28155
pursuant to section 3311.521 of the Revised Code. 28156

(A) A cooperative education school district may be 28157
established upon the adoption of identical resolutions within a 28158
sixty-day period by a majority of the members of the board of 28159

education of each city, local, and exempted village school 28160
district that is within the territory of a county school financing 28161
district. 28162

A copy of each resolution shall be filed with the governing 28163
~~board of education~~ of the educational service center which created 28164
the county school financing district. Upon the filing of the last 28165
such resolution, the educational service center governing board 28166
shall immediately notify each board of education filing such a 28167
resolution of the date on which the last resolution was filed. 28168

Ten days after the date on which the last resolution is filed 28169
with the educational service center governing board or ten days 28170
after the last of any notices required under division (C) of this 28171
section is received by the educational service center governing 28172
board, whichever is later, the county school financing district 28173
shall be dissolved and the new cooperative education school 28174
district and the board of education of the cooperative education 28175
school district shall be established. 28176

On the date that any county school financing district is 28177
dissolved and a cooperative education school district is 28178
established under this section, each of the following shall apply: 28179

(1) The territory of the dissolved district becomes the 28180
territory of the new district. 28181

(2) Any outstanding tax levy in force in the dissolved 28182
district shall be spread over the territory of the new district 28183
and shall remain in force in the new district until the levy 28184
expires or is renewed. 28185

(3) Any funds of the dissolved district shall be paid over in 28186
full to the new district. 28187

(4) Any net indebtedness of the dissolved district shall be 28188
assumed in full by the new district. As used in division (A)(4) of 28189
this section, "net indebtedness" means the difference between the 28190

par value of the outstanding and unpaid bonds and notes of the 28191
dissolved district and the amount held in the sinking fund and 28192
other indebtedness retirement funds for their redemption. 28193

When a county school financing district is dissolved and a 28194
cooperative education school district is established under this 28195
section, the governing board of the educational service center 28196
that created the dissolved district shall give written notice of 28197
this fact to the county auditor and the board of elections of each 28198
county having any territory in the new district. 28199

(B) The resolutions adopted under division (A) of this 28200
section shall include all of the following provisions: 28201

(1) Provision that the governing board of the educational 28202
service center which created the county school financing district 28203
shall be the board of education of the cooperative education 28204
school district, except that provision may be made for the 28205
composition, selection, and terms of office of an alternative 28206
board of education of the cooperative district, which board shall 28207
include at least one member selected from or by the members of the 28208
board of education of each city, local, and exempted village 28209
school district and at least one member selected from or by the 28210
members of the educational service center governing board within 28211
the territory of the cooperative district; 28212

(2) Provision that the treasurer and superintendent of the 28213
educational service center which created the county school 28214
financing district shall be the treasurer and superintendent of 28215
the cooperative education school district, except that provision 28216
may be made for the selection of a treasurer or superintendent of 28217
the cooperative district other than the treasurer or 28218
superintendent of the educational service center, which provision 28219
shall require one of the following: 28220

(a) The selection of one person as both the treasurer and 28221

superintendent of the cooperative district, which provision may 28222
require such person to be the treasurer or superintendent of any 28223
city, local, or exempted village school district or educational 28224
service center within the territory of the cooperative district; 28225

(b) The selection of one person as the treasurer and another 28226
person as the superintendent of the cooperative district, which 28227
provision may require either one or both such persons to be 28228
treasurers or superintendents of any city, local, or exempted 28229
village school districts or educational service center within the 28230
territory of the cooperative district. 28231

(3) A statement of the educational program the board of 28232
education of the cooperative education school district will 28233
conduct, including but not necessarily limited to the type of 28234
educational program, the grade levels proposed for inclusion in 28235
the program, the timetable for commencing operation of the 28236
program, and the facilities proposed to be used or constructed to 28237
be used by the program; 28238

(4) A statement of the annual amount, or the method for 28239
determining that amount, of funds or services or facilities that 28240
each city, local, and exempted village school district within the 28241
territory of the cooperative district is required to pay to or 28242
provide for the use of the board of education of the cooperative 28243
education school district; 28244

(5) Provision for adopting amendments to the provisions of 28245
divisions (B)(2) to (4) of this section. 28246

(C) If the resolutions adopted under division (A) of this 28247
section provide for a board of education of the cooperative 28248
education school district that is not the governing board of the 28249
educational service center that created the county school 28250
financing district, each board of education of each city, local, 28251
or exempted village school district and the governing board of the 28252

educational service center within the territory of the cooperative 28253
district shall, within thirty days after the date on which the 28254
last resolution is filed with the educational service center 28255
governing board under division (A) of this section, select one or 28256
more members of the board of education of the cooperative district 28257
as provided in the resolutions filed with the educational service 28258
center governing board. Each such board shall immediately notify 28259
the educational ~~services~~ service center governing board of each 28260
such selection. 28261

(D) Except for the powers and duties in this chapter and 28262
Chapters 124., 3306., 3317., 3318., 3323., and 3331. of the 28263
Revised Code, a cooperative education school district established 28264
pursuant to divisions (A) to (C) of this section or pursuant to 28265
section 3311.521 of the Revised Code has all the powers of a city 28266
school district and its board of education has all the powers and 28267
duties of a board of education of a city school district with 28268
respect to the educational program specified in the resolutions 28269
adopted under division (A) of this section. All laws applicable to 28270
a city school district or the board of education or the members of 28271
the board of education of a city school district, except such laws 28272
in this chapter and Chapters 124., 3306., 3317., 3318., 3323., and 28273
3331. of the Revised Code, are applicable to a cooperative 28274
education school district and its board. 28275

The treasurer and superintendent of a cooperative education 28276
school district shall have the same respective duties and powers 28277
as a treasurer and superintendent of a city school district, 28278
except for any powers and duties in this chapter and Chapters 28279
124., 3306., 3317., 3318., 3323., and 3331. of the Revised Code. 28280

(E) For purposes of this title, any student included in the 28281
formula ADM certified for any city, exempted village, or local 28282
school district under section 3317.03 of the Revised Code by 28283
virtue of being counted, in whole or in part, in the average daily 28284

membership of a cooperative education school district under 28285
division (A)(2)(~~f~~)(d) of that section shall be construed to be 28286
enrolled both in that city, exempted village, or ~~village~~ local 28287
school district and in that cooperative education school district. 28288
This division shall not be construed to mean that any such 28289
individual student may be counted more than once for purposes of 28290
determining the average daily membership of any one school 28291
district. 28292

Sec. 3311.76. (A) Notwithstanding Chapters 3302., 3306., and 28293
3317. of the Revised Code, upon written request of the district 28294
chief executive officer the state superintendent of public 28295
instruction may exempt a municipal school district from any rules 28296
adopted under Title XXXIII of the Revised Code except for any rule 28297
adopted under Chapter 3307. or 3309., sections 3319.07 to 3319.21, 28298
or Chapter 3323. of the Revised Code, and may authorize a 28299
municipal school district to apply funds allocated to the district 28300
under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code, except 28301
those specifically allocated to purposes other than current 28302
expenses, to the payment of debt charges on the district's public 28303
obligations. The request must specify the provisions from which 28304
the district is seeking exemption or the application requested and 28305
the reasons for the request. The state superintendent shall 28306
approve the request if the superintendent finds the requested 28307
exemption or application is in the best interest of the district's 28308
students. The superintendent shall approve or disapprove the 28309
request within thirty days and shall notify the district board and 28310
the district chief executive officer of approval or reasons for 28311
disapproving the request. 28312

(B) In addition to the rights, authority, and duties 28313
conferred upon a municipal school district and its board of 28314
education in sections 3311.71 to 3311.76 of the Revised Code, a 28315
municipal school district and its board shall have all of the 28316

rights, authority, and duties conferred upon a city school 28317
district and its board by law that are not inconsistent with 28318
sections 3311.71 to 3311.76 of the Revised Code. 28319

Sec. 3313.41. (A) Except as provided in divisions (C), (D), 28320
~~and (F), and (G)~~ of this section, when a board of education 28321
decides to dispose of real or personal property that it owns in 28322
its corporate capacity and that exceeds in value ten thousand 28323
dollars, it shall sell the property at public auction, after 28324
giving at least thirty days' notice of the auction by publication 28325
in a newspaper of general circulation or by posting notices in 28326
five of the most public places in the school district in which the 28327
property, if it is real property, is situated, or, if it is 28328
personal property, in the school district of the board of 28329
education that owns the property. The board may offer real 28330
property for sale as an entire tract or in parcels. 28331

(B) When the board of education has offered real or personal 28332
property for sale at public auction at least once pursuant to 28333
division (A) of this section, and the property has not been sold, 28334
the board may sell it at a private sale. Regardless of how it was 28335
offered at public auction, at a private sale, the board shall, as 28336
it considers best, sell real property as an entire tract or in 28337
parcels, and personal property in a single lot or in several lots. 28338

(C) If a board of education decides to dispose of real or 28339
personal property that it owns in its corporate capacity and that 28340
exceeds in value ten thousand dollars, it may sell the property to 28341
the adjutant general; to any subdivision or taxing authority as 28342
respectively defined in divisions (A) and (C) of section 5705.01 28343
of the Revised Code, township park district, board of park 28344
commissioners established under Chapter 755. of the Revised Code, 28345
or park district established under Chapter 1545. of the Revised 28346
Code; to a wholly or partially tax-supported university, 28347

university branch, or college; or to the board of trustees of a 28348
school district library, upon such terms as are agreed upon. The 28349
sale of real or personal property to the board of trustees of a 28350
school district library is limited, in the case of real property, 28351
to a school district library within whose boundaries the real 28352
property is situated, or, in the case of personal property, to a 28353
school district library whose boundaries lie in whole or in part 28354
within the school district of the selling board of education. 28355

(D) When a board of education decides to trade as a part or 28356
an entire consideration, an item of personal property on the 28357
purchase price of an item of similar personal property, it may 28358
trade the same upon such terms as are agreed upon by the parties 28359
to the trade. 28360

(E) The president and the treasurer of the board of education 28361
shall execute and deliver deeds or other necessary instruments of 28362
conveyance to complete any sale or trade under this section. 28363

(F) When a board of education has identified a parcel of real 28364
property that it determines is needed for school purposes, the 28365
board may, upon a majority vote of the members of the board, 28366
acquire that property by exchanging real property that the board 28367
owns in its corporate capacity for the identified real property or 28368
by using real property that the board owns in its corporate 28369
capacity as part or an entire consideration for the purchase price 28370
of the identified real property. Any exchange or acquisition made 28371
pursuant to this division shall be made by a conveyance executed 28372
by the president and the treasurer of the board. 28373

~~(G)(1) When a school district board of education decides to 28374
dispose of real property suitable for use as classroom space, 28375
prior to disposing of that property under divisions (A) to (F) of 28376
this section, it shall first offer that property for sale to the 28377
governing authorities of the start-up community schools 28378
established under Chapter 3314. of the Revised Code located within 28379~~

~~the territory of the school district, at a price that is not 28380
higher than the appraised fair market value of that property. If 28381
more than one community school governing authority accepts the 28382
offer made by the school district board, the board shall sell the 28383
property to the governing authority that accepted the offer first 28384
in time. If no community school governing authority accepts the 28385
offer within sixty days after the offer is made by the school 28386
district board, the board may dispose of the property in the 28387
applicable manner prescribed under divisions (A) to (F) of this 28388
section. 28389~~

~~(2) When a school district board of education has not used 28390
real property suitable for classroom space for academic 28391
instruction, administration, storage, or any other educational 28392
purpose for one full school year and has not adopted a resolution 28393
outlining a plan for using that property for any of those purposes 28394
within the next three school years, it shall offer that property 28395
for sale to the governing authorities of the start up community 28396
schools established under Chapter 3314. of the Revised Code 28397
located within the territory of the school district, at a price 28398
that is not higher than the appraised fair market value of that 28399
property. If more than one community school governing authority 28400
accepts the offer made by the school district board, the board 28401
shall sell the property to the governing authority that accepted 28402
the offer first in time. 28403~~

~~(H) When a school district board of education has property 28404
that the board, by resolution, finds is not needed for school 28405
district use, is obsolete, or is unfit for the use for which it 28406
was acquired, the board may donate that property in accordance 28407
with this division if the fair market value of the property is, in 28408
the opinion of the board, two thousand five hundred dollars or 28409
less. 28410~~

The property may be donated to an eligible nonprofit 28411

organization that is located in this state and is exempt from 28412
federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3). 28413
Before donating any property under this division, the board shall 28414
adopt a resolution expressing its intent to make unneeded, 28415
obsolete, or unfit-for-use school district property available to 28416
these organizations. The resolution shall include guidelines and 28417
procedures the board considers to be necessary to implement the 28418
donation program and shall indicate whether the school district 28419
will conduct the donation program or the board will contract with 28420
a representative to conduct it. If a representative is known when 28421
the resolution is adopted, the resolution shall provide contact 28422
information such as the representative's name, address, and 28423
telephone number. 28424

The resolution shall include within its procedures a 28425
requirement that any nonprofit organization desiring to obtain 28426
donated property under this division shall submit a written notice 28427
to the board or its representative. The written notice shall 28428
include evidence that the organization is a nonprofit organization 28429
that is located in this state and is exempt from federal income 28430
taxation pursuant to 26 U.S.C. 501(a) and (c)(3); a description of 28431
the organization's primary purpose; a description of the type or 28432
types of property the organization needs; and the name, address, 28433
and telephone number of a person designated by the organization's 28434
governing board to receive donated property and to serve as its 28435
agent. 28436

After adoption of the resolution, the board shall publish, in 28437
a newspaper of general circulation in the school district, notice 28438
of its intent to donate unneeded, obsolete, or unfit-for-use 28439
school district property to eligible nonprofit organizations. The 28440
notice shall include a summary of the information provided in the 28441
resolution and shall be published at least twice. The second and 28442
any subsequent notice shall be published not less than ten nor 28443

more than twenty days after the previous notice. A similar notice 28444
also shall be posted continually in the board's office, and, if 28445
the school district maintains a web site on the internet, the 28446
notice shall be posted continually at that web site. 28447

The board or its representatives shall maintain a list of all 28448
nonprofit organizations that notify the board or its 28449
representative of their desire to obtain donated property under 28450
this division and that the board or its representative determines 28451
to be eligible, in accordance with the requirements set forth in 28452
this section and in the donation program's guidelines and 28453
procedures, to receive donated property. 28454

The board or its representative also shall maintain a list of 28455
all school district property the board finds to be unneeded, 28456
obsolete, or unfit for use and to be available for donation under 28457
this division. The list shall be posted continually in a 28458
conspicuous location in the board's office, and, if the school 28459
district maintains a web site on the internet, the list shall be 28460
posted continually at that web site. An item of property on the 28461
list shall be donated to the eligible nonprofit organization that 28462
first declares to the board or its representative its desire to 28463
obtain the item unless the board previously has established, by 28464
resolution, a list of eligible nonprofit organizations that shall 28465
be given priority with respect to the item's donation. Priority 28466
may be given on the basis that the purposes of a nonprofit 28467
organization have a direct relationship to specific school 28468
district purposes of programs provided or administered by the 28469
board. A resolution giving priority to certain nonprofit 28470
organizations with respect to the donation of an item of property 28471
shall specify the reasons why the organizations are given that 28472
priority. 28473

Members of the board shall consult with the Ohio ethics 28474
commission, and comply with Chapters 102. and 2921. of the Revised 28475

Code, with respect to any donation under this division to a 28476
nonprofit organization of which a board member, any member of a 28477
board member's family, or any business associate of a board member 28478
is a trustee, officer, board member, or employee. 28479

Sec. 3313.48. (A) The board of education of each city, 28480
exempted village, local, and joint vocational school district 28481
shall provide for the free education of the youth of school age 28482
within the district under its jurisdiction, at such places as will 28483
be most convenient for the attendance of the largest number 28484
thereof. Except as provided in section 3313.481 of the Revised 28485
Code, each school so provided shall be open for instruction with 28486
pupils in attendance ~~for~~ as prescribed by division (B) of this 28487
section. 28488

(B) Each school shall be open for instruction as follows: 28489

(1) In each learning year prior to the learning year that 28490
begins July 1, 2009, not less than one hundred eighty-two days in 28491
each school year, which; 28492

(2) In each of the learning years beginning on July 1, 2009, 28493
and July 1, 2010, respectively, not less than one hundred 28494
eighty-six days; 28495

(3) In each of the learning years beginning on July 1, 2011, 28496
and July 1, 2012, respectively, not less than one hundred ninety 28497
days; 28498

(4) In each of the learning years beginning on July 1, 2013, 28499
and July 1, 2014, respectively, not less than one hundred 28500
ninety-four days; 28501

(5) In each of the learning years beginning on July 1, 2015, 28502
and July 1, 2016, respectively, not less than one hundred 28503
ninety-eight days; 28504

(6) In the learning year that begins on July 1, 2017, and in 28505

each learning year thereafter, not less than two hundred two days. 28506

(C) The minimum learning year prescribed by division (B) of this section may include all of the following: 28507
28508

~~(A)~~(1) Up to four ~~school~~ days per year in which classes are 28509
dismissed one-half day early or the equivalent amount of time 28510
during a different number of days for the purpose of 28511
individualized parent-teacher conferences and reporting periods; 28512

~~(B)~~(2) Up to two days for professional meetings of teachers 28513
when such days occur during a regular school week and schools are 28514
not in session; 28515

~~(C)~~(3) The number of days the school is closed as a result of 28516
public calamity, as provided in section 3317.01 of the Revised 28517
Code. 28518

(D) The state board of education shall adopt standards for 28519
defining "~~school~~ the minimum number of hours for a "learning day"" 28520
as used in sections 3313.48 and 3317.01 of the Revised Code. 28521

Except as otherwise provided in this section, each learning 28522
day for grades seven through twelve shall consist of not less than 28523
five clock hours with pupils in attendance, except in such 28524
emergency situations, including lack of classroom space, as are 28525
approved by the state board of education. Except as otherwise 28526
provided in this section, each learning day for grades one through 28527
six shall consist of not less than five clock hours with pupils in 28528
attendance which may include fifteen minute morning and afternoon 28529
recess periods, except in such emergency situations, including 28530
lack of classroom space, as are approved by the state board of 28531
education. 28532

Sec. 3313.481. (A) With the approval of the department of 28533
education, a board of education of a city, exempted village, 28534
local, or joint vocational school district may operate any of its 28535

schools on a schedule other than that required by section 3313.48 28536
of the Revised Code in order to do any of the following: 28537

(1) To provide a flexible school day during which may be held 28538
parent-teacher conferences and reporting periods involving time in 28539
excess of that permitted to be credited toward fulfillment of the 28540
minimum school year under section 3313.48 of the Revised Code; 28541

(2) To establish and maintain a calendar of quarters, 28542
trimesters, or pentamesters; 28543

(3) To provide staggered attendance schedules if it receives 28544
approval to do so from the department of education. 28545

(B) A school district operating a school under this section 28546
shall have such school open for instruction for each pupil 28547
enrolled in that school for at least the following: 28548

(1) For each learning year prior to the learning year that 28549
begins on July 1, 2009, nine hundred ten hours ~~during the school~~ 28550
year. 28551

(2) In each of the learning years beginning on July 1, 2009, 28552
and July 1, 2010, respectively, nine hundred thirty hours; 28553

(3) In each of the learning years beginning on July 1, 2011, 28554
and July 1, 2012, respectively, nine hundred fifty hours; 28555

(4) In each of the learning years beginning on July 1, 2013, 28556
and July 1, 2014, respectively, nine hundred seventy hours; 28557

(5) In each of the learning years beginning on July 1, 2015, 28558
and July 1, 2016, respectively, nine hundred ninety hours; 28559

(6) In the learning year that begins on July 1, 2017, and in 28560
each learning year thereafter, one thousand ten hours. 28561

(C) For purposes of determining whether a school that is on a 28562
staggered attendance schedule is in compliance with this section 28563
in any ~~school~~ learning year, the department of education may 28564
include days the school was open for instruction with pupils in 28565

attendance for not more than the first seventy days of the ensuing 28566
~~school~~ learning year provided such days are not considered as days 28567
the school was open for instruction during such ensuing ~~school~~ 28568
learning year. The following shall be considered as time during 28569
which the schools are open for instruction for a pupil enrolled in 28570
such a school, or for a pupil enrolled in a school that is not on 28571
a staggered attendance schedule but that operates under this 28572
section: 28573

(1) Morning and afternoon recess periods of not more than 28574
fifteen minutes duration per period for a pupil in grades one 28575
through six; 28576

(2) Ten hours during which the pupil would otherwise be in 28577
attendance but ~~when he~~ is not required to attend school in order 28578
to provide time for individualized parent-teacher conferences and 28579
reporting periods; 28580

(3) Ten hours during which the pupil would otherwise be in 28581
attendance but is not required to attend school in order to 28582
provide time for teachers to attend professional meetings; 28583

(4) The number of hours pupils would otherwise be in 28584
attendance but are not required to attend because school is closed 28585
as a result of a public calamity as provided in section 3317.01 of 28586
the Revised Code. 28587

~~(C)~~(D) No board of education shall discriminate on the basis 28588
of sex, race, religion, or national origin when assigning pupils 28589
to attendance schedules pursuant to this section. 28590

Sec. 3313.482. (A) Annually, prior to the first day of 28591
September, the board of education of each city, local, and 28592
exempted village school district shall adopt a resolution 28593
specifying a contingency plan under which the district's students 28594
will make up days on which it was necessary to close schools for 28595

any of the reasons specified in division (B) of section 3317.01 of 28596
the Revised Code, if any such days must be made up in order to 28597
comply with the requirements of that section and sections 3313.48 28598
and 3313.481 of the Revised Code. The resolution shall provide in 28599
the plan for making up at least five full ~~school~~ learning days. 28600
If, after the first day of September, the board determines that 28601
the district is unable to implement the contingency plan as 28602
originally adopted, the board may adopt a resolution to amend the 28603
plan, but in no case shall the amended plan provide for making up 28604
less than five full learning days. No resolution adopted pursuant 28605
to this division shall conflict with any collective bargaining 28606
agreement into which a board has entered pursuant to Chapter 4117. 28607
of the Revised Code and that is in effect in the district. 28608

(B) Notwithstanding the content of the contingency plan it 28609
adopts under division (A) of this section, if a school district 28610
closes or evacuates any school building as a result of a bomb 28611
threat or any other report of an alleged or impending explosion, 28612
and if, as a result of the closing or evacuation, the school 28613
district would be unable to meet the requirements of sections 28614
3313.48, 3313.481, and 3317.01 of the Revised Code regarding the 28615
number of days schools must be open for instruction or the 28616
requirements of the state minimum standards for the ~~school~~ 28617
learning day that are established by the department of education 28618
regarding the number of hours there must be in the ~~school~~ learning 28619
day, the school district may increase the length of one or more 28620
other ~~school~~ learning days for the school that was closed or 28621
evacuated, in increments of one-half hour, to make up the number 28622
of hours or days that the school building in question was so 28623
closed or evacuated for the purpose of satisfying the requirements 28624
of those sections regarding the number of days schools must be 28625
open for instruction or the requirements of those standards 28626
regarding the number of hours there must be in the ~~school~~ learning 28627
day. 28628

(C) If a school district closes or evacuates any school building for any of the reasons specified in division (B) of section 3317.01 of the Revised Code, and if for that school the total number of full ~~school~~ learning days specified in the district's contingency plan adopted under division (A) of this section is insufficient to enable the school district to meet the requirements of sections 3313.48, 3313.481, and 3317.01 of the Revised Code regarding the number of days schools must be open for instruction or the requirements of the state minimum standards for the ~~school~~ learning day that are established by the department of education regarding the number of hours there must be in the ~~school~~ learning day, the school district may increase the length of one or more other ~~school~~ learning days for the school that was closed or evacuated, in increments of one-half hour, to make up the number of hours or days that the school building in question was so closed or evacuated for the purpose of satisfying the requirements of those sections regarding the number of days schools must be open for instruction or the requirements of those standards regarding the number of hours there must be in the ~~school~~ learning day. The district shall not be required to actually make up any of the days specified in the district's contingency plan prior to increasing the length of one or more ~~school~~ learning days to make up the shortage of hours or days caused by the school's closure or evacuation, but in no case shall the district fail to make up the total number of full ~~school~~ learning days specified in the contingency plan in accordance with that plan.

(D) If a school district closes or evacuates a school building as a result of a bomb threat or any other report of an alleged or impending explosion and also closes or evacuates that school building on a different day for any of the reasons specified in division (B) of section 3317.01 of the Revised Code, division (B) of this section applies regarding the closing or

evacuation of the school building as a result of the bomb threat 28662
or report of an alleged or impending explosion and division (C) of 28663
this section applies regarding the closing or evacuation of the 28664
school building for the reason specified in division (B) of 28665
section 3317.01 of the Revised Code. 28666

Notwithstanding the provisions of sections 3313.48, 3313.481, 28667
and 3317.01 of the Revised Code and the requirements of the state 28668
minimum standards for the ~~school~~ learning day that are established 28669
by the department of education and notwithstanding the content of 28670
the contingency plan it adopts under division (A) of this section 28671
regarding the closing or evacuation of a school building as a 28672
result of a bomb threat or any other report of an alleged or 28673
impending explosion, a school district that makes up, as described 28674
in division (B) or (C) of this section, all of the hours or days 28675
that its school buildings were closed or evacuated for any of the 28676
reasons identified in division (B) or (C) of this section shall be 28677
deemed to have complied with the requirements of those sections 28678
regarding the number of days schools must be open for instruction 28679
and the requirements of those minimum standards regarding the 28680
number of hours there must be in the ~~school~~ learning day. 28681
28682

Sec. 3313.483. (A) A board of education, upon the adoption of 28683
a resolution stating that it may be financially unable to open on 28684
the day or to remain open for instruction on all days set forth in 28685
its adopted school calendar and pay all obligated expenses, or the 28686
superintendent of public instruction upon the issuance of written 28687
notification under division (B) of section 3313.489 of the Revised 28688
Code, shall request the auditor of state to determine whether such 28689
situation exists. The auditor shall deliver a copy of each request 28690
from a board of education to the superintendent of public 28691
instruction. In the case of a school district not under a fiscal 28692
emergency pursuant to Chapter 3316. of the Revised Code the 28693

auditor shall not issue a finding under this section until written 28694
notification is received from the superintendent pursuant to 28695
section 3313.487 of the Revised Code. 28696

(B) If the auditor of state finds that the board of education 28697
has attempted to avail itself to the fullest extent authorized by 28698
law of all lawful revenue sources available to it except those 28699
authorized by section 5705.21 of the Revised Code, the auditor 28700
shall certify that finding to the superintendent of public 28701
instruction and the state board of education and shall certify the 28702
operating deficit the district will have at the end of the fiscal 28703
year if it commences or continues operating its instructional 28704
program in accordance with its adopted school calendar and pays 28705
all obligated expenses. 28706

(C) No board of education may delay the opening of its 28707
schools or close its schools for financial reasons. Upon the 28708
request of the superintendent of public instruction, the attorney 28709
general shall seek injunctive relief and any other relief required 28710
to enforce this prohibition in the court of common pleas of 28711
Franklin county. The court of common pleas of Franklin county has 28712
exclusive original jurisdiction over all such actions. 28713

(D) Upon the receipt of any certification of an operating 28714
deficit from the auditor of state, a board of education shall make 28715
application to a commercial bank, underwriter, or other 28716
prospective lender or purchaser of its obligations for a loan in 28717
an amount sufficient to enable the district to open or remain open 28718
for instruction on all days set forth in its adopted school 28719
calendar but not to exceed the amount of the deficit certified. 28720

(E)(1) Any board of education that has applied for and been 28721
denied a loan from a commercial bank, underwriter, or other 28722
prospective lender or purchaser of its obligations pursuant to 28723
division (D) of this section shall submit to the superintendent of 28724
public instruction a plan for implementing reductions in the 28725

school district's budget; apply for a loan from a commercial bank, 28726
underwriter, or other prospective lender or purchaser of its 28727
obligations in an amount not to exceed its certified deficit; and 28728
provide the superintendent such information as the superintendent 28729
requires concerning its application for such a loan. The board of 28730
education of a school district declared to be under a fiscal watch 28731
pursuant to division (A) of section 3316.03 of the Revised Code 28732
may, upon approval of the superintendent, utilize the financial 28733
plan required by section 3316.04 of the Revised Code, or 28734
applicable parts thereof, as the plan required under this 28735
division. The board of education of a school district declared to 28736
be under a fiscal emergency pursuant to division (B) of section 28737
3316.03 of the Revised Code may utilize the financial recovery 28738
plan for the district, or applicable parts thereof, as the plan 28739
required under this division. Except for the plan of a school 28740
district under a fiscal emergency, the superintendent shall 28741
evaluate, make recommendations concerning, and approve or 28742
disapprove each plan. When a plan is submitted, the superintendent 28743
shall immediately notify the members of the general assembly whose 28744
legislative districts include any or all of the territory of the 28745
school district submitting the plan. 28746

(2) The superintendent shall submit to the controlling board 28747
a copy of each plan the superintendent approves, or each plan 28748
submitted by a district under a fiscal emergency pursuant to 28749
division (B) of section 3316.03 of the Revised Code, and the 28750
general terms of each proposed loan, and shall make 28751
recommendations regarding the plan and whether a proposed loan to 28752
the board of education should be approved for payment as provided 28753
in division (E)(3) of this section. The controlling board shall 28754
approve or disapprove the plan and the proposed loan presented to 28755
it by the superintendent. In the case of a district not under a 28756
fiscal emergency pursuant to division (B) of section 3316.03 of 28757
the Revised Code, the controlling board may require a board of 28758

education to implement the superintendent's recommendations for 28759
expenditure reductions or impose other requirements. Loan 28760
repayments shall be in accordance with a schedule approved by the 28761
superintendent, except that the principal amount of the loan shall 28762
be payable in monthly, semiannual, or annual installments of 28763
principal and interest that are substantially equal principal and 28764
interest installments. Except as otherwise provided in division 28765
(E)(2) of this section, repayment shall be made no later than the 28766
fifteenth day of June of the second fiscal year following the 28767
approval of the loan. A school district with a certified deficit 28768
in excess of either twenty-five million dollars or fifteen per 28769
cent of the general fund expenditures of the district during the 28770
fiscal year shall repay the loan no later than the fifteenth day 28771
of June of the tenth fiscal year following the approval of the 28772
loan. In deciding whether to approve or disapprove a proposed 28773
loan, the controlling board shall consider the deficit certified 28774
by the auditor of state pursuant to this section. A board of 28775
education that has an outstanding loan approved pursuant to this 28776
section with a repayment date of more than two fiscal years after 28777
the date of approval of such loan may not apply for another loan 28778
with such a repayment date until the outstanding loan has been 28779
repaid. 28780

(3) If a board of education has submitted and received 28781
controlling board approval of a plan and proposed loan in 28782
accordance with this section, the superintendent of public 28783
instruction shall report to the controlling board the actual 28784
amounts loaned to the board of education. Such board of education 28785
shall request the superintendent to pay any funds the board of 28786
education would otherwise receive pursuant to ~~sections 3317.022 to~~ 28787
~~3317.025~~ Chapters 3306. and 3317. of the Revised Code first 28788
directly to the holders of the board of education's notes, or an 28789
agent thereof, such amounts as are specified under the terms of 28790
the loan. Such payments shall be made only from and to the extent 28791

of money appropriated by the general assembly for purposes of such 28792
sections. No note or other obligation of the board of education 28793
under the loan constitutes an obligation nor a debt or a pledge of 28794
the faith, credit, or taxing power of the state, and the holder or 28795
owner of such note or obligation has no right to have taxes levied 28796
by the general assembly for the payment of such note or 28797
obligation, and such note or obligation shall contain a statement 28798
to that effect. 28799

(4) Pursuant to the terms of such a loan, a board of 28800
education may issue its notes in anticipation of the collection of 28801
its voted levies for current expenses or its receipt of such state 28802
funds or both. Such notes shall be issued in accordance with 28803
division (E) of section 133.10 of the Revised Code and constitute 28804
Chapter 133. securities to the extent such division and the 28805
otherwise applicable provisions of Chapter 133. of the Revised 28806
Code are not inconsistent with this section, provided that in any 28807
event sections 133.24 and 5705.21 and divisions (A), (B), (C), and 28808
(E)(2) of section 133.10 of the Revised Code do not apply to such 28809
notes. 28810

(5) Notwithstanding section 133.36 or 3313.17, any other 28811
section of the Revised Code, or any other provision of law, a 28812
board of education that has received a loan under this section may 28813
not declare bankruptcy, so long as any portion of such loan 28814
remains unpaid. 28815

(F) Under this section and sections 3313.4810 and 3313.4811, 28816
"board of education" or "district board" includes the financial 28817
planning and supervision commission of a school district under a 28818
fiscal emergency pursuant to Chapter 3316. of the Revised Code 28819
where such commission chooses to exercise the powers and duties 28820
otherwise required of the district board of education under this 28821
section and sections 3313.4810 and 3313.4811 of the Revised Code. 28822

Sec. 3313.485. Notwithstanding any provision to the contrary 28823
in sections 3313.48 and 3313.481 or in Chapter 4117. of the 28824
Revised Code, the requirements of divisions (B)(2) to (6) of 28825
section 3313.48 and divisions (B)(2) to (6) of section 3313.481 of 28826
the Revised Code do not prevail over conflicting provisions in a 28827
valid collective bargaining agreement entered into prior to the 28828
effective date of this section. However, any collective bargaining 28829
agreement entered into, renewed, or amended on or after the 28830
effective date of this section shall comply with the requirements 28831
of divisions (B)(2) to (6) of section 3313.48, as applicable, or 28832
divisions (B)(2) to (6) of section 3313.481 of the Revised Code, 28833
as applicable. 28834

Sec. 3313.53. (A) As used in this section: 28835

(1) "Licensed individual" means an individual who holds a 28836
valid educator license, certificate, or permit issued by the state 28837
board of education under section 3319.22, 3319.26, or 3319.27~~7~~ 28838
~~3319.302, or 3319.304~~ of the Revised Code. 28839

(2) "Nonlicensed individual" means an individual who does not 28840
hold a valid educator license, certificate, or permit issued by 28841
the state board of education under section 3319.22, 3319.26, or 28842
3319.27~~, 3319.302, or 3319.304~~ of the Revised Code. 28843

(B) The board of education of any city, exempted village, or 28844
local school district may establish and maintain in connection 28845
with the public school systems: 28846

(1) Manual training, industrial arts, domestic science, and 28847
commercial departments; 28848

(2) Agricultural, industrial, vocational, and trades schools. 28849

Such board may pay from the public school funds, as other 28850
school expenses are paid, the expenses of establishing and 28851
maintaining such departments and schools and of directing, 28852

supervising, and coaching the pupil-activity programs in music, 28853
language, arts, speech, government, athletics, and any others 28854
directly related to the curriculum. 28855

(C) The board of education of any city, exempted village, or 28856
local school district may employ a nonlicensed individual to 28857
direct, supervise, or coach a pupil-activity program as long as 28858
that individual holds a valid pupil-activity program permit issued 28859
by the state board of education under division (A) of section 28860
3319.303 of the Revised Code. 28861

(D)(1) Except as provided in division (D)(2) of this section, 28862
a nonlicensed individual who holds a valid pupil-activity program 28863
permit may be employed under division (C) of this section only 28864
after the school district's board of education adopts a resolution 28865
stating that it has offered such position to those employees of 28866
the district who are licensed individuals and no such employee 28867
qualified to fill the position has accepted it, and has then 28868
advertised the position as available to any licensed individual 28869
who is qualified to fill it and who is not employed by the board, 28870
and no such person has applied for and accepted the position. 28871

(2) A board of education may renew the contract of any 28872
nonlicensed individual, currently employed by the board under 28873
division (C) of this section for one or more years, without first 28874
offering the position held by that individual to employees of the 28875
district who are licensed individuals or advertising the position 28876
as available to any qualified licensed individuals who are not 28877
currently employed by the board as otherwise required under 28878
division (D)(1) of this section. 28879

(E) A nonlicensed individual employed under this section is a 28880
nonteaching employee and is not an educational assistant as 28881
defined in section 3319.088 of the Revised Code. A nonlicensed 28882
individual may direct, supervise, or coach a pupil-activity 28883
program under this section as long as that pupil-activity program 28884

does not include any class or course required or offered for 28885
credit toward a pupil's promotion to the next grade or for 28886
graduation, or any activity conducted as a part of or required for 28887
such a class or course. A nonlicensed individual employed under 28888
this section may perform only the duties of the director, 28889
supervisor, or coach of the pupil-activity program for which the 28890
nonlicensed individual is employed. 28891

(F) The board shall fix the compensation of each nonlicensed 28892
individual employed under this section, which shall be the same 28893
amount as the position was or would be offered to the district's 28894
licensed employees, and execute a written contract with the 28895
nonlicensed individual for a term not to exceed one year. The 28896
contract shall specify the compensation, duration, and other terms 28897
of employment, and the compensation shall not be reduced unless 28898
such reduction is a part of a uniform plan affecting the entire 28899
district. 28900

If the state board suspends, revokes, or limits the 28901
pupil-activity program permit of a nonlicensed individual, the 28902
school district board may terminate or suspend the employment 28903
contract of that individual. Otherwise, no contract issued under 28904
this section shall be terminated or suspended except pursuant to 28905
the procedure established by division (C) of section 3319.081 of 28906
the Revised Code. 28907

Sec. 3313.532. (A) Any person twenty-two or more years of age 28908
and enrolled in an adult high school continuation program 28909
established pursuant to section 3313.531 of the Revised Code may 28910
request the board of education operating the program to conduct an 28911
evaluation in accordance with division (C) of this section. 28912

(B) Any applicant to a board of education for a diploma of 28913
adult education under division (B) of section 3313.611 of the 28914
Revised Code may request the board to conduct an evaluation in 28915

accordance with division (C) of this section. 28916

(C) Upon the request of any person pursuant to division (A) 28917
or (B) of this section, the board of education to which the 28918
request is made shall evaluate the person to determine whether the 28919
person is disabled, in accordance with rules adopted by the state 28920
board of education. If the evaluation indicates that the person is 28921
disabled, the board shall determine whether to excuse the person 28922
from taking any of the ~~tests~~ assessments required by division (B) 28923
of section 3301.0710 of the Revised Code as a requirement for 28924
receiving a diploma under section 3313.611 of the Revised Code. 28925
The board may require the person to take an alternate assessment 28926
in place of any test from which the person is so excused. 28927

Sec. 3313.533. (A) The board of education of a city, exempted 28928
village, or local school district may adopt a resolution to 28929
establish and maintain an alternative school in accordance with 28930
this section. The resolution shall specify, but not necessarily be 28931
limited to, all of the following: 28932

(1) The purpose of the school, which purpose shall be to 28933
serve students who are on suspension, who are having truancy 28934
problems, who are experiencing academic failure, who have a 28935
history of class disruption, who are exhibiting other academic or 28936
behavioral problems specified in the resolution, or who have been 28937
discharged or released from the custody of the department of youth 28938
services under section 5139.51 of the Revised Code; 28939

(2) The grades served by the school, which may include any of 28940
grades kindergarten through twelve; 28941

(3) A requirement that the school be operated in accordance 28942
with this section. The board of education adopting the resolution 28943
under division (A) of this section shall be the governing board of 28944
the alternative school. The board shall develop and implement a 28945
plan for the school in accordance with the resolution establishing 28946

the school and in accordance with this section. Each plan shall 28947
include, but not necessarily be limited to, all of the following: 28948

(a) Specification of the reasons for which students will be 28949
accepted for assignment to the school and any criteria for 28950
admission that are to be used by the board to approve or 28951
disapprove the assignment of students to the school; 28952

(b) Specification of the criteria and procedures that will be 28953
used for returning students who have been assigned to the school 28954
back to the regular education program of the district; 28955

(c) An evaluation plan for assessing the effectiveness of the 28956
school and its educational program and reporting the results of 28957
the evaluation to the public. 28958

(B) Notwithstanding any provision of Title XXXIII of the 28959
Revised Code to the contrary, the alternative school plan may 28960
include any of the following: 28961

(1) A requirement that on each ~~school~~ learning day students 28962
must attend school or participate in other programs specified in 28963
the plan or by the chief administrative officer of the school for 28964
a period equal to the minimum ~~school~~ learning day set by the state 28965
board of education under section 3313.48 of the Revised Code plus 28966
any additional time required in the plan or by the chief 28967
administrative officer; 28968

(2) Restrictions on student participation in extracurricular 28969
or interscholastic activities; 28970

(3) A requirement that students wear uniforms prescribed by 28971
the district board of education. 28972

(C) In accordance with the alternative school plan, the 28973
district board of education may employ teachers and nonteaching 28974
employees necessary to carry out its duties and fulfill its 28975
responsibilities or may contract with a nonprofit or for profit 28976

entity to operate the alternative school, including the provision of personnel, supplies, equipment, or facilities. 28977
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(D) An alternative school may be established in all or part of a school building. 28979
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(E) If a district board of education elects under this section, or is required by section 3313.534 of the Revised Code, to establish an alternative school, the district board may join with the board of education of one or more other districts to form a joint alternative school by forming a cooperative education school district under section 3311.52 or 3311.521 of the Revised Code, or a joint educational program under section 3313.842 of the Revised Code. The authority to employ personnel or to contract with a nonprofit or for profit entity under division (C) of this section applies to any alternative school program established under this division. 28981
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(F) Any individual employed as a teacher at an alternative school operated by a nonprofit or for profit entity under this section shall be licensed and shall be subject to background checks, as described in section 3319.39 of the Revised Code, in the same manner as an individual employed by a school district. 28992
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(G) Division (G) of this section applies only to any alternative school that is operated by a nonprofit or for profit entity under contract with the school district. 28997
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(1) In addition to the specifications authorized under division (B) of this section, any plan adopted under that division for an alternative school to which division (G) of this section also applies shall include the following: 29000
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(a) A description of the educational program provided at the alternative school, which shall include: 29004
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(i) Provisions for the school to be configured in clusters or small learning communities; 29006
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(ii) Provisions for the incorporation of education technology	29008
into the curriculum;	29009
(iii) Provisions for accelerated learning programs in reading	29010
and mathematics.	29011
(b) A method to determine the reading and mathematics level	29012
of each student assigned to the alternative school and a method to	29013
continuously monitor each student's progress in those areas. The	29014
methods employed under this division shall be aligned with the	29015
curriculum adopted by the school district board of education under	29016
section 3313.60 of the Revised Code.	29017
(c) A plan for social services to be provided at the	29018
alternative school, such as, but not limited to, counseling	29019
services, psychological support services, and enrichment programs;	29020
(d) A plan for a student's transition from the alternative	29021
school back to a school operated by the school district;	29022
(e) A requirement that the alternative school maintain	29023
financial records in a manner that is compatible with the form	29024
prescribed for school districts by the auditor of state to enable	29025
the district to comply with any rules adopted by the auditor of	29026
state.	29027
(2) Notwithstanding division (A)(2) of this section, any	29028
alternative school to which division (G) of this section applies	29029
shall include only grades six through twelve.	29030
(3) Notwithstanding anything in division (A)(3)(a) of this	29031
section to the contrary, the characteristics of students who may	29032
be assigned to an alternative school to which division (G) of this	29033
section applies shall include only disruptive and low-performing	29034
students.	29035
(H) When any district board of education determines to	29036
contract with a nonprofit or for profit entity to operate an	29037

alternative school under this section, the board shall use the 29038
procedure set forth in this division. 29039

(1) The board shall publish notice of a request for proposals 29040
in a newspaper of general circulation in the district once each 29041
week for a period of at least two consecutive weeks prior to the 29042
date specified by the board for receiving proposals. Notices of 29043
requests for proposals shall contain a general description of the 29044
subject of the proposed contract and the location where the 29045
request for proposals may be obtained. The request for proposals 29046
shall include all of the following information: 29047

(a) Instructions and information to respondents concerning 29048
the submission of proposals, including the name and address of the 29049
office where proposals are to be submitted; 29050

(b) Instructions regarding communications, including at least 29051
the names, titles, and telephone numbers of persons to whom 29052
questions concerning a proposal may be directed; 29053

(c) A description of the performance criteria that will be 29054
used to evaluate whether a respondent to which a contract is 29055
awarded is meeting the district's educational standards or the 29056
method by which such performance criteria will be determined; 29057

(d) Factors and criteria to be considered in evaluating 29058
proposals, the relative importance of each factor or criterion, 29059
and a description of the evaluation procedures to be followed; 29060

(e) Any terms or conditions of the proposed contract, 29061
including any requirement for a bond and the amount of such bond; 29062

(f) Documents that may be incorporated by reference into the 29063
request for proposals, provided that the request for proposals 29064
specifies where such documents may be obtained and that such 29065
documents are readily available to all interested parties. 29066

(2) After the date specified for receiving proposals, the 29067

board shall evaluate the submitted proposals and may hold 29068
discussions with any respondent to ensure a complete understanding 29069
of the proposal and the qualifications of such respondent to 29070
execute the proposed contract. Such qualifications shall include, 29071
but are not limited to, all of the following: 29072

(a) Demonstrated competence in performance of the required 29073
services as indicated by effective implementation of educational 29074
programs in reading and mathematics and at least three years of 29075
experience successfully serving a student population similar to 29076
the student population assigned to the alternative school; 29077

(b) Demonstrated performance in the areas of cost 29078
containment, the provision of educational services of a high 29079
quality, and any other areas determined by the board; 29080

(c) Whether the respondent has the resources to undertake the 29081
operation of the alternative school and to provide qualified 29082
personnel to staff the school; 29083

(d) Financial responsibility. 29084

(3) The board shall select for further review at least three 29085
proposals from respondents the board considers qualified to 29086
operate the alternative school in the best interests of the 29087
students and the district. If fewer than three proposals are 29088
submitted, the board shall select each proposal submitted. The 29089
board may cancel a request for proposals or reject all proposals 29090
at any time prior to the execution of a contract. 29091

The board may hold discussions with any of the three selected 29092
respondents to clarify or revise the provisions of a proposal or 29093
the proposed contract to ensure complete understanding between the 29094
board and the respondent of the terms under which a contract will 29095
be entered. Respondents shall be accorded fair and equal treatment 29096
with respect to any opportunity for discussion regarding 29097
clarifications or revisions. The board may terminate or 29098

discontinue any further discussion with a respondent upon written notice. 29099
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(4) Upon further review of the three proposals selected by the board, the board shall award a contract to the respondent the board considers to have the most merit, taking into consideration the scope, complexity, and nature of the services to be performed by the respondent under the contract. 29101
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(5) Except as provided in division (H)(6) of this section, the request for proposals, submitted proposals, and related documents shall become public records under section 149.43 of the Revised Code after the award of the contract. 29106
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(6) Any respondent may request in writing that the board not disclose confidential or proprietary information or trade secrets contained in the proposal submitted by the respondent to the board. Any such request shall be accompanied by an offer of indemnification from the respondent to the board. The board shall determine whether to agree to the request and shall inform the respondent in writing of its decision. If the board agrees to nondisclosure of specified information in a proposal, such information shall not become a public record under section 149.43 of the Revised Code. If the respondent withdraws its proposal at any time prior to the execution of a contract, the proposal shall not be a public record under section 149.43 of the Revised Code. 29110
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(I) Upon a recommendation from the department and in accordance with section 3301.16 of the Revised Code, the state board of education may revoke the charter of any alternative school operated by a school district that violates this section. 29122
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Sec. 3313.536. (A) The board of education of each city, exempted village, and local school district and the governing authority of each chartered nonpublic school shall adopt a comprehensive school safety plan for each school building under 29126
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the board's or governing authority's control. The board or 29130
governing authority shall examine the environmental conditions and 29131
operations of each building to determine potential hazards to 29132
student and staff safety and shall propose operating changes to 29133
promote the prevention of potentially dangerous problems and 29134
circumstances. In developing the plan for each building, the board 29135
or governing authority shall involve community law enforcement and 29136
safety officials, parents of students who are assigned to the 29137
building, and teachers and nonteaching employees who are assigned 29138
to the building. The board or governing authority shall consider 29139
incorporating remediation strategies into the plan for any 29140
building where documented safety problems have occurred. 29141

The board or governing authority shall incorporate into the 29142
plan both of the following: 29143

(1) A protocol for addressing serious threats to the safety 29144
of school property, students, employees, or administrators; 29145

(2) A protocol for responding to any emergency events that do 29146
occur and that compromise the safety of school property, students, 29147
employees, or administrators. 29148

Each protocol shall include procedures deemed appropriate by 29149
the board or governing authority for responding to threats and 29150
emergency events, respectively, including such things as 29151
notification of appropriate law enforcement personnel, calling 29152
upon specified emergency response personnel for assistance, and 29153
informing parents of affected students. Prior to the opening day 29154
of each school year, the board or governing authority shall inform 29155
each student enrolled in the school and the student's parent of 29156
the parental notification procedures included in the protocol. 29157

(B) The board or governing authority shall update the safety 29158
plan at least once every three years and whenever a major 29159
modification to the building requires changes in the procedures 29160

outlined in the plan. 29161

(C) The board or governing authority shall file a copy of the 29162
current safety plan and building blueprint with each law 29163
enforcement agency that has jurisdiction over the school building 29164
and, upon request, the fire department that serves the political 29165
subdivision in which the school building is located. The board or 29166
governing authority also shall file a copy of the current safety 29167
plan and a floor plan of the building, but not a building 29168
blueprint, with the attorney general, who shall post that 29169
information on the Ohio law enforcement gateway or its successor. 29170

Copies of safety plans, building blueprints, and floor plans 29171
shall be filed as described in this division not later than the 29172
ninety-first day after ~~the effective date of this amendment~~ March 29173
30, 2007. If a board or governing authority revises a safety plan, 29174
building blueprint, or floor plan after the initial filing, the 29175
board or governing authority shall file copies of the revised 29176
safety plan, building blueprint, or floor plan in the manner 29177
described in this division not later than the ninety-first day 29178
after the revision is adopted. 29179

Copies of the safety plan and building blueprint are not a 29180
public record pursuant to section 149.433 of the Revised Code. 29181

Notwithstanding section 149.433 of the Revised Code, a 29182
building floor plan filed with the attorney general pursuant to 29183
this division is not a public record to the extent it is a record 29184
kept by the attorney general. This paragraph does not affect the 29185
status of a floor plan kept as a record by another public office. 29186

The board or governing authority, each law enforcement agency 29187
and fire department to which copies of the safety plan and 29188
building blueprint are provided, and the attorney general shall 29189
keep the copies in a secure place. 29190

(D) The board or governing authority shall grant access to 29191

each school building under its control to law enforcement 29192
personnel to enable the personnel to hold training sessions for 29193
responding to threats and emergency events affecting the building, 29194
provided that the access occurs outside of student instructional 29195
hours and an employee of the board or governing authority is 29196
present in the building during the training sessions. 29197

Sec. 3313.55. The board of education of any school district 29198
in which is located a state, district, county, or municipal 29199
hospital for children with epilepsy or any public institution, 29200
except state institutions for the care and treatment of 29201
delinquent, unstable, or socially maladjusted children, shall make 29202
provision for the education of all educable children therein; 29203
except that in the event another school district within the same 29204
county or an adjoining county is the source of sixty per cent or 29205
more of the children in said hospital or institution, the board of 29206
that school district shall make provision for the education of all 29207
the children therein. In any case in which a board provides 29208
educational facilities under this section, the board that provides 29209
the facilities shall be entitled to all moneys authorized for the 29210
attendance of pupils as provided in Chapter 3306. or 3317. of the 29211
Revised Code, tuition as provided in section 3317.08 of the 29212
Revised Code, and such additional compensation as is provided for 29213
crippled children in sections 3323.01 to 3323.12 of the Revised 29214
Code. Any board that provides the educational facilities for 29215
children in county or municipal institutions established for the 29216
care and treatment of children who are delinquent, unstable, or 29217
socially maladjusted shall not be entitled to any moneys provided 29218
for crippled children in sections 3323.01 to 3323.12 of the 29219
Revised Code. 29220

Sec. 3313.60. Notwithstanding division (D) of section 3311.52 29221
of the Revised Code, divisions (A) to (E) of this section do not 29222

apply to any cooperative education school district established 29223
pursuant to divisions (A) to (C) of section 3311.52 of the Revised 29224
Code. 29225

(A) The board of education of each city and exempted village 29226
school district, the governing board of each educational service 29227
center, and the board of each cooperative education school 29228
district established pursuant to section 3311.521 of the Revised 29229
Code shall prescribe a curriculum for all schools under their 29230
control. Except as provided in division (E) of this section, in 29231
any such curriculum there shall be included the study of the 29232
following subjects: 29233

(1) The language arts, including reading, writing, spelling, 29234
oral and written English, and literature; 29235

(2) Geography, the history of the United States and of Ohio, 29236
and national, state, and local government in the United States, 29237
including a balanced presentation of the relevant contributions to 29238
society of men and women of African, Mexican, Puerto Rican, and 29239
American Indian descent as well as other ethnic and racial groups 29240
in Ohio and the United States; 29241

(3) Mathematics; 29242

(4) Natural science, including instruction in the 29243
conservation of natural resources; 29244

(5) Health education, which shall include instruction in: 29245

(a) The nutritive value of foods, including natural and 29246
organically produced foods, the relation of nutrition to health, 29247
the use and effects of food additives; 29248

(b) The harmful effects of and legal restrictions against the 29249
use of drugs of abuse, alcoholic beverages, and tobacco; 29250

(c) Venereal disease education, except that upon written 29251
request of the student's parent or guardian, a student shall be 29252

excused from taking instruction in venereal disease education; 29253

(d) In grades kindergarten through six, instruction in 29254
personal safety and assault prevention, except that upon written 29255
request of the student's parent or guardian, a student shall be 29256
excused from taking instruction in personal safety and assault 29257
prevention. 29258

(6) Physical education; 29259

(7) The fine arts, including music; 29260

(8) First aid, including a training program in 29261
cardiopulmonary resuscitation, safety, and fire prevention, except 29262
that upon written request of the student's parent or guardian, a 29263
student shall be excused from taking instruction in 29264
cardiopulmonary resuscitation; 29265

(9) In grade seven or eight, life and career-ready skills, 29266
including financial literacy, entrepreneurship, career planning 29267
and awareness, and any other skills identified by the 29268
superintendent of public instruction. The state superintendent 29269
shall issue program guidance and guidelines to assist with the 29270
implementation of division (A)(9) of this section. 29271

(B) Except as provided in division (E) of this section, every 29272
school or school district shall include in the requirements for 29273
promotion from the eighth grade to the ninth grade one year's 29274
course of study of American history. A board may waive this 29275
requirement for academically accelerated students who, in 29276
accordance with procedures adopted by the board, are able to 29277
demonstrate mastery of essential concepts and skills of the eighth 29278
grade American history course of study. 29279

(C) Except as provided in division (E) of this section, every 29280
high school shall include in the requirements for graduation from 29281
any curriculum one unit of American history and government, 29282
including a study of the constitutions of the United States and of 29283

Ohio.	29284
(D) Except as provided in division (E) of this section, basic instruction in geography, United States history, the government of the United States, the government of the state of Ohio, local government in Ohio, the Declaration of Independence, the United States Constitution, and the Constitution of the state of Ohio shall be required before pupils may participate in courses involving the study of social problems, economics, foreign affairs, United Nations, world government, socialism and communism.	29285 29286 29287 29288 29289 29290 29291 29292 29293
(E) For each cooperative education school district established pursuant to section 3311.521 of the Revised Code and each city, exempted village, and local school district that has territory within such a cooperative district, the curriculum adopted pursuant to divisions (A) to (D) of this section shall only include the study of the subjects that apply to the grades operated by each such school district. The curriculums for such schools, when combined, shall provide to each student of these districts all of the subjects required under divisions (A) to (D) of this section.	29294 29295 29296 29297 29298 29299 29300 29301 29302 29303
(F) The board of education of any cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code shall prescribe a curriculum for the subject areas and grade levels offered in any school under its control.	29304 29305 29306 29307 29308
(G) Upon the request of any parent or legal guardian of a student, the board of education of any school district shall permit the parent or guardian to promptly examine, with respect to the parent's or guardian's own child:	29309 29310 29311 29312
(1) Any survey or questionnaire, prior to its administration to the child;	29313 29314

(2) Any textbook, workbook, software, video, or other instructional materials being used by the district in connection with the instruction of the child;	29315 29316 29317
(3) Any completed and graded test taken or survey or questionnaire filled out by the child;	29318 29319
(4) Copies of the statewide academic standards and each model curriculum developed pursuant to section 3301.079 of the Revised Code, which copies shall be available at all times during school hours in each district school building.	29320 29321 29322 29323
Sec. 3313.603. (A) As used in this section:	29324
(1) "One unit" means a minimum of one hundred twenty hours of course instruction, except that for a laboratory course, "one unit" means a minimum of one hundred fifty hours of course instruction.	29325 29326 29327 29328
(2) "One-half unit" means a minimum of sixty hours of course instruction, except that for physical education courses, "one-half unit" means a minimum of one hundred twenty hours of course instruction.	29329 29330 29331 29332
(B) Beginning September 15, 2001, except as required in division (C) of this section and division (C) of section 3313.614 of the Revised Code, the requirements for graduation from every high school shall include twenty units earned in grades nine through twelve and shall be distributed as follows:	29333 29334 29335 29336 29337
(1) English language arts, four units;	29338
(2) Health, one-half unit;	29339
(3) Mathematics, three units;	29340
(4) Physical education, one-half unit;	29341
(5) Science, two units until September 15, 2003, and three units thereafter, which at all times shall include both of the	29342 29343

following:	29344
(a) Biological sciences, one unit;	29345
(b) Physical sciences, one unit.	29346
(6) Social studies, three units, which shall include both of	29347
the following:	29348
(a) American history, one-half unit;	29349
(b) American government, one-half unit.	29350
(7) Elective units, seven units until September 15, 2003, and	29351
six units thereafter.	29352
Each student's electives shall include at least one unit, or	29353
two half units, chosen from among the areas of	29354
business/technology, fine arts, and/or foreign language.	29355
(C) Beginning with students who enter ninth grade for the	29356
first time on or after July 1, 2010, except as provided in	29357
divisions (D) to (F) of this section, the requirements for	29358
graduation from every public and chartered nonpublic high school	29359
shall include twenty units that are designed to prepare students	29360
for the workforce and college. The units shall be distributed as	29361
follows:	29362
(1) English language arts, four units;	29363
(2) Health, one-half unit;	29364
(3) Mathematics, four units, which shall include one unit of	29365
algebra II or the equivalent of algebra II;	29366
(4) Physical education, one-half unit;	29367
(5) Science, three units with inquiry-based laboratory	29368
experience that engages students in asking valid scientific	29369
questions and gathering and analyzing information, which shall	29370
include the following, or their equivalent:	29371
(a) Physical sciences, one unit;	29372

(b) Life sciences, one unit;	29373
(c) Advanced study in one or more of the following sciences, one unit:	29374 29375
(i) Chemistry, physics, or other physical science;	29376
(ii) Advanced biology or other life science;	29377
(iii) Astronomy, physical geology, or other earth or space science.	29378 29379
(6) Social studies, three units, which shall include both of the following:	29380 29381
(a) American history, one-half unit;	29382
(b) American government, one-half unit.	29383
Each school shall integrate the study of economics and financial literacy, as expressed in the social studies academic content standards adopted by the state board of education under <u>division (A)(1) of section 3301.079 of the Revised Code and the</u> <u>academic content standards for financial literacy and</u> <u>entrepreneurship adopted under division (A)(2) of that section,</u> into one or more existing social studies credits required under division (C)(6) of this section, or into the content of another class, so that every high school student receives instruction in those concepts. In developing the curriculum required by this paragraph, schools shall use available public-private partnerships and resources and materials that exist in business, industry, and through the centers for economics education at institutions of higher education in the state.	29384 29385 29386 29387 29388 29389 29390 29391 29392 29393 29394 29395 29396 29397
(7) Five units consisting of one or any combination of foreign language, fine arts, business, career-technical education, family and consumer sciences, technology, agricultural education, or English language arts, mathematics, science, or social studies courses not otherwise required under division (C) of this section.	29398 29399 29400 29401 29402

Ohioans must be prepared to apply increased knowledge and 29403
skills in the workplace and to adapt their knowledge and skills 29404
quickly to meet the rapidly changing conditions of the 29405
twenty-first century. National studies indicate that all high 29406
school graduates need the same academic foundation, regardless of 29407
the opportunities they pursue after graduation. The goal of Ohio's 29408
system of elementary and secondary education is to prepare all 29409
students for and seamlessly connect all students to success in 29410
life beyond high school graduation, regardless of whether the next 29411
step is entering the workforce, beginning an apprenticeship, 29412
engaging in post-secondary training, serving in the military, or 29413
pursuing a college degree. 29414

The Ohio core curriculum is the standard expectation for all 29415
students entering ninth grade for the first time at a public or 29416
chartered nonpublic high school on or after July 1, 2010. A 29417
student may satisfy this expectation through a variety of methods, 29418
including, but not limited to, integrated, applied, 29419
career-technical, and traditional coursework. 29420

Whereas teacher quality is essential for student success in 29421
completing the Ohio core curriculum, the general assembly shall 29422
appropriate funds for strategic initiatives designed to strengthen 29423
schools' capacities to hire and retain highly qualified teachers 29424
in the subject areas required by the curriculum. Such initiatives 29425
are expected to require an investment of \$120,000,000 over five 29426
years. 29427

Stronger coordination between high schools and institutions 29428
of higher education is necessary to prepare students for more 29429
challenging academic endeavors and to lessen the need for academic 29430
remediation in college, thereby reducing the costs of higher 29431
education for Ohio's students, families, and the state. The state 29432
board of education, the Ohio board of regents, and the partnership 29433
for continued learning shall develop policies to ensure that only 29434

in rare instances will students who complete the Ohio core curriculum require academic remediation after high school.

School districts, community schools, and chartered nonpublic schools shall integrate technology into learning experiences whenever practicable across the curriculum in order to maximize efficiency, enhance learning, and prepare students for success in the technology-driven twenty-first century. Districts and schools may use distance and web-based course delivery as a method of providing or augmenting all instruction required under this division, including laboratory experience in science. Districts and schools shall whenever practicable utilize technology access and electronic learning opportunities provided by the eTech Ohio commission, the Ohio learning network, education technology centers, public television stations, and other public and private providers.

(D) Except as provided in division (E) of this section, a student who enters ninth grade on or after July 1, 2010, and before July 1, 2014, may qualify for graduation from a public or chartered nonpublic high school even though the student has not completed the Ohio core curriculum prescribed in division (C) of this section if all of the following conditions are satisfied:

(1) After the student has attended high school for two years, as determined by the school, the student and the student's parent, guardian, or custodian sign and file with the school a written statement asserting the parent's, guardian's, or custodian's consent to the student's graduating without completing the Ohio core curriculum and acknowledging that one consequence of not completing the Ohio core curriculum is ineligibility to enroll in most state universities in Ohio without further coursework.

(2) The student and parent, guardian, or custodian fulfill any procedural requirements the school stipulates to ensure the student's and parent's, guardian's, or custodian's informed

consent and to facilitate orderly filing of statements under 29467
division (D)(1) of this section. 29468

(3) The student and the student's parent, guardian, or 29469
custodian and a representative of the student's high school 29470
jointly develop an individual career plan for the student that 29471
specifies the student matriculating to a two-year degree program, 29472
acquiring a business and industry credential, or entering an 29473
apprenticeship. 29474

(4) The student's high school provides counseling and support 29475
for the student related to the plan developed under division 29476
(D)(3) of this section during the remainder of the student's high 29477
school experience. 29478

(5) The student successfully completes, at a minimum, the 29479
curriculum prescribed in division (B) of this section. 29480

The partnership for continued learning, in collaboration with 29481
the department of education and the Ohio board of regents, shall 29482
analyze student performance data to determine if there are 29483
mitigating factors that warrant extending the exception permitted 29484
by division (D) of this section to high school classes beyond 29485
those entering ninth grade before July 1, 2014. The partnership 29486
shall submit its findings and any recommendations not later than 29487
August 1, 2014, to the speaker and minority leader of the house of 29488
representatives, the president and minority leader of the senate, 29489
the chairpersons and ranking minority members of the standing 29490
committees of the house of representatives and the senate that 29491
consider education legislation, the state board of education, and 29492
the superintendent of public instruction. 29493

(E) Each school district and chartered nonpublic school 29494
retains the authority to require an even more rigorous minimum 29495
curriculum for high school graduation than specified in division 29496
(B) or (C) of this section. A school district board of education, 29497

through the adoption of a resolution, or the governing authority 29498
of a chartered nonpublic school may stipulate any of the 29499
following: 29500

(1) A minimum high school curriculum that requires more than 29501
twenty units of academic credit to graduate; 29502

(2) An exception to the district's or school's minimum high 29503
school curriculum that is comparable to the exception provided in 29504
division (D) of this section but with additional requirements, 29505
which may include a requirement that the student successfully 29506
complete more than the minimum curriculum prescribed in division 29507
(B) of this section; 29508

(3) That no exception comparable to that provided in division 29509
(D) of this section is available. 29510

(F) A student enrolled in a dropout prevention and recovery 29511
program, which program has received a waiver from the department 29512
of education, may qualify for graduation from high school by 29513
successfully completing a competency-based instructional program 29514
administered by the dropout prevention and recovery program in 29515
lieu of completing the Ohio core curriculum prescribed in division 29516
(C) of this section. The department shall grant a waiver to a 29517
dropout prevention and recovery program, within sixty days after 29518
the program applies for the waiver, if the program meets all of 29519
the following conditions: 29520

(1) The program serves only students not younger than sixteen 29521
years of age and not older than twenty-one years of age. 29522

(2) The program enrolls students who, at the time of their 29523
initial enrollment, either, or both, are at least one grade level 29524
behind their cohort age groups or experience crises that 29525
significantly interfere with their academic progress such that 29526
they are prevented from continuing their traditional programs. 29527

(3) The program requires students to attain at least the 29528

applicable score designated for each of the ~~tests~~ assessments 29529
prescribed under division (B)(1) of section 3301.0710 of the 29530
Revised Code or, to the extent prescribed by rule of the state 29531
board of education under division (E)(6) of section 3301.0712 of 29532
the Revised Code, division (B)(2) of that section. 29533

(4) The program develops an individual career plan for the 29534
student that specifies the student's matriculating to a two-year 29535
degree program, acquiring a business and industry credential, or 29536
entering an apprenticeship. 29537

(5) The program provides counseling and support for the 29538
student related to the plan developed under division (F)(4) of 29539
this section during the remainder of the student's high school 29540
experience. 29541

(6) The program requires the student and the student's 29542
parent, guardian, or custodian to sign and file, in accordance 29543
with procedural requirements stipulated by the program, a written 29544
statement asserting the parent's, guardian's, or custodian's 29545
consent to the student's graduating without completing the Ohio 29546
core curriculum and acknowledging that one consequence of not 29547
completing the Ohio core curriculum is ineligibility to enroll in 29548
most state universities in Ohio without further coursework. 29549

(7) Prior to receiving the waiver, the program has submitted 29550
to the department an instructional plan that demonstrates how the 29551
academic content standards adopted by the state board of education 29552
under section 3301.079 of the Revised Code will be taught and 29553
assessed. 29554

If the department does not act either to grant the waiver or 29555
to reject the program application for the waiver within sixty days 29556
as required under this section, the waiver shall be considered to 29557
be granted. 29558

(G) Every high school may permit students below the ninth 29559

grade to take advanced work ~~for~~. If a high school so permits, it 29560
shall award high school credit. ~~A high school~~ for successful 29561
completion of the advanced work and shall count such advanced work 29562
toward the graduation requirements of division (B) or (C) of this 29563
section if the advanced work was both: 29564

(1) Taught by a person who possesses a license or certificate 29565
issued under section 3301.071, 3319.22, or 3319.222 of the Revised 29566
Code that is valid for teaching high school; 29567

(2) Designated by the board of education of the city, local, 29568
or exempted village school district, the board of the cooperative 29569
education school district, or the governing authority of the 29570
chartered nonpublic school as meeting the high school curriculum 29571
requirements. 29572

Each high school shall record on the student's high school 29573
transcript all high school credit awarded under division (G) of 29574
this section. In addition, if the student completed a seventh- or 29575
eighth-grade fine arts course described in division (K) of this 29576
section and the course qualified for high school credit under that 29577
division, the high school shall record that course on the 29578
student's high school transcript. 29579

(H) The department shall make its individual academic career 29580
plan available through its Ohio career information system web site 29581
for districts and schools to use as a tool for communicating with 29582
and providing guidance to students and families in selecting high 29583
school courses. 29584

(I) Units earned in English language arts, mathematics, 29585
science, and social studies that are delivered through integrated 29586
academic and career-technical instruction are eligible to meet the 29587
graduation requirements of division (B) or (C) of this section. 29588

(J) The state board of education, in consultation with the 29589
Ohio board of regents and the partnership for continued learning, 29590

shall adopt a statewide plan implementing methods for students to 29591
earn units of high school credit based on a demonstration of 29592
subject area competency, instead of or in combination with 29593
completing hours of classroom instruction. The state board shall 29594
adopt the plan not later than March 31, 2009, and commence phasing 29595
in the plan during the 2009-2010 school year. The plan shall 29596
include a standard method for recording demonstrated proficiency 29597
on high school transcripts. Each school district, community 29598
school, and chartered nonpublic school shall comply with the state 29599
board's plan adopted under this division and award units of high 29600
school credit in accordance with the plan. The state board may 29601
adopt existing methods for earning high school credit based on a 29602
demonstration of subject area competency as necessary prior to the 29603
2009-2010 school year. 29604

(K) This division does not apply to students who qualify for 29605
graduation from high school under division (D) or (F) of this 29606
section, or to students pursuing a career-technical instructional 29607
track as determined by the school district board of education or 29608
the chartered nonpublic school's governing authority. 29609
Nevertheless, the general assembly encourages such students to 29610
consider enrolling in a fine arts course as an elective. 29611

Beginning with students who enter ninth grade for the first 29612
time on or after July 1, 2010, each student enrolled in a public 29613
or chartered nonpublic high school shall complete two semesters or 29614
the equivalent of fine arts to graduate from high school. The 29615
coursework may be completed in any of grades seven to twelve. Each 29616
student who completes a fine arts course in grade seven or eight 29617
may elect to count that course toward the five units of electives 29618
required for graduation under division (C)(7) of this section, if 29619
the course satisfied the requirements of division (G) of this 29620
section. In that case, the high school shall award the student 29621
high school credit for the course and count the course toward the 29622

five units required under division (C)(7) of this section. If the
course in grade seven or eight did not satisfy the requirements of
division (G) of this section, the high school shall not award the
student high school credit for the course but shall count the
course toward the two semesters or the equivalent of fine arts
required by this division.

(L) Notwithstanding anything to the contrary in this section,
the board of education of each school district and the governing
authority of each chartered nonpublic school may adopt a policy to
excuse from the high school physical education requirement each
student who, during high school, has participated in
interscholastic athletics, marching band, or cheerleading for at
least two full seasons. If the board or authority adopts such a
policy, the board or authority shall not require the student to
complete any physical education course as a condition to graduate.
However, the student shall be required to complete one-half unit,
consisting of at least sixty hours of instruction, in another
course of study.

Sec. 3313.605. (A) As used in this section:

(1) "Civic responsibility" means the patriotic and ethical
duties of all citizens to take an active role in society and to
consider the interests and concerns of other individuals in the
community.

(2) "Volunteerism" means nonprofit activity in the United
States, the benefits and limitations of nonprofit activities, and
the presence and function of nonprofit civic and charitable
organizations in the United States.

(3) "Community service" means a service performed through
educational institutions, government agencies, nonprofit
organizations, social service agencies, and philanthropies and
generally designed to provide direct experience with people or

project planning, with the goal of improving the quality of life 29654
for the community. Such activities may include but are not limited 29655
to tutoring, literacy training, neighborhood improvement, 29656
encouraging interracial and multicultural understanding, promoting 29657
ideals of patriotism, increasing environmental safety, assisting 29658
the elderly or disabled, and providing mental health care, 29659
housing, drug abuse prevention programs, and other philanthropic 29660
programs, particularly for disadvantaged or low-income persons. 29661

(B) ~~Any~~ The board of education of each city, local, exempted 29662
village, ~~or and~~ joint vocational school district ~~board of~~ 29663
~~education may,~~ the governing authority of each community school 29664
established under Chapter 3314. of the Revised Code, and the 29665
governing body of each STEM school established under Chapter 3326. 29666
of the Revised Code shall include community service education in 29667
~~the its~~ educational program ~~of the district by adopting a~~ 29668
~~resolution to that effect.~~ A governing board of an educational 29669
service center, upon the request of a local school district board 29670
of education, may provide a community service education program 29671
for the local district pursuant to this section. ~~Any board~~ In 29672
implementing community service education, each board, governing 29673
authority, or governing body shall do both of the following: 29674

(1) Establish a community service advisory committee. The 29675
committee shall provide recommendations to the board, governing 29676
authority, or governing body regarding a community service plan 29677
for students ~~in all grades of the schools under control of the~~ 29678
~~board~~ and shall oversee and assist in the implementation of the 29679
plan adopted by the board, governing authority, or governing body 29680
under division (B)(2) of this section. Each board, governing 29681
authority, or governing body shall determine the membership and 29682
organization of its advisory committee and may designate an 29683
existing committee established for another purpose to serve as the 29684
community service advisory committee; however, each such committee 29685

shall include two or more students and shall include or consult 29686
with at least one person employed in the field of volunteer 29687
management who devotes at least fifty per cent of employment hours 29688
to coordinating volunteerism among community organizations. The 29689
committee members may include representatives of parents, 29690
teachers, administrators, other educational institutions, 29691
business, government, nonprofit organizations, veterans 29692
organizations, social service agencies, religious organizations, 29693
and philanthropies. 29694

(2) Develop and implement a community service plan ~~for~~ 29695
~~students in all grades of the schools under control of the board.~~ 29696
To assist in establishing its plan, the board, governing 29697
authority, or governing body shall consult with and may contract 29698
with one or more local or regional organizations with experience 29699
in volunteer program development and management. Each community 29700
service plan adopted under this division shall be based upon the 29701
recommendations of the advisory committee and shall provide for 29702
all of the following: 29703

(a) Education of students in the value of community service 29704
and its contributions to the history of this state and this 29705
nation; 29706

(b) Identification of opportunities for students to provide 29707
community service; 29708

(c) Encouragement of students to provide community service; 29709

(d) Integration of community service opportunities into the 29710
curriculum; 29711

(e) Guidelines for the community service learning project 29712
prescribed by division (B)(2) of section 3301.0710 and section 29713
3301.0712 of the Revised Code, consistent with the scoring rubric 29714
developed for such project under section 3301.0712 of the Revised 29715
Code; 29716

(f) A community service instructional program for teachers, 29717
including strategies for the teaching of community service 29718
education, for the discovery of community service opportunities, 29719
and for the motivation of students to become involved in community 29720
service. 29721

Plans shall be reviewed periodically by the advisory 29722
committee and, if necessary, revised by the board, governing 29723
authority, or governing body at least once every five years. 29724

~~Plans shall emphasize community service opportunities that~~ 29725
~~can most effectively use the skills of students, such as tutoring~~ 29726
~~or literacy programs.~~ Plans shall provide for students to perform 29727
services under the plan that will not supplant the hiring of, 29728
result in the displacement of, or impair any existing employment 29729
contract of any particular employee of any private or governmental 29730
entity for which the services are performed. The plan shall 29731
provide for any entity utilizing a student to perform community 29732
service under the plan to verify to the board that the student 29733
does not supplant the hiring of, displace, or impair the 29734
employment contract of any particular employee of the entity. 29735

Upon adoption, a board, governing authority, or governing 29736
body shall submit a copy of its plan to the department of 29737
education. Each city and exempted village board of education and 29738
each governing board of a service center shall include a copy of 29739
its plan in any course of study adopted under section 3313.60 of 29740
the Revised Code that is required to be submitted for approval to 29741
the state board for review. A joint vocational school district 29742
board of education shall submit a copy of its plan to the state 29743
board for review when required to do so by the state board. A 29744
local board shall forward its plan to the educational service 29745
center governing board for inclusion in the governing board's 29746
course of study. ~~By December 1, 1992, and periodically thereafter,~~ 29747
~~the~~ The department of ~~education~~ periodically shall review all 29748

plans and publish those plans that could serve as models for other 29749
school districts ~~or~~, educational service centers, community 29750
schools, or STEM schools. 29751

(C) ~~A~~ Under this section, a board integrating community 29752
~~service education into the curriculum, governing authority, or~~ 29753
governing body may only grant high school credit for a community 29754
service education course if approximately half of the course is 29755
devoted to classroom study of such matters as civic 29756
responsibility, the history of volunteerism, and community service 29757
training and approximately half of the course is devoted to 29758
community service. 29759

Each board, governing authority, or governing body shall 29760
determine which specific activities will serve to fulfill the 29761
required hours of community service. 29762

(D) Each board, governing authority, or governing body shall 29763
use the rubric developed under section 3301.0712 of the Revised 29764
Code to determine whether the community service project required 29765
as a part of the high school assessment system meets the criteria 29766
for high school graduation. 29767

Sec. 3313.607. (A) The board of education of ~~any~~ each school 29768
district ~~may provide assistance to any student to,~~ the governing 29769
authority of each community school operating under Chapter 3314. 29770
of the Revised Code, and the governing body of each STEM school 29771
operating under Chapter 3326. of the Revised Code shall require 29772
all students to develop a written career and college plan as part 29773
of the course required by division (A)(9) of section 3313.60 of 29774
the Revised Code. If a school district receives any state money 29775
~~appropriated for the purposes of this section, career~~ Career and 29776
college plans developed utilizing these funds shall be completed 29777
prior to the end of the eighth grade year, shall identify career 29778
goals and indicate educational goals to prepare for those career 29779

goals, and shall be updated periodically as students successfully 29780
complete high school coursework, ~~and shall.~~ Career and college 29781
plans may culminate in a career passport described by division (B) 29782
of this section. 29783

(B) The board of education of any school district, the 29784
governing authority of a community school, or the governing body 29785
of a STEM school may provide an individual career passport to any 29786
student upon the successful completion of the coursework of any 29787
high school. If a school district, governing authority, or 29788
governing body receives any state money for the purposes of this 29789
section, a career passport shall be provided to each such student. 29790
Each such passport shall document the knowledge and skills of the 29791
student, including documentation of the student's coursework and 29792
any employment, community, or leadership experiences. Each such 29793
passport shall also list the competency levels the student 29794
achieved, disclose the student's attendance record, and identify 29795
the career credentials the student gained. 29796

Sec. 3313.608. (A) Beginning with students who enter third 29797
grade in the school year that starts July 1, ~~2003~~ 2009, for any 29798
student who attains a score in the range designated under division 29799
(A)(2)~~(e)~~(c) of section 3301.0710 of the Revised Code on the ~~test~~ 29800
assessment prescribed under that section to measure skill in 29801
~~reading~~ English language arts expected at the end of third grade, 29802
each school district, in accordance with the policy adopted under 29803
section 3313.609 of the Revised Code, shall do one of the 29804
following: 29805

(1) Promote the student to fourth grade if the student's 29806
principal and reading teacher agree that other evaluations of the 29807
student's skill in reading demonstrate that the student is 29808
academically prepared to be promoted to fourth grade; 29809

(2) Promote the student to fourth grade but provide the 29810

student with intensive intervention services in fourth grade; 29811

(3) Retain the student in third grade. 29812

(B)(1) To assist students in meeting this third grade 29813
guarantee established by this section, each school district shall 29814
adopt policies and procedures with which it shall annually assess 29815
the reading skills of each student at the end of first and second 29816
grade and identify students who are reading below their grade 29817
level. If the diagnostic assessment to measure reading ability for 29818
the appropriate grade level has been developed in accordance with 29819
division (D)(1) of section 3301.079 of the Revised Code, each 29820
school district shall use such diagnostic assessment to identify 29821
such students, except that any district to which division (E) of 29822
section 3301.0715 of the Revised Code applies may use another 29823
assessment to identify such students. The policies and procedures 29824
shall require the students' classroom teachers to be involved in 29825
the assessment and the identification of students reading below 29826
grade level. The district shall notify the parent or guardian of 29827
each student whose reading skills are below grade level and, in 29828
accordance with division (C) of this section, provide intervention 29829
services to each student reading below grade level. Such 29830
intervention services shall include instruction in intensive, 29831
systematic phonetics pursuant to rules adopted by the state board 29832
of education. 29833

(2) For each student entering third grade after July 1, ~~2003~~ 29834
2009, who does not attain by the end of the third grade at least a 29835
score in the range designated under division (A)(2)~~(e)~~(b) of 29836
section 3301.0710 of the Revised Code on the ~~test~~ assessment 29837
prescribed under that section to measure skill in ~~reading~~ English 29838
language arts expected at the end of third grade, the district 29839
also shall offer intense remediation services during the summer 29840
following third grade. 29841

(C) For each student required to be offered intervention 29842

services under this section, the district shall involve the 29843
student's parent or guardian and classroom teacher in developing 29844
the intervention strategy, and shall offer to the parent or 29845
guardian the opportunity to be involved in the intervention 29846
services. 29847

(D) Any summer remediation services funded in whole or in 29848
part by the state and offered by school districts to students 29849
under this section shall meet the following conditions: 29850

(1) The remediation methods are based on reliable educational 29851
research. 29852

(2) The school districts conduct ~~testing~~ assessment before 29853
and after students participate in the program to facilitate 29854
monitoring results of the remediation services. 29855

(3) The parents of participating students are involved in 29856
programming decisions. 29857

(4) The services are conducted in a school building or 29858
community center and not on an at-home basis. 29859

(E) This section does not create a new cause of action or a 29860
substantive legal right for any person. 29861

Sec. 3313.61. (A) A diploma shall be granted by the board of 29862
education of any city, exempted village, or local school district 29863
that operates a high school to any person to whom all of the 29864
following apply: 29865

(1) The person has successfully completed the curriculum in 29866
any high school or the individualized education program developed 29867
for the person by any high school pursuant to section 3323.08 of 29868
the Revised Code, or has qualified under division (D) or (F) of 29869
section 3313.603 of the Revised Code, provided that no school 29870
district shall require a student to remain in school for any 29871
specific number of semesters or other terms if the student 29872

completes the required curriculum early; 29873

(2) Subject to section 3313.614 of the Revised Code, the 29874
person has met the assessment requirements of division (A)(2)(a) 29875
or (b) of this section, as applicable. 29876

(a) If the person entered the ninth grade prior to the date 29877
prescribed by rule of the state board of education under division 29878
(E)(2) of section 3301.0712 of the Revised Code, the person 29879
either: 29880

~~(a)~~(i) Has attained at least the applicable scores designated 29881
under division (B)(1) of section 3301.0710 of the Revised Code on 29882
all the ~~tests~~ assessments required by that division unless the 29883
person was excused from taking any such ~~test~~ assessment pursuant 29884
to section 3313.532 of the Revised Code or unless division (H) or 29885
(L) of this section applies to the person; 29886

~~(b)~~(ii) Has satisfied the alternative conditions prescribed 29887
in section 3313.615 of the Revised Code. 29888

(b) If the person entered the ninth grade on or after the 29889
date prescribed by rule of the state board under division (E)(2) 29890
of section 3301.0712 of the Revised Code, the person has attained 29891
on the entire assessment system prescribed under division (B)(2) 29892
of section 3301.0710 of the Revised Code at least the required 29893
passing composite score, designated under division (C)(1) of 29894
section 3301.0712 of the Revised Code, except to the extent that 29895
the person is excused from some portion of that assessment system 29896
pursuant to section 3313.532 of the Revised Code or division (H) 29897
or (L) of this section. 29898

(3) The person is not eligible to receive an honors diploma 29899
granted pursuant to division (B) of this section. 29900

Except as provided in divisions (C), (E), (J), and (L) of 29901
this section, no diploma shall be granted under this division to 29902
anyone except as provided under this division. 29903

(B) In lieu of a diploma granted under division (A) of this section, an honors diploma shall be granted, in accordance with rules of the state board ~~of education~~, by any such district board to anyone who accomplishes all of the following:

(1) Successfully completes the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code;

(2) Subject to section 3313.614 of the Revised Code, has met the assessment requirements of division (B)(2)(a) or (b) of this section, as applicable.

(a) If the person entered the ninth grade prior to the date prescribed by rule of the state board of education under division (E)(2) of section 3301.0712 of the Revised Code, the person either:

~~(a)(i)~~ Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the ~~tests~~ assessments required by that division;

~~(b)(ii)~~ Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) If the person entered the ninth grade on or after the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the person has attained on the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code.

(3) Has met additional criteria established by the state board for the granting of such a diploma.

An honors diploma shall not be granted to a student who is

subject to the Ohio core curriculum prescribed in division (C) of 29934
section 3313.603 of the Revised Code but elects the option of 29935
division (D) or (F) of that section. Except as provided in 29936
divisions (C), (E), and (J) of this section, no honors diploma 29937
shall be granted to anyone failing to comply with this division 29938
and no more than one honors diploma shall be granted to any 29939
student under this division. 29940

The state board shall adopt rules prescribing the granting of 29941
honors diplomas under this division. These rules may prescribe the 29942
granting of honors diplomas that recognize a student's achievement 29943
as a whole or that recognize a student's achievement in one or 29944
more specific subjects or both. The rules may prescribe the 29945
granting of an honors diploma recognizing technical expertise for 29946
a career-technical student. In any case, the rules shall designate 29947
two or more criteria for the granting of each type of honors 29948
diploma the board establishes under this division and the number 29949
of such criteria that must be met for the granting of that type of 29950
diploma. The number of such criteria for any type of honors 29951
diploma shall be at least one less than the total number of 29952
criteria designated for that type and no one or more particular 29953
criteria shall be required of all persons who are to be granted 29954
that type of diploma. 29955

(C) Any ~~such~~ district board administering any of the ~~tests~~ 29956
assessments required by section 3301.0710 ~~or 3301.0712~~ of the 29957
Revised Code to any person requesting to take such ~~test~~ assessment 29958
pursuant to division (B)(8)(b) of section 3301.0711 of the Revised 29959
Code shall award a diploma to such person if the person attains at 29960
least the applicable scores designated under division (B)(1) of 29961
section 3301.0710 of the Revised Code on all the ~~tests~~ assessments 29962
administered and if the person has previously attained the 29963
applicable scores on all the other ~~tests~~ assessments required by 29964
division (B)(1) of that section or has been exempted or excused 29965

from attaining the applicable score on any such test pursuant to 29966
division (H) or (L) of this section or from taking any such test 29967
pursuant to section 3313.532 of the Revised Code. 29968

(D) Each diploma awarded under this section shall be signed 29969
by the president and treasurer of the issuing board, the 29970
superintendent of schools, and the principal of the high school. 29971
Each diploma shall bear the date of its issue, be in such form as 29972
the district board prescribes, and be paid for out of the 29973
district's general fund. 29974

(E) A person who is a resident of Ohio and is eligible under 29975
state board of education minimum standards to receive a high 29976
school diploma based in whole or in part on credits earned while 29977
an inmate of a correctional institution operated by the state or 29978
any political subdivision thereof, shall be granted such diploma 29979
by the correctional institution operating the programs in which 29980
such credits were earned, and by the board of education of the 29981
school district in which the inmate resided immediately prior to 29982
the inmate's placement in the institution. The diploma granted by 29983
the correctional institution shall be signed by the director of 29984
the institution, and by the person serving as principal of the 29985
institution's high school and shall bear the date of issue. 29986

(F) Persons who are not residents of Ohio but who are inmates 29987
of correctional institutions operated by the state or any 29988
political subdivision thereof, and who are eligible under state 29989
board of education minimum standards to receive a high school 29990
diploma based in whole or in part on credits earned while an 29991
inmate of the correctional institution, shall be granted a diploma 29992
by the correctional institution offering the program in which the 29993
credits were earned. The diploma granted by the correctional 29994
institution shall be signed by the director of the institution and 29995
by the person serving as principal of the institution's high 29996
school and shall bear the date of issue. 29997

(G) The state board of education shall provide by rule for the administration of the ~~tests~~ assessments required by section 3301.0710 of the Revised Code to inmates of correctional institutions.

(H) Any person to whom all of the following apply shall be exempted from attaining the applicable score on the ~~test~~ assessment in social studies designated under division (B)(1) of section 3301.0710 of the Revised Code, any social studies end-of-course examination required under division (B)(2) of that section if such an exemption is prescribed by rule of the state board under division (E)(4) of section 3301.0712 of the Revised Code, or the test in citizenship designated under former division (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001:

(1) The person is not a citizen of the United States;

(2) The person is not a permanent resident of the United States;

(3) The person indicates no intention to reside in the United States after the completion of high school.

(I) Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section and section 3311.611 of the Revised Code do not apply to the board of education of any joint vocational school district or any cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code.

(J) Upon receipt of a notice under division (D) of section 3325.08 of the Revised Code that a student has received a diploma under that section, the board of education receiving the notice may grant a high school diploma under this section to the student, except that such board shall grant the student a diploma if the student meets the graduation requirements that the student would

otherwise have had to meet to receive a diploma from the district. 30029
The diploma granted under this section shall be of the same type 30030
the notice indicates the student received under section 3325.08 of 30031
the Revised Code. 30032

(K) As used in this division, "limited English proficient 30033
student" has the same meaning as in division (C)(3) of section 30034
3301.0711 of the Revised Code. 30035

Notwithstanding division (C)(3) of section 3301.0711 of the 30036
Revised Code, no limited English proficient student who has not 30037
either attained the applicable scores designated under division 30038
(B)(1) of section 3301.0710 of the Revised Code on all the ~~tests~~ 30039
assessments required by that division, or attained the composite 30040
score designated for the assessments required by division (B)(2) 30041
of that section, shall be awarded a diploma under this section. 30042

(L) Any student described by division (A)(1) of this section 30043
may be awarded a diploma without attaining the applicable scores 30044
designated on the ~~tests~~ assessments prescribed under division (B) 30045
of section 3301.0710 of the Revised Code provided an 30046
individualized education program specifically exempts the student 30047
from attaining such scores. This division does not negate the 30048
requirement for such a student to take all such ~~tests~~ assessments 30049
or alternate assessments required by division (C)(1) of section 30050
3301.0711 of the Revised Code for the purpose of assessing student 30051
progress as required by federal law. 30052

Sec. 3313.611. (A) The state board of education shall adopt, 30053
by rule, standards for awarding high school credit equivalent to 30054
credit for completion of high school academic and vocational 30055
education courses to applicants for diplomas under this section. 30056
The standards may permit high school credit to be granted to an 30057
applicant for any of the following: 30058

(1) Work experiences or experiences as a volunteer; 30059

(2) Completion of academic, vocational, or self-improvement courses offered to persons over the age of twenty-one by a chartered public or nonpublic school;	30060 30061 30062
(3) Completion of academic, vocational, or self-improvement courses offered by an organization, individual, or educational institution other than a chartered public or nonpublic school;	30063 30064 30065
(4) Other life experiences considered by the board to provide knowledge and learning experiences comparable to that gained in a classroom setting.	30066 30067 30068
(B) The board of education of any city, exempted village, or local school district that operates a high school shall grant a diploma of adult education to any applicant if all of the following apply:	30069 30070 30071 30072
(1) The applicant is a resident of the district;	30073
(2) The applicant is over the age of twenty-one and has not been issued a diploma as provided in section 3313.61 of the Revised Code;	30074 30075 30076
(3) Subject to section 3313.614 of the Revised Code, the applicant <u>has met the assessment requirements of division (B)(3)(a) or (b) of this section, as applicable.</u>	30077 30078 30079
<u>(a) Prior to the date prescribed by rule of the state board under division (E)(3) of section 3301.0712 of the Revised Code, the applicant either:</u>	30080 30081 30082
(a) <u>(i)</u> Has attained the applicable scores designated under division (B) <u>(1)</u> of section 3301.0710 of the Revised Code on all of the tests <u>assessments</u> required by that division or was excused or exempted from any such test <u>assessment</u> pursuant to section 3313.532 or was exempted from attaining the applicable score on any such test <u>assessment</u> pursuant to division (H) or (L) of section 3313.61 of the Revised Code;	30083 30084 30085 30086 30087 30088 30089

~~(b)(ii)~~ Has satisfied the alternative conditions prescribed 30090
in section 3313.615 of the Revised Code. 30091

(b) On or after the date prescribed by rule of the state 30092
board under division (E)(3) of section 3301.0712 of the Revised 30093
Code, has attained on the entire assessment system prescribed 30094
under division (B)(2) of section 3301.0710 of the Revised Code at 30095
least the required passing composite score, designated under 30096
division (C)(1) of section 3301.0712 of the Revised Code, except 30097
and only to the extent that the applicant is excused from some 30098
portion of that assessment system pursuant to section 3313.532 of 30099
the Revised Code or division (H) or (L) of section 3313.61 of the 30100
Revised Code. 30101

(4) The district board determines, in accordance with the 30102
standards adopted under division (A) of this section, that the 30103
applicant has attained sufficient high school credits, including 30104
equivalent credits awarded under such standards, to qualify as 30105
having successfully completed the curriculum required by the 30106
district for graduation. 30107

(C) If a district board determines that an applicant is not 30108
eligible for a diploma under division (B) of this section, it 30109
shall inform the applicant of the reason the applicant is 30110
ineligible and shall provide a list of any courses required for 30111
the diploma for which the applicant has not received credit. An 30112
applicant may reapply for a diploma under this section at any 30113
time. 30114

(D) If a district board awards an adult education diploma 30115
under this section, the president and treasurer of the board and 30116
the superintendent of schools shall sign it. Each diploma shall 30117
bear the date of its issuance, be in such form as the district 30118
board prescribes, and be paid for from the district's general 30119
fund, except that the state board may by rule prescribe standard 30120
language to be included on each diploma. 30121

(E) As used in this division, "limited English proficient student" has the same meaning as in division (C)(3) of section 3301.0711 of the Revised Code. 30122
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Notwithstanding division (C)(3) of section 3301.0711 of the Revised Code, no limited English proficient student who has not either attained the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the ~~tests~~ assessments required by that division, or attained the composite score designated for the assessments required by division (B)(2) of that section, shall be awarded a diploma under this section. 30125
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Sec. 3313.612. (A) No nonpublic school chartered by the state board of education shall grant ~~any~~ a high school diploma to any person unless, subject to section 3313.614 of the Revised Code, the person has met the assessment requirements of division (A)(1) or (2) of this section, as applicable. 30132
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(1) If the person entered the ninth grade prior to the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the person has attained, ~~subject to section 3313.614 of the Revised Code~~ at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the ~~tests~~ assessments required by that division, or has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code. 30137
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(2) If the person entered the ninth grade on or after the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the person has attained on the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code. 30145
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(B) This section does not apply to either of the following: 30152

(1) Any person with regard to any ~~test~~ assessment from which the person was excused pursuant to division (C)(1)(c) of section 3301.0711 of the Revised Code;

(2) Any person with regard to the social studies ~~test~~ assessment under division (B)(1) of section 3301.0710 of the Revised Code, any social studies end-of-course examination required under division (B)(2) of that section if such an exemption is prescribed by rule of the state board of education under division (E)(4) of section 3301.0712 of the Revised Code, or the citizenship test under former division (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001, if all of the following apply:

(a) The person is not a citizen of the United States;

(b) The person is not a permanent resident of the United States;

(c) The person indicates no intention to reside in the United States after completion of high school.

(C) As used in this division, "limited English proficient student" has the same meaning as in division (C)(3) of section 3301.0711 of the Revised Code.

Notwithstanding division (C)(3) of section 3301.0711 of the Revised Code, no limited English proficient student who has not either attained the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the ~~tests~~ assessments required by that division, or attained the composite score designated for the assessments required by division (B)(2) of that section, shall be awarded a diploma under this section.

Sec. 3313.614. (A) As used in this section, a person "fulfills the curriculum requirement for a diploma" at the time one of the following conditions is satisfied:

(1) The person successfully completes the high school curriculum of a school district, a community school, a chartered nonpublic school, or a correctional institution.

(2) The person successfully completes the individualized education program developed for the person under section 3323.08 of the Revised Code.

(3) A board of education issues its determination under section 3313.611 of the Revised Code that the person qualifies as having successfully completed the curriculum required by the district.

(B) This division specifies the ~~testing~~ assessment requirements that must be fulfilled as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code.

(1) A person who fulfills the curriculum requirement for a diploma before September 15, 2000, is not required to pass any proficiency test or achievement test in science as a condition to receiving a diploma.

(2) A person who began ninth grade prior to July 1, 2003, is not required to pass the Ohio graduation test prescribed under division (B)(1) of section 3301.0710 or any assessment prescribed under division (B)(2) of that section in any subject as a condition to receiving a diploma once the person has passed the ninth grade proficiency test in the same subject, so long as the person passed the ninth grade proficiency test prior to September 15, 2008. However, any such person who passes the Ohio graduation test in any subject prior to passing the ninth grade proficiency test in the same subject shall be deemed to have passed the ninth grade proficiency test in that subject as a condition to receiving a diploma. For this purpose, the ninth grade proficiency test in citizenship substitutes for the Ohio graduation test in social

studies. If a person began ninth grade prior to July 1, 2003, but 30214
does not pass a ninth grade proficiency test or the Ohio 30215
graduation test in a particular subject before September 15, 2008, 30216
and passage of a test in that subject is a condition for the 30217
person to receive a diploma, the person must pass the Ohio 30218
graduation test instead of the ninth grade proficiency test in 30219
that subject to receive a diploma. 30220

(3) A person who begins ninth grade on or after July 1, 2003, 30221
in a school district, community school, or chartered nonpublic 30222
school is not eligible to receive a diploma based on passage of 30223
ninth grade proficiency tests. Each such person who begins ninth 30224
grade prior to the date prescribed by the state board of education 30225
under division (E)(5) of section 3301.0712 of the Revised Code 30226
must pass Ohio graduation tests to meet the testing requirements 30227
applicable to that person as a condition to receiving a diploma. 30228

(4) A person who begins ninth grade on or after the date 30229
prescribed by the state board of education under division (E)(5) 30230
of section 3301.0712 of the Revised Code is not eligible to 30231
receive a diploma based on passage of the Ohio graduation tests. 30232
Each such person must attain on the entire assessment system 30233
prescribed under division (B)(2) of section 3301.0710 of the 30234
Revised Code at least the required passing composite score, 30235
designated under division (C)(1) of section 3301.0712 of the 30236
Revised Code. 30237

(C) This division specifies the curriculum requirement that 30238
shall be completed as a condition toward granting high school 30239
diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 30240
of the Revised Code. 30241

(1) A person who is under twenty-two years of age when the 30242
person fulfills the curriculum requirement for a diploma shall 30243
complete the curriculum required by the school district or school 30244
issuing the diploma for the first year that the person originally 30245

enrolled in high school, except for a person who qualifies for 30246
graduation from high school under either division (D) or (F) of 30247
section 3313.603 of the Revised Code. 30248

(2) Once a person fulfills the curriculum requirement for a 30249
diploma, the person is never required, as a condition of receiving 30250
a diploma, to meet any different curriculum requirements that take 30251
effect pending the person's passage of proficiency tests or 30252
achievement tests or assessments, including changes mandated by 30253
section 3313.603 of the Revised Code, the state board, a school 30254
district board of education, or a governing authority of a 30255
community school or chartered nonpublic school. 30256

Sec. 3313.615. This section shall apply to diplomas awarded 30257
after September 15, 2006, to students who are required to take the 30258
five Ohio graduation tests prescribed by division (B)(1) of 30259
section 3301.0710 of the Revised Code. 30260

(A) As an alternative to the requirement that a person attain 30261
the scores designated under division (B)(1) of section 3301.0710 30262
of the Revised Code on all the ~~tests~~ assessments required under 30263
that division in order to be eligible for a high school diploma or 30264
an honors diploma under sections 3313.61, 3313.612, or 3325.08 of 30265
the Revised Code or for a diploma of adult education under section 30266
3313.611 of the Revised Code, a person who has attained at least 30267
the applicable scores designated under division (B)(1) of section 30268
3301.0710 of the Revised Code on all but one of the ~~tests~~ 30269
assessments required by that division and from which the person 30270
was not excused or exempted, pursuant to division (L) of section 30271
3313.61, division (B)(1) of section 3313.612, or section 3313.532 30272
of the Revised Code, may be awarded a diploma or honors diploma if 30273
the person has satisfied all of the following conditions: 30274

(1) On the one ~~test~~ assessment required under division (B)(1) 30275
of section 3301.0710 of the Revised Code for which the person 30276

failed to attain the designated score, the person missed that 30277
score by ten points or less; 30278

(2) Has a ninety-seven per cent school attendance rate in 30279
each of the last four school years, excluding any excused 30280
absences; 30281

(3) Has not been expelled from school under section 3313.66 30282
of the Revised Code in any of the last four school years; 30283

(4) Has a grade point average of at least 2.5 out of 4.0, or 30284
its equivalent as designated in rules adopted by the state board 30285
of education, in the subject area of the ~~test~~ assessment required 30286
under division (B)(1) of section 3301.0710 of the Revised Code for 30287
which the person failed to attain the designated score; 30288

(5) Has completed the high school curriculum requirements 30289
prescribed in section 3313.603 of the Revised Code or has 30290
qualified under division (D) or (F) of that section; 30291

(6) Has taken advantage of any intervention programs provided 30292
by the school district or school in the subject area described in 30293
division (A)(4) of this section and has a ninety-seven per cent 30294
attendance rate, excluding any excused absences, in any of those 30295
programs that are provided at times beyond the normal school day, 30296
school week, or school year or has received comparable 30297
intervention services from a source other than the school district 30298
or school; 30299

(7) Holds a letter recommending graduation from each of the 30300
person's high school teachers in the subject area described in 30301
division (A)(4) of this section and from the person's high school 30302
principal. 30303

(B) The state board of education shall establish rules 30304
designating grade point averages equivalent to the average 30305
specified in division (A)(4) of this section for use by school 30306
districts and schools with different grading systems. 30307

(C) Any student who is exempt from attaining the applicable score designated under division (B)(1) of section 3301.0710 of the Revised Code on the Ohio graduation test in social studies pursuant to division (H) of section 3313.61 or division (B)(2) of section 3313.612 of the Revised Code shall not qualify for a high school diploma under this section, unless, notwithstanding the exemption, the student attains the applicable score on that ~~test~~ assessment. If the student attains the applicable score on that ~~test~~ assessment, the student may qualify for a diploma under this section in the same manner as any other student who is required to take the five Ohio graduation tests prescribed by division (B)(1) of section 3301.0710 of the Revised Code.

Sec. 3313.62. (A) The school year shall begin on the first day of July of each calendar year and close on the thirtieth day of June of the succeeding calendar year. A school week shall consist of five days, and a school month of four school weeks.

(B) "Learning year" means a school year as defined in division (A) of this section.

(C) "Learning day" or "school day" is a day a school is scheduled to be open for instruction.

Sec. 3313.64. (A) As used in this section and in section 3313.65 of the Revised Code:

(1)(a) Except as provided in division (A)(1)(b) of this section, "parent" means either parent, unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian of the child. When a child is in the legal custody of a government agency or a person other than the child's natural or adoptive parent, "parent" means the parent with residual parental rights, privileges, and

responsibilities. When a child is in the permanent custody of a 30338
government agency or a person other than the child's natural or 30339
adoptive parent, "parent" means the parent who was divested of 30340
parental rights and responsibilities for the care of the child and 30341
the right to have the child live with the parent and be the legal 30342
custodian of the child and all residual parental rights, 30343
privileges, and responsibilities. 30344

(b) When a child is the subject of a power of attorney 30345
executed under sections 3109.51 to 3109.62 of the Revised Code, 30346
"parent" means the grandparent designated as attorney in fact 30347
under the power of attorney. When a child is the subject of a 30348
caretaker authorization affidavit executed under sections 3109.64 30349
to 3109.73 of the Revised Code, "parent" means the grandparent 30350
that executed the affidavit. 30351

(2) "Legal custody," "permanent custody," and "residual 30352
parental rights, privileges, and responsibilities" have the same 30353
meanings as in section 2151.011 of the Revised Code. 30354

(3) "School district" or "district" means a city, local, or 30355
exempted village school district and excludes any school operated 30356
in an institution maintained by the department of youth services. 30357

(4) Except as used in division (C)(2) of this section, "home" 30358
means a home, institution, foster home, group home, or other 30359
residential facility in this state that receives and cares for 30360
children, to which any of the following applies: 30361

(a) The home is licensed, certified, or approved for such 30362
purpose by the state or is maintained by the department of youth 30363
services. 30364

(b) The home is operated by a person who is licensed, 30365
certified, or approved by the state to operate the home for such 30366
purpose. 30367

(c) The home accepted the child through a placement by a 30368

person licensed, certified, or approved to place a child in such a home by the state.

(d) The home is a children's home created under section 5153.21 or 5153.36 of the Revised Code.

(5) "Agency" means all of the following:

(a) A public children services agency;

(b) An organization that holds a certificate issued by the Ohio department of job and family services in accordance with the requirements of section 5103.03 of the Revised Code and assumes temporary or permanent custody of children through commitment, agreement, or surrender, and places children in family homes for the purpose of adoption;

(c) Comparable agencies of other states or countries that have complied with applicable requirements of section 2151.39 of the Revised Code or as applicable, sections 5103.20 to 5103.22 or 5103.23 to 5103.237 of the Revised Code.

(6) A child is placed for adoption if either of the following occurs:

(a) An agency to which the child has been permanently committed or surrendered enters into an agreement with a person pursuant to section 5103.16 of the Revised Code for the care and adoption of the child.

(b) The child's natural parent places the child pursuant to section 5103.16 of the Revised Code with a person who will care for and adopt the child.

(7) "Preschool child with a disability" has the same meaning as in section 3323.01 of the Revised Code.

(8) "Child," unless otherwise indicated, includes preschool children with disabilities.

(9) "Active duty" means active duty pursuant to an executive

order of the president of the United States, an act of the 30399
congress of the United States, or section 5919.29 or 5923.21 of 30400
the Revised Code. 30401

(B) Except as otherwise provided in section 3321.01 of the 30402
Revised Code for admittance to kindergarten and first grade, a 30403
child who is at least five but under twenty-two years of age and 30404
any preschool child with a disability shall be admitted to school 30405
as provided in this division. 30406

(1) A child shall be admitted to the schools of the school 30407
district in which the child's parent resides. 30408

(2) A child who does not reside in the district where the 30409
child's parent resides shall be admitted to the schools of the 30410
district in which the child resides if any of the following 30411
applies: 30412

(a) The child is in the legal or permanent custody of a 30413
government agency or a person other than the child's natural or 30414
adoptive parent. 30415

(b) The child resides in a home. 30416

(c) The child requires special education. 30417

(3) A child who is not entitled under division (B)(2) of this 30418
section to be admitted to the schools of the district where the 30419
child resides and who is residing with a resident of this state 30420
with whom the child has been placed for adoption shall be admitted 30421
to the schools of the district where the child resides unless 30422
either of the following applies: 30423

(a) The placement for adoption has been terminated. 30424

(b) Another school district is required to admit the child 30425
under division (B)(1) of this section. 30426

Division (B) of this section does not prohibit the board of 30427
education of a school district from placing a child with a 30428

disability who resides in the district in a special education 30429
program outside of the district or its schools in compliance with 30430
Chapter 3323. of the Revised Code. 30431

(C) A district shall not charge tuition for children admitted 30432
under division (B)(1) or (3) of this section. If the district 30433
admits a child under division (B)(2) of this section, tuition 30434
shall be paid to the district that admits the child as follows: 30435

(1) If the child receives special education in accordance 30436
with Chapter 3323. of the Revised Code, the school district of 30437
residence, as defined in section 3323.01 of the Revised Code, 30438
shall pay tuition for the child in accordance with section 30439
3323.091, 3323.13, 3323.14, or 3323.141 of the Revised Code 30440
regardless of who has custody of the child or whether the child 30441
resides in a home. 30442

(2) For a child that does not receive special education in 30443
accordance with Chapter 3323. of the Revised Code, except as 30444
otherwise provided in division (C)(2)(d) of this section, if the 30445
child is in the permanent or legal custody of a government agency 30446
or person other than the child's parent, tuition shall be paid by: 30447

(a) The district in which the child's parent resided at the 30448
time the court removed the child from home or at the time the 30449
court vested legal or permanent custody of the child in the person 30450
or government agency, whichever occurred first; 30451

(b) If the parent's residence at the time the court removed 30452
the child from home or placed the child in the legal or permanent 30453
custody of the person or government agency is unknown, tuition 30454
shall be paid by the district in which the child resided at the 30455
time the child was removed from home or placed in legal or 30456
permanent custody, whichever occurred first; 30457

(c) If a school district cannot be established under division 30458
(C)(2)(a) or (b) of this section, tuition shall be paid by the 30459

district determined as required by section 2151.362 of the Revised Code by the court at the time it vests custody of the child in the person or government agency;

(d) If at the time the court removed the child from home or vested legal or permanent custody of the child in the person or government agency, whichever occurred first, one parent was in a residential or correctional facility or a juvenile residential placement and the other parent, if living and not in such a facility or placement, was not known to reside in this state, tuition shall be paid by the district determined under division (D) of section 3313.65 of the Revised Code as the district required to pay any tuition while the parent was in such facility or placement;

(e) If the department of education has determined, pursuant to division (A)(2) of section 2151.362 of the Revised Code, that a school district other than the one named in the court's initial order, or in a prior determination of the department, is responsible to bear the cost of educating the child, the district so determined shall be responsible for that cost.

(3) If the child is not in the permanent or legal custody of a government agency or person other than the child's parent and the child resides in a home, tuition shall be paid by one of the following:

(a) The school district in which the child's parent resides;

(b) If the child's parent is not a resident of this state, the home in which the child resides.

(D) Tuition required to be paid under divisions (C)(2) and (3)(a) of this section shall be computed in accordance with section 3317.08 of the Revised Code. Tuition required to be paid under division (C)(3)(b) of this section shall be computed in accordance with section 3317.081 of the Revised Code. If a home

fails to pay the tuition required by division (C)(3)(b) of this 30491
section, the board of education providing the education may 30492
recover in a civil action the tuition and the expenses incurred in 30493
prosecuting the action, including court costs and reasonable 30494
attorney's fees. If the prosecuting attorney or city director of 30495
law represents the board in such action, costs and reasonable 30496
attorney's fees awarded by the court, based upon the prosecuting 30497
attorney's, director's, or one of their designee's time spent 30498
preparing and presenting the case, shall be deposited in the 30499
county or city general fund. 30500

(E) A board of education may enroll a child free of any 30501
tuition obligation for a period not to exceed sixty days, on the 30502
sworn statement of an adult resident of the district that the 30503
resident has initiated legal proceedings for custody of the child. 30504

(F) In the case of any individual entitled to attend school 30505
under this division, no tuition shall be charged by the school 30506
district of attendance and no other school district shall be 30507
required to pay tuition for the individual's attendance. 30508
Notwithstanding division (B), (C), or (E) of this section: 30509

(1) All persons at least eighteen but under twenty-two years 30510
of age who live apart from their parents, support themselves by 30511
their own labor, and have not successfully completed the high 30512
school curriculum or the individualized education program 30513
developed for the person by the high school pursuant to section 30514
3323.08 of the Revised Code, are entitled to attend school in the 30515
district in which they reside. 30516

(2) Any child under eighteen years of age who is married is 30517
entitled to attend school in the child's district of residence. 30518

(3) A child is entitled to attend school in the district in 30519
which either of the child's parents is employed if the child has a 30520
medical condition that may require emergency medical attention. 30521

The parent of a child entitled to attend school under division 30522
(F)(3) of this section shall submit to the board of education of 30523
the district in which the parent is employed a statement from the 30524
child's physician certifying that the child's medical condition 30525
may require emergency medical attention. The statement shall be 30526
supported by such other evidence as the board may require. 30527

(4) Any child residing with a person other than the child's 30528
parent is entitled, for a period not to exceed twelve months, to 30529
attend school in the district in which that person resides if the 30530
child's parent files an affidavit with the superintendent of the 30531
district in which the person with whom the child is living resides 30532
stating all of the following: 30533

(a) That the parent is serving outside of the state in the 30534
armed services of the United States; 30535

(b) That the parent intends to reside in the district upon 30536
returning to this state; 30537

(c) The name and address of the person with whom the child is 30538
living while the parent is outside the state. 30539

(5) Any child under the age of twenty-two years who, after 30540
the death of a parent, resides in a school district other than the 30541
district in which the child attended school at the time of the 30542
parent's death is entitled to continue to attend school in the 30543
district in which the child attended school at the time of the 30544
parent's death for the remainder of the school year, subject to 30545
approval of that district board. 30546

(6) A child under the age of twenty-two years who resides 30547
with a parent who is having a new house built in a school district 30548
outside the district where the parent is residing is entitled to 30549
attend school for a period of time in the district where the new 30550
house is being built. In order to be entitled to such attendance, 30551
the parent shall provide the district superintendent with the 30552

following: 30553

(a) A sworn statement explaining the situation, revealing the 30554
location of the house being built, and stating the parent's 30555
intention to reside there upon its completion; 30556

(b) A statement from the builder confirming that a new house 30557
is being built for the parent and that the house is at the 30558
location indicated in the parent's statement. 30559

(7) A child under the age of twenty-two years residing with a 30560
parent who has a contract to purchase a house in a school district 30561
outside the district where the parent is residing and who is 30562
waiting upon the date of closing of the mortgage loan for the 30563
purchase of such house is entitled to attend school for a period 30564
of time in the district where the house is being purchased. In 30565
order to be entitled to such attendance, the parent shall provide 30566
the district superintendent with the following: 30567

(a) A sworn statement explaining the situation, revealing the 30568
location of the house being purchased, and stating the parent's 30569
intent to reside there; 30570

(b) A statement from a real estate broker or bank officer 30571
confirming that the parent has a contract to purchase the house, 30572
that the parent is waiting upon the date of closing of the 30573
mortgage loan, and that the house is at the location indicated in 30574
the parent's statement. 30575

The district superintendent shall establish a period of time 30576
not to exceed ninety days during which the child entitled to 30577
attend school under division (F)(6) or (7) of this section may 30578
attend without tuition obligation. A student attending a school 30579
under division (F)(6) or (7) of this section shall be eligible to 30580
participate in interscholastic athletics under the auspices of 30581
that school, provided the board of education of the school 30582
district where the student's parent resides, by a formal action, 30583

releases the student to participate in interscholastic athletics 30584
at the school where the student is attending, and provided the 30585
student receives any authorization required by a public agency or 30586
private organization of which the school district is a member 30587
exercising authority over interscholastic sports. 30588

(8) A child whose parent is a full-time employee of a city, 30589
local, or exempted village school district, or of an educational 30590
service center, may be admitted to the schools of the district 30591
where the child's parent is employed, or in the case of a child 30592
whose parent is employed by an educational service center, in the 30593
district that serves the location where the parent's job is 30594
primarily located, provided the district board of education 30595
establishes such an admission policy by resolution adopted by a 30596
majority of its members. Any such policy shall take effect on the 30597
first day of the school year and the effective date of any 30598
amendment or repeal may not be prior to the first day of the 30599
subsequent school year. The policy shall be uniformly applied to 30600
all such children and shall provide for the admission of any such 30601
child upon request of the parent. No child may be admitted under 30602
this policy after the first day of classes of any school year. 30603

(9) A child who is with the child's parent under the care of 30604
a shelter for victims of domestic violence, as defined in section 30605
3113.33 of the Revised Code, is entitled to attend school free in 30606
the district in which the child is with the child's parent, and no 30607
other school district shall be required to pay tuition for the 30608
child's attendance in that school district. 30609

The enrollment of a child in a school district under this 30610
division shall not be denied due to a delay in the school 30611
district's receipt of any records required under section 3313.672 30612
of the Revised Code or any other records required for enrollment. 30613
Any days of attendance and any credits earned by a child while 30614
enrolled in a school district under this division shall be 30615

transferred to and accepted by any school district in which the 30616
child subsequently enrolls. The state board of education shall 30617
adopt rules to ensure compliance with this division. 30618

(10) Any child under the age of twenty-two years whose parent 30619
has moved out of the school district after the commencement of 30620
classes in the child's senior year of high school is entitled, 30621
subject to the approval of that district board, to attend school 30622
in the district in which the child attended school at the time of 30623
the parental move for the remainder of the school year and for one 30624
additional semester or equivalent term. A district board may also 30625
adopt a policy specifying extenuating circumstances under which a 30626
student may continue to attend school under division (F)(10) of 30627
this section for an additional period of time in order to 30628
successfully complete the high school curriculum for the 30629
individualized education program developed for the student by the 30630
high school pursuant to section 3323.08 of the Revised Code. 30631

(11) As used in this division, "grandparent" means a parent 30632
of a parent of a child. A child under the age of twenty-two years 30633
who is in the custody of the child's parent, resides with a 30634
grandparent, and does not require special education is entitled to 30635
attend the schools of the district in which the child's 30636
grandparent resides, provided that, prior to such attendance in 30637
any school year, the board of education of the school district in 30638
which the child's grandparent resides and the board of education 30639
of the school district in which the child's parent resides enter 30640
into a written agreement specifying that good cause exists for 30641
such attendance, describing the nature of this good cause, and 30642
consenting to such attendance. 30643

In lieu of a consent form signed by a parent, a board of 30644
education may request the grandparent of a child attending school 30645
in the district in which the grandparent resides pursuant to 30646
division (F)(11) of this section to complete any consent form 30647

required by the district, including any authorization required by 30648
sections 3313.712, 3313.713, 3313.716, and 3313.718 of the Revised 30649
Code. Upon request, the grandparent shall complete any consent 30650
form required by the district. A school district shall not incur 30651
any liability solely because of its receipt of a consent form from 30652
a grandparent in lieu of a parent. 30653

Division (F)(11) of this section does not create, and shall 30654
not be construed as creating, a new cause of action or substantive 30655
legal right against a school district, a member of a board of 30656
education, or an employee of a school district. This section does 30657
not affect, and shall not be construed as affecting, any 30658
immunities from defenses to tort liability created or recognized 30659
by Chapter 2744. of the Revised Code for a school district, 30660
member, or employee. 30661

(12) A child under the age of twenty-two years is entitled to 30662
attend school in a school district other than the district in 30663
which the child is entitled to attend school under division (B), 30664
(C), or (E) of this section provided that, prior to such 30665
attendance in any school year, both of the following occur: 30666

(a) The superintendent of the district in which the child is 30667
entitled to attend school under division (B), (C), or (E) of this 30668
section contacts the superintendent of another district for 30669
purposes of this division; 30670

(b) The superintendents of both districts enter into a 30671
written agreement that consents to the attendance and specifies 30672
that the purpose of such attendance is to protect the student's 30673
physical or mental well-being or to deal with other extenuating 30674
circumstances deemed appropriate by the superintendents. 30675

While an agreement is in effect under this division for a 30676
student who is not receiving special education under Chapter 3323. 30677
of the Revised Code and notwithstanding Chapter 3327. of the 30678

Revised Code, the board of education of neither school district 30679
involved in the agreement is required to provide transportation 30680
for the student to and from the school where the student attends. 30681

A student attending a school of a district pursuant to this 30682
division shall be allowed to participate in all student 30683
activities, including interscholastic athletics, at the school 30684
where the student is attending on the same basis as any student 30685
who has always attended the schools of that district while of 30686
compulsory school age. 30687

(13) All school districts shall comply with the 30688
"McKinney-Vento Homeless Assistance Act," 42 U.S.C.A. 11431 et 30689
seq., for the education of homeless children. Each city, local, 30690
and exempted village school district shall comply with the 30691
requirements of that act governing the provision of a free, 30692
appropriate public education, including public preschool, to each 30693
homeless child. 30694

When a child loses permanent housing and becomes a homeless 30695
person, as defined in 42 U.S.C.A. 11481(5), or when a child who is 30696
such a homeless person changes temporary living arrangements, the 30697
child's parent or guardian shall have the option of enrolling the 30698
child in either of the following: 30699

(a) The child's school of origin, as defined in 42 U.S.C.A. 30700
11432(g)(3)(C); 30701

(b) The school that is operated by the school district in 30702
which the shelter where the child currently resides is located and 30703
that serves the geographic area in which the shelter is located. 30704

(14) A child under the age of twenty-two years who resides 30705
with a person other than the child's parent is entitled to attend 30706
school in the school district in which that person resides if both 30707
of the following apply: 30708

(a) That person has been appointed, through a military power 30709

of attorney executed under section 574(a) of the "National Defense 30710
Authorization Act for Fiscal Year 1994," 107 Stat. 1674 (1993), 10 30711
U.S.C. 1044b, or through a comparable document necessary to 30712
complete a family care plan, as the parent's agent for the care, 30713
custody, and control of the child while the parent is on active 30714
duty as a member of the national guard or a reserve unit of the 30715
armed forces of the United States or because the parent is a 30716
member of the armed forces of the United States and is on a duty 30717
assignment away from the parent's residence. 30718

(b) The military power of attorney or comparable document 30719
includes at least the authority to enroll the child in school. 30720

The entitlement to attend school in the district in which the 30721
parent's agent under the military power of attorney or comparable 30722
document resides applies until the end of the school year in which 30723
the military power of attorney or comparable document expires. 30724

(G) A board of education, after approving admission, may 30725
waive tuition for students who will temporarily reside in the 30726
district and who are either of the following: 30727

(1) Residents or domiciliaries of a foreign nation who 30728
request admission as foreign exchange students; 30729

(2) Residents or domiciliaries of the United States but not 30730
of Ohio who request admission as participants in an exchange 30731
program operated by a student exchange organization. 30732

(H) Pursuant to sections 3311.211, 3313.90, 3319.01, 3323.04, 30733
3327.04, and 3327.06 of the Revised Code, a child may attend 30734
school or participate in a special education program in a school 30735
district other than in the district where the child is entitled to 30736
attend school under division (B) of this section. 30737

(I)(1) Notwithstanding anything to the contrary in this 30738
section or section 3313.65 of the Revised Code, a child under 30739
twenty-two years of age may attend school in the school district 30740

in which the child, at the end of the first full week of October 30741
of the school year, was entitled to attend school as otherwise 30742
provided under this section or section 3313.65 of the Revised 30743
Code, if at that time the child was enrolled in the schools of the 30744
district but since that time the child or the child's parent has 30745
relocated to a new address located outside of that school district 30746
and within the same county as the child's or parent's address 30747
immediately prior to the relocation. The child may continue to 30748
attend school in the district, and at the school to which the 30749
child was assigned at the end of the first full week of October of 30750
the current school year, for the balance of the school year. 30751
Division (I)(1) of this section applies only if both of the 30752
following conditions are satisfied: 30753

(a) The board of education of the school district in which 30754
the child was entitled to attend school at the end of the first 30755
full week in October and of the district to which the child or 30756
child's parent has relocated each has adopted a policy to enroll 30757
children described in division (I)(1) of this section. 30758

(b) The child's parent provides written notification of the 30759
relocation outside of the school district to the superintendent of 30760
each of the two school districts. 30761

(2) At the beginning of the school year following the school 30762
year in which the child or the child's parent relocated outside of 30763
the school district as described in division (I)(1) of this 30764
section, the child is not entitled to attend school in the school 30765
district under that division. 30766

(3) Any person or entity owing tuition to the school district 30767
on behalf of the child at the end of the first full week in 30768
October, as provided in division (C) of this section, shall 30769
continue to owe such tuition to the district for the child's 30770
attendance under division (I)(1) of this section for the lesser of 30771
the balance of the school year or the balance of the time that the 30772

child attends school in the district under division (I)(1) of this section. 30773
30774

(4) A pupil who may attend school in the district under 30775
division (I)(1) of this section shall be entitled to 30776
transportation services pursuant to an agreement between the 30777
district and the district in which the child or child's parent has 30778
relocated unless the districts have not entered into such 30779
agreement, in which case the child shall be entitled to 30780
transportation services in the same manner as a pupil attending 30781
school in the district under interdistrict open enrollment as 30782
described in division ~~(H)~~(F) of section 3313.981 of the Revised 30783
Code, regardless of whether the district has adopted an open 30784
enrollment policy as described in division (B)(1)(b) or (c) of 30785
section 3313.98 of the Revised Code. 30786

(J) This division does not apply to a child receiving special 30787
education. 30788

A school district required to pay tuition pursuant to 30789
division (C)(2) or (3) of this section or section 3313.65 of the 30790
Revised Code shall have an amount deducted under division (F) of 30791
section 3317.023 of the Revised Code equal to its own tuition rate 30792
for the same period of attendance. A school district entitled to 30793
receive tuition pursuant to division (C)(2) or (3) of this section 30794
or section 3313.65 of the Revised Code shall have an amount 30795
credited under division (F) of section 3317.023 of the Revised 30796
Code equal to its own tuition rate for the same period of 30797
attendance. If the tuition rate credited to the district of 30798
attendance exceeds the rate deducted from the district required to 30799
pay tuition, the department of education shall pay the district of 30800
attendance the difference from amounts deducted from all 30801
districts' payments under division (F) of section 3317.023 of the 30802
Revised Code but not credited to other school districts under such 30803
division and from appropriations made for such purpose. The 30804

treasurer of each school district shall, by the fifteenth day of 30805
January and July, furnish the superintendent of public instruction 30806
a report of the names of each child who attended the district's 30807
schools under divisions (C)(2) and (3) of this section or section 30808
3313.65 of the Revised Code during the preceding six calendar 30809
months, the duration of the attendance of those children, the 30810
school district responsible for tuition on behalf of the child, 30811
and any other information that the superintendent requires. 30812

Upon receipt of the report the superintendent, pursuant to 30813
division (F) of section 3317.023 of the Revised Code, shall deduct 30814
each district's tuition obligations under divisions (C)(2) and (3) 30815
of this section or section 3313.65 of the Revised Code and pay to 30816
the district of attendance that amount plus any amount required to 30817
be paid by the state. 30818

(K) In the event of a disagreement, the superintendent of 30819
public instruction shall determine the school district in which 30820
the parent resides. 30821

(L) Nothing in this section requires or authorizes, or shall 30822
be construed to require or authorize, the admission to a public 30823
school in this state of a pupil who has been permanently excluded 30824
from public school attendance by the superintendent of public 30825
instruction pursuant to sections 3301.121 and 3313.662 of the 30826
Revised Code. 30827

(M) In accordance with division (B)(1) of this section, a 30828
child whose parent is a member of the national guard or a reserve 30829
unit of the armed forces of the United States and is called to 30830
active duty, or a child whose parent is a member of the armed 30831
forces of the United States and is ordered to a temporary duty 30832
assignment outside of the district, may continue to attend school 30833
in the district in which the child's parent lived before being 30834
called to active duty or ordered to a temporary duty assignment 30835
outside of the district, as long as the child's parent continues 30836

to be a resident of that district, and regardless of where the 30837
child lives as a result of the parent's active duty status or 30838
temporary duty assignment. However, the district is not 30839
responsible for providing transportation for the child if the 30840
child lives outside of the district as a result of the parent's 30841
active duty status or temporary duty assignment. 30842

Sec. 3313.642. (A) Except as provided in division (B) of this 30843
section and notwithstanding the provisions of sections 3313.48 and 30844
3313.64 of the Revised Code, the board of education of a city, 30845
exempted village, or local school district shall not be required 30846
to furnish, free of charge, to the pupils attending the public 30847
schools any materials used in a course of instruction with the 30848
exception of the necessary textbooks or electronic textbooks 30849
required to be furnished without charge pursuant to section 30850
3329.06 of the Revised Code. The board may, however, make 30851
provision by appropriations transferred from the general fund of 30852
the district or otherwise for furnishing free of charge any 30853
materials used in a course of instruction to such pupils as it 30854
determines are in serious financial need of such materials. 30855

(B) No board of education of a school district that ~~receives~~ 30856
received funds under section 3317.029 of the Revised Code in 30857
fiscal year 2009 shall charge a fee to a recipient of aid under 30858
Chapter 5107. or 5115. of the Revised Code for any materials 30859
needed to enable the recipient to participate fully in a course of 30860
instruction. The prohibition in this division against charging a 30861
fee does not apply to any fee charged for any materials needed to 30862
enable a recipient to participate fully in extracurricular 30863
activities or in any pupil enrichment program that is not a course 30864
of instruction. 30865

(C) Boards of education may adopt rules and regulations 30866
prescribing a schedule of fees for materials used in a course of 30867

instruction and prescribing a schedule of charges which may be 30868
imposed upon pupils for the loss, damage, or destruction of school 30869
apparatus, equipment, musical instruments, library material, 30870
textbooks, or electronic textbooks required to be furnished 30871
without charge, and for damage to school buildings, and may 30872
enforce the payment of such fees and charges by withholding the 30873
grades and credits of the pupils concerned. 30874

Sec. 3313.6410. This section applies to any school that is 30875
operated by a school district and in which the enrolled students 30876
work primarily on assignments in nonclassroom-based learning 30877
opportunities provided via an internet- or other computer-based 30878
instructional method. 30879

(A) Any school to which this section applies shall withdraw 30880
from the school any student who, for two consecutive school years, 30881
has failed to participate in the spring administration of any ~~test~~ 30882
assessment prescribed under section 3301.0710 or 3301.0712 of the 30883
Revised Code for the student's grade level and was not excused 30884
from the ~~test~~ assessment pursuant to division (C)(1) or (3) of 30885
section 3301.0711 of the Revised Code, regardless of whether a 30886
waiver was granted for the student under division (E) of section 30887
3317.03 of the Revised Code. The school shall report any such 30888
student's data verification code, as assigned pursuant to section 30889
3301.0714 of the Revised Code, to the department of education to 30890
be added to the list maintained by the department under section 30891
3314.26 of the Revised Code. 30892

(B) No school to which this section applies shall receive any 30893
state funds under Chapter 3306. or 3317. of the Revised Code for 30894
any enrolled student whose data verification code appears on the 30895
list maintained by the department under section 3314.26 of the 30896
Revised Code. Notwithstanding any provision of the Revised Code to 30897
the contrary, the parent of any such student shall pay tuition to 30898

the school district that operates the school in an amount equal to 30899
the state funds the district otherwise would receive for that 30900
student, as determined by the department. A school to which this 30901
section applies may withdraw any student for whom the parent does 30902
not pay tuition as required by this division. 30903

Sec. 3313.65. (A) As used in this section and section 3313.64 30904
of the Revised Code: 30905

(1) A person is "in a residential facility" if the person is 30906
a resident or a resident patient of an institution, home, or other 30907
residential facility that is: 30908

(a) Licensed as a nursing home, residential care facility, or 30909
home for the aging by the director of health under section 3721.02 30910
of the Revised Code ~~or licensed as a community alternative home by~~ 30911
~~the director of health under section 3724.03 of the Revised Code;~~ 30912

(b) Licensed as an adult care facility by the director of 30913
health under Chapter 3722. of the Revised Code; 30914

(c) Maintained as a county home or district home by the board 30915
of county commissioners or a joint board of county commissioners 30916
under Chapter 5155. of the Revised Code; 30917

(d) Operated or administered by a board of alcohol, drug 30918
addiction, and mental health services under section 340.03 or 30919
340.06 of the Revised Code, or provides residential care pursuant 30920
to contracts made under section 340.03 or 340.033 of the Revised 30921
Code; 30922

(e) Maintained as a state institution for the mentally ill 30923
under Chapter 5119. of the Revised Code; 30924

(f) Licensed by the department of mental health under section 30925
5119.20 or 5119.22 of the Revised Code; 30926

(g) Licensed as a residential facility by the department of 30927
mental retardation and developmental disabilities under section 30928

5123.19 of the Revised Code;	30929
(h) Operated by the veteran's administration or another agency of the United States government;	30930 30931
(i) The Ohio soldiers' and sailors' home.	30932
(2) A person is "in a correctional facility" if any of the following apply:	30933 30934
(a) The person is an Ohio resident and is:	30935
(i) Imprisoned, as defined in section 1.05 of the Revised Code;	30936 30937
(ii) Serving a term in a community-based correctional facility or a district community-based correctional facility;	30938 30939
(iii) Required, as a condition of parole, a post-release control sanction, a community control sanction, transitional control, or early release from imprisonment, as a condition of shock parole or shock probation granted under the law in effect prior to July 1, 1996, or as a condition of a furlough granted under the version of section 2967.26 of the Revised Code in effect prior to March 17, 1998, to reside in a halfway house or other community residential center licensed under section 2967.14 of the Revised Code or a similar facility designated by the court of common pleas that established the condition or by the adult parole authority.	30940 30941 30942 30943 30944 30945 30946 30947 30948 30949 30950
(b) The person is imprisoned in a state correctional institution of another state or a federal correctional institution but was an Ohio resident at the time the sentence was imposed for the crime for which the person is imprisoned.	30951 30952 30953 30954
(3) A person is "in a juvenile residential placement" if the person is an Ohio resident who is under twenty-one years of age and has been removed, by the order of a juvenile court, from the place the person resided at the time the person became subject to	30955 30956 30957 30958

the court's jurisdiction in the matter that resulted in the 30959
person's removal. 30960

(4) "Community control sanction" has the same meaning as in 30961
section 2929.01 of the Revised Code. 30962

(5) "Post-release control sanction" has the same meaning as 30963
in section 2967.01 of the Revised Code. 30964

(B) If the circumstances described in division (C) of this 30965
section apply, the determination of what school district must 30966
admit a child to its schools and what district, if any, is liable 30967
for tuition shall be made in accordance with this section, rather 30968
than section 3313.64 of the Revised Code. 30969

(C) A child who does not reside in the school district in 30970
which the child's parent resides and for whom a tuition obligation 30971
previously has not been established under division (C)(2) of 30972
section 3313.64 of the Revised Code shall be admitted to the 30973
schools of the district in which the child resides if at least one 30974
of the child's parents is in a residential or correctional 30975
facility or a juvenile residential placement and the other parent, 30976
if living and not in such a facility or placement, is not known to 30977
reside in this state. 30978

(D) Regardless of who has custody or care of the child, 30979
whether the child resides in a home, or whether the child receives 30980
special education, if a district admits a child under division (C) 30981
of this section, tuition shall be paid to that district as 30982
follows: 30983

(1) If the child's parent is in a juvenile residential 30984
placement, by the district in which the child's parent resided at 30985
the time the parent became subject to the jurisdiction of the 30986
juvenile court; 30987

(2) If the child's parent is in a correctional facility, by 30988
the district in which the child's parent resided at the time the 30989

sentence was imposed; 30990

(3) If the child's parent is in a residential facility, by 30991
the district in which the parent resided at the time the parent 30992
was admitted to the residential facility, except that if the 30993
parent was transferred from another residential facility, tuition 30994
shall be paid by the district in which the parent resided at the 30995
time the parent was admitted to the facility from which the parent 30996
first was transferred; 30997

(4) In the event of a disagreement as to which school 30998
district is liable for tuition under division (C)(1), (2), or (3) 30999
of this section, the superintendent of public instruction shall 31000
determine which district shall pay tuition. 31001

(E) If a child covered by division (D) of this section 31002
receives special education in accordance with Chapter 3323. of the 31003
Revised Code, the tuition shall be paid in accordance with section 31004
3323.13 or 3323.14 of the Revised Code. Tuition for children who 31005
do not receive special education shall be paid in accordance with 31006
division (J) of section 3313.64 of the Revised Code. 31007

Sec. 3313.673. (A) Except as provided in division (B) of this 31008
section, prior to the first day of November of the school year in 31009
which a pupil is enrolled for the first time in either 31010
kindergarten or first grade, the pupil shall be screened for 31011
hearing, vision, speech and communications, and health or medical 31012
problems and for any developmental disorders. If the results of 31013
any screening reveal the possibility of special learning needs, 31014
the board of education of the school district shall conduct 31015
further assessment in accordance with Chapter 3323. of the Revised 31016
Code. The board may provide any of the elements of the screening 31017
program itself, contract with any person or governmental entity to 31018
provide any such elements, or request the parent to obtain any 31019
such elements from a provider selected by the parent. If the board 31020

conducts hearing and vision screening itself or contracts for 31021
hearing and vision screening, such screening shall be conducted 31022
pursuant to sections 3313.50, 3313.69, and 3313.73 of the Revised 31023
Code. 31024

(B) Prior to the first day of August of the school year in 31025
which a pupil is required to be screened under this section, the 31026
board shall provide parents with information about the district's 31027
screening program. If the board chooses to request parents to 31028
obtain any screening services, it shall provide lists of providers 31029
to parents together with information about such screening services 31030
available in the community to parents who cannot afford them. Any 31031
parent requested to obtain any screening services under this 31032
division may sign a written statement to the effect that ~~he~~ the 31033
parent does not wish to have ~~his~~ the parent's child receive such 31034
screening. 31035

(C) Each district shall report the aggregate results of the 31036
screenings required under this section in the manner prescribed by 31037
guidelines established for that purpose by the state board of 31038
education under division (B)(1)(p) of section 3301.0714 of the 31039
Revised Code. 31040

Sec. 3313.68. The board of education of each city, exempted 31041
village, or local school district may appoint one or more school 31042
physicians and one or more school dentists. Two or more school 31043
districts may unite and employ one such physician and at least one 31044
such dentist whose duties shall be such as are prescribed by law. 31045
Said school physician shall hold a license to practice medicine in 31046
Ohio, and each school dentist shall be licensed to practice in 31047
this state. School physicians and dentists may be discharged at 31048
any time by the board of education. School physicians and dentists 31049
shall serve one year and until their successors are appointed and 31050
shall receive such compensation as the board of education 31051

determines. The board of education may also employ registered 31052
nurses, as defined by section 4723.01 and licensed as school 31053
nurses under ~~section 3319.22~~ Chapter 3319. of the Revised Code, to 31054
aid in such inspection in such ways as are prescribed by it, and 31055
to aid in the conduct and coordination of the school health 31056
service program. The school dentists shall make such examinations 31057
and diagnoses and render such remedial or corrective treatment for 31058
the school children as is prescribed by the board of education; 31059
provided that all such remedial or corrective treatment shall be 31060
limited to the children whose parents cannot otherwise provide for 31061
same, and then only with the written consent of the parents or 31062
guardians of such children. School dentists may also conduct such 31063
oral hygiene educational work as is authorized by the board of 31064
education. 31065

The board of education may delegate the duties and powers 31066
provided for in this section to the board of health or officer 31067
performing the functions of a board of health within the school 31068
district, if such board or officer is willing to assume the same. 31069
Boards of education shall co-operate with boards of health in the 31070
prevention and control of epidemics. 31071

Sec. 3313.713. (A) As used in this section: 31072

(1) "Drug" means a drug, as defined in section 4729.01 of the 31073
Revised Code, that is to be administered pursuant to the 31074
instructions of the prescriber, whether or not required by law to 31075
be sold only upon a prescription. 31076

(2) "Federal law" means the "Individuals with Disabilities 31077
Education Act of 1997," 111 Stat. 37, 20 U.S.C. 1400, as amended. 31078

(3) "Prescriber" has the same meaning as in section 4729.01 31079
of the Revised Code. 31080

(B) The board of education of each city, local, exempted 31081

village, and joint vocational school district shall, not later than one hundred twenty days after September 20, 1984, adopt a policy on the authority of its employees, when acting in situations other than those governed by sections 2305.23, 2305.231, and 3313.712 of the Revised Code, to administer drugs prescribed to students enrolled in the schools of the district. The policy shall provide either that:

(1) Except as otherwise required by federal law, no person employed by the board shall, in the course of such employment, administer any drug prescribed to any student enrolled in the schools of the district.

(2) Designated persons employed by the board are authorized to administer to a student a drug prescribed for the student. Effective July 1, 2011, only registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code and employed by the board may administer to a student a drug prescribed for the student. Except as otherwise provided by federal law, the board's policy may provide that certain drugs or types of drugs shall not be administered or that no employee, ~~or no employee without appropriate training,~~ shall use certain procedures, such as injection, to administer a drug to a student.

(C) No drug prescribed for a student shall be administered pursuant to federal law or a policy adopted under division (B) of this section until the following occur:

(1) The board, or a person designated by the board, receives a written request, signed by the parent, guardian, or other person having care or charge of the student, that the drug be administered to the student.

(2) The board, or a person designated by the board, receives a statement, signed by the prescriber, that includes all of the following information:

(a) The name and address of the student;	31113
(b) The school and class in which the student is enrolled;	31114
(c) The name of the drug and the dosage to be administered;	31115
(d) The times or intervals at which each dosage of the drug is to be administered;	31116 31117
(e) The date the administration of the drug is to begin;	31118
(f) The date the administration of the drug is to cease;	31119
(g) Any severe adverse reactions that should be reported to the prescriber and one or more phone numbers at which the prescriber can be reached in an emergency;	31120 31121 31122
(h) Special instructions for administration of the drug, including sterile conditions and storage.	31123 31124
(3) The parent, guardian, or other person having care or charge of the student agrees to submit a revised statement signed by the prescriber to the board or a person designated by the board if any of the information provided by the prescriber pursuant to division (C)(2) of this section changes.	31125 31126 31127 31128 31129
(4) The person authorized by the board to administer the drug receives a copy of the statement required by division (C)(2) or (3) of this section.	31130 31131 31132
(5) The drug is received by the person authorized to administer the drug to the student for whom the drug is prescribed in the container in which it was dispensed by the prescriber or a licensed pharmacist.	31133 31134 31135 31136
(6) Any other procedures required by the board are followed.	31137
(D) If a drug is administered to a student, the board of education shall acquire and retain copies of the written requests required by division (C)(1) and the statements required by divisions (C)(2) and (3) of this section and shall ensure that by	31138 31139 31140 31141

the next school day following the receipt of any such statement a 31142
copy is given to the person authorized to administer drugs to the 31143
student for whom the statement has been received. The board, or a 31144
person designated by the board, shall establish a location in each 31145
school building for the storage of drugs to be administered under 31146
this section and federal law. All such drugs shall be stored in 31147
that location in a locked storage place, except that drugs that 31148
require refrigeration may be kept in a refrigerator in a place not 31149
commonly used by students. 31150

(E) No person who has been authorized by a board of education 31151
to administer a drug and has a copy of the most recent statement 31152
required by division (C)(2) or (3) of this section given to the 31153
person in accordance with division (D) of this section prior to 31154
administering the drug is liable in civil damages for 31155
administering or failing to administer the drug, unless such 31156
person acts in a manner that constitutes gross negligence or 31157
wanton or reckless misconduct. 31158

(F) A board of education may designate a person or persons to 31159
perform any function or functions in connection with a drug policy 31160
adopted under this section either by name or by position, 31161
training, qualifications, or similar distinguishing factors. 31162

Nothing in this section shall be construed to require a 31163
person employed by a board of education to administer a drug to a 31164
student unless the board's policy adopted in compliance with this 31165
section establishes such a requirement. A board shall not require 31166
an employee to administer a drug to a student if the employee 31167
objects, on the basis of religious convictions, to administering 31168
the drug. 31169

A policy adopted by a board of education pursuant to this 31170
section may be changed, modified, or revised by action of the 31171
board. 31172

Nothing in this section affects the application of section 31173
2305.23, 2305.231, or 3313.712 of the Revised Code to the 31174
administration of emergency care or treatment to a student. 31175

Sec. ~~3313.174~~ 3313.82. The board of education of each city 31176
and exempted village school district and, the governing board of 31177
each educational service center, the governing authority of each 31178
community school established under Chapter 3314. of the Revised 31179
Code, and the governing body of each STEM school established under 31180
Chapter 3326. of the Revised Code shall appoint a business 31181
advisory council. The council shall advise and provide 31182
recommendations to the board, governing authority, or governing 31183
body on matters specified by the board, governing authority, or 31184
governing body including, but not necessarily limited to, the 31185
delineation of employment skills and the development of curriculum 31186
to instill these skills; changes in the economy and in the job 31187
market, and the types of employment in which future jobs are most 31188
likely to be available; coordination with the Ohio skills bank and 31189
university system of Ohio institutions; development of the 31190
response to and implementation of recommendations from a 31191
performance audit conducted under section 3306.32 or 3316.042 of 31192
the Revised Code; and suggestions for developing a working 31193
relationship among businesses, labor organizations, and 31194
educational personnel in the district or in the territory ~~of~~ 31195
served by the educational service center, community school, or 31196
STEM school. Each board, governing authority, or governing body 31197
shall determine the membership and organization of its council, 31198
and annually shall report to the department of education the names 31199
of the council members. Notwithstanding ~~division (D) of section~~ 31200
~~3311.19 and~~ division (D) of section 3311.52 of the Revised Code, 31201
this section shall not apply to the board of education of any 31202
~~joint vocational school district or~~ any cooperative education 31203
school district created pursuant to divisions (A) to (C) of 31204

section 3311.52 of the Revised Code. 31205

Sec. 3313.821. (A) The board of education of each school district, the governing authority of each community school established under Chapter 3314. of the Revised Code, and the governing body of each STEM school established under Chapter 3326. of the Revised Code shall appoint a family and community engagement team. Each team shall do the following: 31206
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(1) Work with local county family and children first councils established under section 121.37 of the Revised Code to recommend to the board, governing authority, or governing body qualifications and responsibilities to be included in the job descriptions for school family and community engagement coordinators; 31212
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(2) Develop five-year family and community engagement plans; 31218

(3) Provide annual progress reports on the development and implementation of the plan. The board, governing authority, or governing body shall submit the plan and annual progress reports to the county family and children first council. 31219
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(4) Advise and provide recommendations to the board, governing authority, or governing body on matters specified by the board, governing authority, or governing body. 31223
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(B) Each board, governing authority, and governing body shall determine the membership and organization of its family and community engagement team, provided that it shall include parents, community representatives, health and human service representatives, business representatives, and any other representatives identified by the board, governing authority, or governing body. 31226
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(C) Notwithstanding section 3311.055, this section does not apply to the governing board of an educational service center. 31233
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Sec. 3313.976. (A) No private school may receive scholarship 31235
payments from parents pursuant to section 3313.979 of the Revised 31236
Code until the chief administrator of the private school registers 31237
the school with the superintendent of public instruction. The 31238
state superintendent shall register any school that meets the 31239
following requirements: 31240

(1) The school is located within the boundaries of the pilot 31241
project school district; 31242

(2) The school indicates in writing its commitment to follow 31243
all requirements for a state-sponsored scholarship program 31244
specified under sections 3313.974 to 3313.979 of the Revised Code, 31245
including, but not limited to, the requirements for admitting 31246
students pursuant to section 3313.977 of the Revised Code; 31247

(3) The school meets all state minimum standards for 31248
chartered nonpublic schools in effect on July 1, 1992, except that 31249
the state superintendent at the superintendent's discretion may 31250
register nonchartered nonpublic schools meeting the other 31251
requirements of this division; 31252

(4) The school does not discriminate on the basis of race, 31253
religion, or ethnic background; 31254

(5) The school enrolls a minimum of ten students per class or 31255
a sum of at least twenty-five students in all the classes offered; 31256

(6) The school does not advocate or foster unlawful behavior 31257
or teach hatred of any person or group on the basis of race, 31258
ethnicity, national origin, or religion; 31259

(7) The school does not provide false or misleading 31260
information about the school to parents, students, or the general 31261
public; 31262

(8) For students in grades kindergarten through eight, the 31263
school agrees not to charge any tuition to low-income families 31264

receiving ninety per cent of the scholarship amount through the 31265
scholarship program, pursuant to division (A) of section 3313.978 31266
of the Revised Code, in excess of ten per cent of the scholarship 31267
amount established pursuant to division (C)(1) of section 3313.978 31268
of the Revised Code, excluding any increase described in division 31269
(C)(2) of that section. The school shall permit any such tuition, 31270
at the discretion of the parent, to be satisfied by the low-income 31271
family's provision of in-kind contributions or services. 31272

(9) For students in grades kindergarten through eight, the 31273
school agrees not to charge any tuition to low-income families 31274
receiving a seventy-five per cent scholarship amount through the 31275
scholarship program, pursuant to division (A) of section 3313.978 31276
of the Revised Code, in excess of the difference between the 31277
actual tuition charge of the school and seventy-five per cent of 31278
the scholarship amount established pursuant to division (C)(1) of 31279
section 3313.978 of the Revised Code, excluding any increase 31280
described in division (C)(2) of that section. The school shall 31281
permit such tuition, at the discretion of the parent, to be 31282
satisfied by the low-income family's provision of in-kind 31283
contributions or services. 31284

(10) The school agrees not to charge any tuition to families 31285
of students in grades nine through twelve receiving a scholarship 31286
in excess of the actual tuition charge of the school less 31287
seventy-five or ninety per cent of the scholarship amount 31288
established pursuant to division (C)(1) of section 3313.978 of the 31289
Revised Code, as applicable, excluding any increase described in 31290
division (C)(2) of that section. 31291

(11) Notwithstanding division (K) of section 3301.0711 of the 31292
Revised Code, the school annually administers the tests prescribed 31293
by section 3301.0710 of the Revised Code to each student enrolled 31294
in the school in accordance with section 3301.0711 of the Revised 31295
Code and reports to the department of education the results of 31296

each such test administered to each student. 31297

(B) The state superintendent shall revoke the registration of 31298
any school if, after a hearing, the superintendent determines that 31299
the school is in violation of any of the provisions of division 31300
(A) of this section. 31301

(C) Any public school located in a school district adjacent 31302
to the pilot project district may receive scholarship payments on 31303
behalf of parents pursuant to section 3313.979 of the Revised Code 31304
if the superintendent of the district in which such public school 31305
is located notifies the state superintendent prior to the first 31306
day of March that the district intends to admit students from the 31307
pilot project district for the ensuing school year pursuant to 31308
section 3327.06 of the Revised Code. 31309

(D) Any parent wishing to purchase tutorial assistance from 31310
any person or governmental entity pursuant to the pilot project 31311
program under sections 3313.974 to 3313.979 of the Revised Code 31312
shall apply to the state superintendent. The state superintendent 31313
shall approve providers who appear to possess the capability of 31314
furnishing the instructional services they are offering to 31315
provide. 31316

Sec. 3313.98. Notwithstanding division (D) of section 3311.19 31317
and division (D) of section 3311.52 of the Revised Code, the 31318
provisions of this section and sections 3313.981 to 3313.983 of 31319
the Revised Code that apply to a city school district do not apply 31320
to a joint vocational or cooperative education school district 31321
unless expressly specified. 31322

(A) As used in this section and sections 3313.981 to 3313.983 31323
of the Revised Code: 31324

(1) "Parent" means either of the natural or adoptive parents 31325
of a student, except under the following conditions: 31326

(a) When the marriage of the natural or adoptive parents of the student has been terminated by a divorce, dissolution of marriage, or annulment or the natural or adoptive parents of the student are living separate and apart under a legal separation decree and the court has issued an order allocating the parental rights and responsibilities with respect to the student, "parent" means the residential parent as designated by the court except that "parent" means either parent when the court issues a shared parenting decree.

(b) When a court has granted temporary or permanent custody of the student to an individual or agency other than either of the natural or adoptive parents of the student, "parent" means the legal custodian of the child.

(c) When a court has appointed a guardian for the student, "parent" means the guardian of the student.

(2) "Native student" means a student entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in a district adopting a resolution under this section.

(3) "Adjacent district" means a city, exempted village, or local school district having territory that abuts the territory of a district adopting a resolution under this section.

(4) "Adjacent district student" means a student entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in an adjacent district.

(5) "Adjacent district joint vocational student" means an adjacent district student who enrolls in a city, exempted village, or local school district pursuant to this section and who also enrolls in a joint vocational school district that does not contain the territory of the district for which that student is a native student and does contain the territory of the city, exempted village, or local district in which the student enrolls.

(6) ~~"Formula amount" has the same meaning as in section 3317.02 of the Revised Code.~~ 31358
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~~(7) "Adjusted formula amount" means the sum of the formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 "Formula ADM" has the same meaning as in section 3317.02 of the Revised Code.~~ 31360
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~~(8)(7)~~ "Poverty line" means the poverty line established by the director of the United States office of management and budget as revised by the director of the office of community services in accordance with section 673(2) of the "Community Services Block Grant Act," 95 Stat. 1609, 42 U.S.C.A. 9902, as amended. 31365
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~~(9)(8)~~ "IEP" has the same meaning as in section 3323.01 of the Revised Code. 31370
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~~(10)(9)~~ "Other district" means a city, exempted village, or local school district having territory outside of the territory of a district adopting a resolution under this section. 31372
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~~(11)(10)~~ "Other district student" means a student entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in an other district. 31375
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~~(12)(11)~~ "Other district joint vocational student" means a student who is enrolled in any city, exempted village, or local school district and who also enrolls in a joint vocational school district that does not contain the territory of the district for which that student is a native student in accordance with a policy adopted under section 3313.983 of the Revised Code. 31378
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(B)(1) The board of education of each city, local, and exempted village school district shall adopt a resolution establishing for the school district one of the following policies: 31384
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(a) A policy that entirely prohibits the enrollment of students from adjacent districts or other districts, other than students for whom tuition is paid in accordance with section 3317.08 of the Revised Code;	31388 31389 31390 31391
(b) A policy that permits enrollment of students from all adjacent districts in accordance with policy statements contained in the resolution;	31392 31393 31394
(c) A policy that permits enrollment of students from all other districts in accordance with policy statements contained in the resolution.	31395 31396 31397
(2) A policy permitting enrollment of students from adjacent or from other districts, as applicable, shall provide for all of the following:	31398 31399 31400
(a) Application procedures, including deadlines for application and for notification of students and the superintendent of the applicable district whenever an adjacent or other district student's application is approved.	31401 31402 31403 31404
(b) Procedures for admitting adjacent or other district applicants free of any tuition obligation to the district's schools, including, but not limited to:	31405 31406 31407
(i) The establishment of district capacity limits by grade level, school building, and education program;	31408 31409
(ii) A requirement that all native students wishing to be enrolled in the district will be enrolled and that any adjacent or other district students previously enrolled in the district shall receive preference over first-time applicants;	31410 31411 31412 31413
(iii) Procedures to ensure that an appropriate racial balance is maintained in the district schools.	31414 31415
(C) Except as provided in section 3313.982 of the Revised Code, the procedures for admitting adjacent or other district	31416 31417

students, as applicable, shall not include:	31418
(1) Any requirement of academic ability, or any level of athletic, artistic, or other extracurricular skills;	31419 31420
(2) Limitations on admitting applicants because of disability, except that a board may refuse to admit a student receiving services under Chapter 3323. of the Revised Code, if the services described in the student's IEP are not available in the district's schools;	31421 31422 31423 31424 31425
(3) A requirement that the student be proficient in the English language;	31426 31427
(4) Rejection of any applicant because the student has been subject to disciplinary proceedings, except that if an applicant has been suspended or expelled by the student's district for ten consecutive days or more in the term for which admission is sought or in the term immediately preceding the term for which admission is sought, the procedures may include a provision denying admission of such applicant.	31428 31429 31430 31431 31432 31433 31434
(D)(1) Each school board permitting only enrollment of adjacent district students shall provide information about the policy adopted under this section, including the application procedures and deadlines, to the superintendent and the board of education of each adjacent district and, upon request, to the parent of any adjacent district student.	31435 31436 31437 31438 31439 31440
(2) Each school board permitting enrollment of other district students shall provide information about the policy adopted under this section, including the application procedures and deadlines, upon request, to the board of education of any other school district or to the parent of any student anywhere in the state.	31441 31442 31443 31444 31445
(E) Any school board shall accept all credits toward graduation earned in adjacent or other district schools by an adjacent or other district student or a native student.	31446 31447 31448

(F)(1) No board of education may adopt a policy discouraging 31449
or prohibiting its native students from applying to enroll in the 31450
schools of an adjacent or any other district that has adopted a 31451
policy permitting such enrollment, except that: 31452

(a) A district may object to the enrollment of a native 31453
student in an adjacent or other district in order to maintain an 31454
appropriate racial balance. 31455

(b) The board of education of a district receiving funds 31456
under 64 Stat. 1100 (1950), 20 U.S.C.A. 236 et seq., as amended, 31457
may adopt a resolution objecting to the enrollment of its native 31458
students in adjacent or other districts if at least ten per cent 31459
of its students are included in the determination of the United 31460
States secretary of education made under section 20 U.S.C.A. 31461
238(a). 31462

(2) If a board objects to enrollment of native students under 31463
this division, any adjacent or other district shall refuse to 31464
enroll such native students unless tuition is paid for the 31465
students in accordance with section 3317.08 of the Revised Code. 31466
~~An adjacent or other district enrolling such students may not~~ 31467
~~receive funding for those students in accordance with section~~ 31468
~~3313.981 of the Revised Code.~~ 31469

(G) The state board of education shall monitor school 31470
districts to ensure compliance with this section and the 31471
districts' policies. The board may adopt rules requiring uniform 31472
application procedures, deadlines for application, notification 31473
procedures, and record-keeping requirements for all school boards 31474
that adopt policies permitting the enrollment of adjacent or other 31475
district students, as applicable. If the state board adopts such 31476
rules, no school board shall adopt a policy that conflicts with 31477
those rules. 31478

(H) A resolution adopted by a board of education under this 31479

section that entirely prohibits the enrollment of students from adjacent and from other school districts does not abrogate any agreement entered into under section 3313.841 or 3313.92 of the Revised Code or any contract entered into under section 3313.90 of the Revised Code between the board of education adopting the resolution and the board of education of any adjacent or other district or prohibit these boards of education from entering into any such agreement or contract.

(I) Nothing in this section shall be construed to permit or require the board of education of a city, exempted village, or local school district to exclude any native student of the district from enrolling in the district.

Sec. 3313.981. (A) The state board of education shall adopt rules requiring all of the following:

(1) The board of education of each city, exempted village, and local school district to annually report to the department of education all of the following:

(a) The number of adjacent district or other district students, as applicable, and adjacent district or other district joint vocational students, as applicable, enrolled in the district and the number of native students enrolled in adjacent or other districts, in accordance with a policy adopted under division (B) of section 3313.98 of the Revised Code;

(b) Each adjacent district or other district student's or adjacent district or other district joint vocational student's date of enrollment in the district;

(c) The full-time equivalent number of adjacent district or other district students enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code and the full-time equivalent number of such students

enrolled in vocational education programs or classes described in 31510
division (B) of that section; 31511

(d) Each native student's date of enrollment in an adjacent 31512
or other district. 31513

(2) The board of education of each joint vocational school 31514
district to annually report to the department all of the 31515
following: 31516

(a) The number of adjacent district or other district joint 31517
vocational students, as applicable, enrolled in the district; 31518

(b) The full-time equivalent number of adjacent district or 31519
other district joint vocational students enrolled in vocational 31520
education programs or classes described in division (A) of section 31521
3317.014 of the Revised Code and the full-time equivalent number 31522
of such students enrolled in vocational education programs or 31523
classes described in division (B) of that section; 31524

(c) For each adjacent district or other district joint 31525
vocational student, the city, exempted village, or local school 31526
district in which the student is also enrolled. 31527

(3) Prior to the first full school week in October each year, 31528
the superintendent of each city, local, or exempted village school 31529
district that admits adjacent district or other district students 31530
or adjacent district or other district joint vocational students 31531
in accordance with a policy adopted under division (B) of section 31532
3313.98 of the Revised Code to notify each adjacent or other 31533
district where those students are entitled to attend school under 31534
section 3313.64 or 3313.65 of the Revised Code of the number of 31535
the adjacent or other district's native students who are enrolled 31536
in the superintendent's district under the policy. 31537

The rules shall provide for the method of counting students 31538
who are enrolled for part of a school year in an adjacent or other 31539
district or as an adjacent district or other district joint 31540

vocational student. 31541

~~(B) From the payments made to a city, exempted village, or 31542
local school district under Chapter 3317. of the Revised Code, the 31543
department of education shall annually subtract both of the 31544
following: 31545~~

~~(1) An amount equal to the number of the district's native 31546
students reported under division (A)(1) of this section who are 31547
enrolled in adjacent or other school districts pursuant to 31548
policies adopted by such districts under division (B) of section 31549
3313.98 of the Revised Code multiplied by the adjusted formula 31550
amount for the district; 31551~~

~~(2) The excess costs computed in accordance with division (E) 31552
of this section for any such native students receiving special 31553
education and related services in adjacent or other school 31554
districts or as an adjacent district or other district joint 31555
vocational student; 31556~~

~~(3) For the full-time equivalent number of the district's 31557
native students reported under division (A)(1)(c) or (2)(b) of 31558
this section as enrolled in vocational education programs or 31559
classes described in section 3317.014 of the Revised Code, an 31560
amount equal to the formula amount times the applicable multiple 31561
prescribed by that section. 31562~~

~~(C) To the payments made to a city, exempted village, or 31563
local school district under Chapter 3317. of the Revised Code, the 31564
department of education shall annually add all of the following: 31565~~

~~(1) An amount equal to the adjusted formula amount for the 31566
district multiplied by the remainder obtained by subtracting the 31567
number of adjacent district or other district joint vocational 31568
students from the number of adjacent district or other district 31569
students enrolled in the district, as reported under division 31570
(A)(1) of this section; 31571~~

~~(2) The excess costs computed in accordance with division (E) of this section for any adjacent district or other district students, except for any adjacent or other district joint vocational students, receiving special education and related services in the district;~~

~~(3) For the full-time equivalent number of the adjacent or other district students who are not adjacent district or other district joint vocational students and are reported under division (A)(1)(c) of this section as enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code, an amount equal to the formula amount times the applicable multiple prescribed by that section;~~

~~(4) An amount equal to the number of adjacent district or other district joint vocational students reported under division (A)(1) of this section multiplied by an amount equal to twenty per cent of the adjusted formula amount for the district.~~

~~(D) To the payments made to a joint vocational school district under Chapter 3317. of the Revised Code, the department of education shall add, for each adjacent district or other district joint vocational student reported under division (A)(2) of this section, both of the following:~~

~~(1) An amount equal to the adjusted formula amount of the city, exempted village, or local school district in which the student is also enrolled;~~

~~(2) An amount equal to the full-time equivalent number of students reported pursuant to division (A)(2)(b) of this section times the formula amount times the applicable multiple prescribed by section 3317.014 of the Revised Code Each student enrolled in a school of an adjacent or other district under an open enrollment policy adopted under section 3313.98 of the Revised Code shall be counted in the formula ADM of the district in which the student is~~

enrolled and not in the formula ADM of the district in which the 31603
student is entitled to attend school under section 3313.64 or 31604
3313.65 of the Revised Code. Accordingly, the district in which 31605
the student is enrolled shall be credited with state funds for the 31606
student under Chapters 3306. and 3317. of the Revised Code. 31607

~~(E)(C)(1)~~ A city, exempted village, or local school district 31608
board providing special education and related services to an 31609
adjacent or other district student in accordance with an IEP 31610
shall, pursuant to rules of the state board, compute the excess 31611
costs to educate such student ~~as follows:~~ 31612

~~(a)~~ ~~Subtract the adjusted formula amount for the district by~~ 31613
~~subtracting~~ from the actual costs to educate the student: 31614

~~(b)~~ ~~From the amount computed under division (E)(1)(a) of this~~ 31615
~~section subtract~~ the amount of any funds received by the district 31616
under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code to 31617
provide special education and related services to the student. 31618

(2) The board shall report the excess costs computed under 31619
this division to the department of education. 31620

(3) If any student for whom excess costs are computed under 31621
division ~~(E)(C)(1)~~ of this section is an adjacent or other 31622
district joint vocational student, the department of education 31623
shall add the amount of such excess costs to the payments made 31624
under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code to the 31625
joint vocational school district enrolling the student. 31626

~~(F)~~ ~~As provided in division (D)(1)(b) of section 3317.03 of~~ 31627
~~the Revised Code, no joint vocational school district shall count~~ 31628
~~any adjacent or other district joint vocational student enrolled~~ 31629
~~in the district in its formula ADM certified under section 3317.03~~ 31630
~~of the Revised Code.~~ 31631

~~(G)~~ ~~No city, exempted village, or local school district shall~~ 31632
~~receive a payment under division (C) of this section for a~~ 31633

~~student, and no joint vocational school district shall receive a 31634
payment under division (D) of this section for a student, if for 31635
the same school year that student is counted in the district's 31636
formula ADM certified under section 3317.03 of the Revised Code. 31637~~

~~(H)(D)~~ Upon request of a parent, and provided the board 31638
offers transportation to native students of the same grade level 31639
and distance from school under section 3327.01 of the Revised 31640
Code, a city, exempted village, or local school board enrolling an 31641
adjacent or other district student shall provide transportation 31642
for the student within the boundaries of the board's district, 31643
except that the board shall be required to pick up and drop off a 31644
nonhandicapped student only at a regular school bus stop 31645
designated in accordance with the board's transportation policy. 31646
Pursuant to rules of the state board of education, such board may 31647
reimburse the parent from funds received under ~~division (D) of~~ 31648
section ~~3317.022~~ 3306.12 of the Revised Code for the reasonable 31649
cost of transportation from the student's home to the designated 31650
school bus stop if the student's family has an income below the 31651
federal poverty line. 31652

Sec. 3314.012. (A) Within ninety days of September 28, 1999, 31653
the superintendent of public instruction shall appoint 31654
representatives of the department of education, including 31655
employees who work with the education management information 31656
system and employees of the office of community schools 31657
established by section 3314.11 of the Revised Code, to a committee 31658
to develop report card models for community schools. The director 31659
of the legislative office of education oversight shall also 31660
appoint representatives to the committee. The committee shall 31661
design model report cards appropriate for the various types of 31662
community schools approved to operate in the state. Sufficient 31663
models shall be developed to reflect the variety of grade levels 31664
served and the missions of the state's community schools. All 31665

models shall include both financial and academic data. The initial 31666
models shall be developed by March 31, 2000. 31667

(B) The department of education shall issue an annual report 31668
card for each community school, regardless of how long the school 31669
has been in operation. The report card shall report the academic 31670
and financial performance of the school utilizing one of the 31671
models developed under division (A) of this section. The report 31672
card shall include all information applicable to school buildings 31673
under division (A) of section 3302.03 of the Revised Code ~~and~~ 31674
~~section 3302.032 of the Revised Code.~~ 31675

(C) Upon receipt of a copy of a contract between a sponsor 31676
and a community school entered into under this chapter, the 31677
department of education shall notify the community school of the 31678
specific model report card that will be used for that school. 31679

(D) Report cards shall be distributed to the parents of all 31680
students in the community school, to the members of the board of 31681
education of the school district in which the community school is 31682
located, and to any person who requests one from the department. 31683

~~(E) No report card shall be issued for any community school 31684
under this section until the school has been open for instruction 31685
for two full school years.~~ 31686

Sec. 3314.014. (A) As used in this chapter, "operator" means 31687
either of the following: 31688

(1) ~~An individual or organization~~ A nonprofit entity that 31689
manages the daily operations of a community school pursuant to a 31690
contract between the operator and the school's governing 31691
authority; 31692

(2) A nonprofit organization that provides programmatic 31693
oversight and support to a community school under a contract with 31694
the school's governing authority and that retains the right to 31695

terminate its affiliation with the school if the school fails to 31696
meet the organization's quality standards. 31697

(B)(1) Notwithstanding the limit prescribed by division 31698
(A)(4) of section 3314.013 of the Revised Code, a start-up school 31699
sponsored by an entity described in divisions (C)(1)(b) to (f) of 31700
section 3314.02 of the Revised Code may be established after the 31701
date that limit is reached, provided the school's governing 31702
authority enters into a contract with an operator permitted to 31703
manage the school under division (C) of this section. 31704

(2) Notwithstanding the limit prescribed by division (A)(5) 31705
of section 3314.013 of the Revised Code, a conversion school that 31706
is an internet- or computer-based community school or a start-up 31707
school sponsored by the school district in which the school is or 31708
is proposed to be located may be established after the date that 31709
limit is reached, provided the school's governing authority enters 31710
into a contract with an operator permitted to manage the school 31711
under division (C) of this section. However, a conversion school 31712
that is an internet- or computer-based community school may be 31713
established after that date only if the prohibition prescribed by 31714
division (A)(6) of section 3314.013 of the Revised Code is no 31715
longer in effect. 31716

(C) An operator may enter into contracts with the governing 31717
authorities of community schools established after the date the 31718
limit prescribed by division (A)(4) or (5) of section 3314.013 of 31719
the Revised Code, as applicable, is reached, provided the total 31720
number of schools for which the operator enters into such 31721
contracts, excluding conversion schools that are not internet- or 31722
computer-based community schools, does not exceed the number of 31723
community schools managed by the operator in Ohio or other states 31724
on the applicable date that are rated excellent, effective, or in 31725
need of continuous improvement pursuant to section 3302.03 of the 31726
Revised Code or perform comparably to schools so rated, as 31727

determined by the department of education. 31728

(D) Notwithstanding the limit prescribed by division (A)(4) 31729
of section 3314.013 of the Revised Code, after the date the limit 31730
prescribed in that division is reached, the governing authority of 31731
a start-up school sponsored by an entity described in divisions 31732
(C)(1)(b) to (f) of section 3314.02 of the Revised Code may 31733
establish one additional school serving the same grade levels and 31734
providing the same educational program as the current start-up 31735
school and may open that additional school in the 2006-2007 school 31736
year, if both of the following conditions are met: 31737

(1) The governing authority entered into another contract 31738
with the same sponsor or a different sponsor described in 31739
divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code 31740
and filed a copy of that contract with the superintendent of 31741
public instruction prior to March 15, 2006. 31742

(2) The governing authority's current school satisfies all of 31743
the following conditions: 31744

(a) The school currently is rated as excellent or effective 31745
pursuant to section 3302.03 of the Revised Code. 31746

(b) The school made adequate yearly progress, as defined in 31747
section 3302.01 of the Revised Code, for the previous school year. 31748

(c) The school has been in operation for at least four school 31749
years. 31750

(d) The school is not managed by an operator. 31751

Sec. 3314.015. (A) The department of education shall be 31752
responsible for the oversight of any and all sponsors of the 31753
community schools established under this chapter and shall provide 31754
technical assistance to schools and sponsors in their compliance 31755
with applicable laws and the terms of the contracts entered into 31756
under section 3314.03 of the Revised Code and in the development 31757

and start-up activities of those schools. In carrying out its 31758
duties under this section, the department shall do all of the 31759
following: 31760

(1) In providing technical assistance to proposing parties, 31761
governing authorities, and sponsors, conduct training sessions and 31762
distribute informational materials; 31763

(2) Approve entities to be sponsors of community schools ~~and~~ 31764
~~monitor;~~ 31765

(3) Monitor the effectiveness of ~~those~~ any and all sponsors 31766
in their oversight of the schools with which they have contracted; 31767

~~(3)~~(4) By December thirty-first of each year, issue a report 31768
to the governor, the speaker of the house of representatives, the 31769
president of the senate, and the chairpersons of the house and 31770
senate committees principally responsible for education matters 31771
regarding the effectiveness of academic programs, operations, and 31772
legal compliance and of the financial condition of all community 31773
schools established under this chapter and on the performance of 31774
community school sponsors; 31775

~~(4)~~(5) From time to time, make legislative recommendations to 31776
the general assembly designed to enhance the operation and 31777
performance of community schools. 31778

(B)(1) ~~No~~ Except as provided in sections 3314.021 and 31779
3314.027 of the Revised Code, no entity listed in division (C)(1) 31780
of section 3314.02 of the Revised Code shall enter into a 31781
preliminary agreement under division (C)(2) of section 3314.02 of 31782
the Revised Code until it has received approval from the 31783
department of education to sponsor community schools under this 31784
chapter and has entered into a written agreement with the 31785
department regarding the manner in which the entity will conduct 31786
such sponsorship. The department shall adopt in accordance with 31787
Chapter 119. of the Revised Code rules containing criteria, 31788

procedures, and deadlines for processing applications for such 31789
approval, for oversight of sponsors, for revocation of the 31790
approval of sponsors, and for entering into written agreements 31791
with sponsors. The rules shall require an entity to submit 31792
evidence of the entity's ability and willingness to comply with 31793
the provisions of division (D) of section 3314.03 of the Revised 31794
Code. The rules also shall require entities approved as sponsors 31795
on and after June 30, 2005, to demonstrate a record of financial 31796
responsibility and successful implementation of educational 31797
programs. If an entity seeking approval on or after June 30, 2005, 31798
to sponsor community schools in this state sponsors or operates 31799
schools in another state, at least one of the schools sponsored or 31800
operated by the entity must be comparable to or better than the 31801
performance of Ohio schools in need of continuous improvement 31802
under section 3302.03 of the Revised Code, as determined by the 31803
department. 31804

An entity that sponsors community schools may enter into 31805
preliminary agreements and sponsor schools as follows, provided 31806
each school and the contract for sponsorship meets the 31807
requirements of this chapter: 31808

(a) An entity that sponsored fifty or fewer schools that were 31809
open for operation as of May 1, 2005, may sponsor not more than 31810
fifty schools. 31811

(b) An entity that sponsored more than fifty but not more 31812
than seventy-five schools that were open for operation as of May 31813
1, 2005, may sponsor not more than the number of schools the 31814
entity sponsored that were open for operation as of May 1, 2005. 31815

(c) Until June 30, 2006, an entity that sponsored more than 31816
seventy-five schools that were open for operation as of May 1, 31817
2005, may sponsor not more than the number of schools the entity 31818
sponsored that were open for operation as of May 1, 2005. After 31819
June 30, 2006, such an entity may sponsor not more than 31820

seventy-five schools. 31821

Upon approval of an entity to be a sponsor under this 31822
division, the department shall notify the entity of the number of 31823
schools the entity may sponsor. 31824

The limit imposed on an entity to which division (B)(1) of 31825
this section applies shall be decreased by one for each school 31826
sponsored by the entity that permanently closes. 31827

If at any time an entity exceeds the number of schools it may 31828
sponsor under this division, the department shall assist the 31829
schools in excess of the entity's limit in securing new sponsors. 31830
If a school is unable to secure a new sponsor, the department 31831
shall assume sponsorship of the school in accordance with division 31832
(C) of this section. Those schools for which another sponsor or 31833
the department assumes sponsorship shall be the schools that most 31834
recently entered into contracts with the entity under section 31835
3314.03 of the Revised Code. 31836

(2) The department of education shall determine, pursuant to 31837
criteria adopted by rule of the department, whether the mission 31838
proposed to be specified in the contract of a community school to 31839
be sponsored by a state university board of trustees or the 31840
board's designee under division (C)(1)(e) of section 3314.02 of 31841
the Revised Code complies with the requirements of that division. 31842
Such determination of the department is final. 31843

(3) The department of education shall determine, pursuant to 31844
criteria adopted by rule of the department, if any tax-exempt 31845
entity under section 501(c)(3) of the Internal Revenue Code that 31846
is proposed to be a sponsor of a community school is an 31847
education-oriented entity for purpose of satisfying the condition 31848
prescribed in division (C)(1)(f)(iii) of section 3314.02 of the 31849
Revised Code. Such determination of the department is final. 31850

(C) If at any time the state board of education finds that a 31851

sponsor is not in compliance or is no longer willing to comply 31852
with its contract with any community school or with the 31853
department's rules for sponsorship, the state board or designee 31854
shall conduct a hearing in accordance with Chapter 119. of the 31855
Revised Code on that matter. If after the hearing, the state board 31856
or designee has confirmed the original finding, the department of 31857
education may revoke the sponsor's ~~approval~~ authority to sponsor 31858
community schools and may assume the sponsorship of any schools 31859
with which the sponsor has contracted until the earlier of the 31860
expiration of two school years or until a new sponsor as described 31861
in division (C)(1) of section 3314.02 of the Revised Code is 31862
secured by the school's governing authority. The department may 31863
extend the term of the contract in the case of a school for which 31864
it has assumed sponsorship under this division as necessary to 31865
accommodate the term of the department's authorization to sponsor 31866
the school specified in this division. 31867

(D)(1) The department may declare any sponsor, including any 31868
sponsor that is exempt pursuant to section 3314.021 or 3314.027 of 31869
the Revised Code from obtaining the department's initial approval 31870
to sponsor, to be in a probationary status if at any time the 31871
sponsor has failed to take any of the following actions, which 31872
actions the department determines are warranted: 31873

(a) Take steps to intervene in a school's operation to 31874
correct problems in the school's performance, including the 31875
monitoring and enforcement of the implementation of a school's 31876
corrective action plan required by the department; 31877

(b) Declare a school to be in a probationary status pursuant 31878
to section 3314.073 of the Revised Code; 31879

(c) Suspend the operation of a school pursuant to section 31880
3314.072 of the Revised Code; 31881

(d) Terminate a school's contract pursuant to section 3314.07 31882

of the Revised Code. 31883

(2) If the department declares a sponsor to be in a 31884
probationary status, the department shall send a written 31885
notification stating the department's declaration, the length of 31886
the probationary status, the reasons for the declaration, and a 31887
requirement that the sponsor submit to the department an offer of 31888
reasonable remedies within ten business days after the date of the 31889
department's notice to the sponsor. If the department finds the 31890
remedies offered by the sponsor satisfactory, the sponsor shall 31891
take the actions necessary to implement them. The department shall 31892
monitor the sponsor's actions to implement the remedies. 31893

(3) If the department finds that the remedies offered by the 31894
sponsor under division (D)(2) of this section are not 31895
satisfactory, or if the department finds that the sponsor is not 31896
taking the actions necessary to implement those remedies, the 31897
department may suspend the sponsor's authority to sponsor schools 31898
or may partially restrict the sponsor's authority to sponsor 31899
schools by limiting the geographic territory within which the 31900
sponsor may sponsor schools, reducing the number of schools the 31901
sponsor may sponsor, or restricting the types of schools the 31902
sponsor may sponsor. The department also may require the sponsor 31903
to submit additional reports above and beyond those otherwise 31904
required by law. 31905

(4) If the department suspends or restricts a sponsor's 31906
authority to sponsor schools under division (D)(3) of this 31907
section, the department shall assign another sponsor that is 31908
approved by the department and that agrees to do so to sponsor any 31909
school affected by the suspension or restriction until the 31910
department rescinds the suspension or restriction, another 31911
permanent sponsor is secured, or the school's contract under 31912
section 3314.03 of the Revised Code expires, whichever occurs 31913
first. 31914

(E) The decision of the department to disapprove an entity 31915
for sponsorship of a community school ~~or~~, to revoke ~~approval~~ 31916
authority for such sponsorship, ~~as provided in~~ under division (C) 31917
of this section, or to suspend or restrict an entity's authority 31918
to sponsor schools under division (D) of this section, may be 31919
appealed by the entity in accordance with section 119.12 of the 31920
Revised Code. 31921

~~(E)~~(F) The department shall adopt procedures for use by a 31922
community school governing authority and sponsor when the school 31923
permanently closes and ceases operation, which shall include at 31924
least procedures for data reporting to the department, handling of 31925
student records, distribution of assets in accordance with section 31926
3314.074 of the Revised Code, and other matters related to ceasing 31927
operation of the school. 31928

~~(F)~~(G) In carrying out its duties under this chapter, the 31929
department shall not impose requirements on community schools or 31930
their sponsors that are not permitted by law or duly adopted 31931
rules. 31932

Sec. 3314.016. (A) After June 30, 2007, a new start-up school 31933
may be established under this chapter only if the school's 31934
governing authority enters into a contract with an operator that 31935
manages other schools in the United States that perform at a level 31936
higher than academic watch. The governing authority of the 31937
community school may sign a contract with an operator only if the 31938
operator has fewer contracts with the governing authorities of new 31939
start-up schools established under this chapter after June 30, 31940
2007, than the number of schools managed by the operator in the 31941
United States that perform at a level higher than academic watch, 31942
as determined by the department of education. However, the 31943
governing authority shall not contract with an operator that 31944
currently manages any community schools in Ohio for which the 31945

department issues annual report cards under section 3314.012 of 31946
the Revised Code, unless the latest report card issued for at 31947
least one of those schools designates a performance rating under 31948
section 3302.03 of the Revised Code of in need of continuous 31949
improvement or higher. 31950

(B) Notwithstanding division (A) of this section, the 31951
governing authority of a start-up school sponsored by an entity 31952
described in divisions (C)(1)(b) to (f) of section 3314.02 of the 31953
Revised Code may establish one additional school serving the same 31954
grade levels and providing the same educational program as the 31955
current start-up school and may open that additional school in the 31956
2007-2008 school year, if both of the following conditions are 31957
met: 31958

(1) The governing authority entered into another contract 31959
with the same sponsor or a different sponsor described in 31960
divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code 31961
and filed a copy of that contract with the superintendent of 31962
public instruction prior to March 15, 2006. 31963

(2) The governing authority's current school satisfies all of 31964
the following conditions: 31965

(a) The school currently is rated as excellent or effective 31966
pursuant to section 3302.03 of the Revised Code. 31967

(b) The school made adequate yearly progress, as defined in 31968
section 3302.01 of the Revised Code, for the previous school year. 31969

(c) The school has been in operation for at least four school 31970
years. 31971

(d) The school is not managed by an operator. 31972

(C) Notwithstanding division (A) of this section, the 31973
governing authority of a start-up school sponsored by the big 31974
eight school district in which the school is located may establish 31975

one additional start-up school that is located in the same school district and that provides a general educational program to students in any or all of grades kindergarten through five to facilitate their transition to the current start-up school, and may open the additional start-up school in the 2009-2010 school year, if both of the following conditions are met:

(1) The governing authority enters into another contract with the same sponsor and files a copy of the contract with the superintendent of public instruction prior to March 15, 2009.

(2) The governing authority's current school satisfies all of the following conditions:

(a) The school provided instruction to students for eleven months in the previous school year.

(b) The school has been in operation for at least two school years.

(c) The school qualified to be rated in need of continuous improvement or higher pursuant to section 3302.03 of the Revised Code for its first school year of operation, even though the department of education did not issue a report card for the school for that school year.

Sec. 3314.02. (A) As used in this chapter:

(1) "Sponsor" means an entity listed in division (C)(1) of this section, which has been approved by the department of education to sponsor community schools and with which the governing authority of the proposed community school enters into a contract pursuant to this section.

(2) "Pilot project area" means the school districts included in the territory of the former community school pilot project established by former Section 50.52 of Am. Sub. H.B. No. 215 of the 122nd general assembly.

(3) "Challenged school district" means any of the following:	32006
(a) A school district that is part of the pilot project area;	32007
(b) A school district that is either in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code;	32008 32009 32010
(c) A big eight school district.	32011
(4) "Big eight school district" means a school district that for fiscal year 1997 had both of the following:	32012 32013
(a) A percentage of children residing in the district and participating in the predecessor of Ohio works first greater than thirty per cent, as reported pursuant to <u>former</u> section 3317.10 of the Revised Code;	32014 32015 32016 32017
(b) An average daily membership greater than twelve thousand, as reported pursuant to former division (A) of section 3317.03 of the Revised Code.	32018 32019 32020
(5) "New start-up school" means a community school other than one created by converting all or part of an existing public school or educational service center building, as designated in the school's contract pursuant to division (A)(17) of section 3314.03 of the Revised Code.	32021 32022 32023 32024 32025
(6) "Urban school district" means one of the state's twenty-one urban school districts as defined in division (O) of section 3317.02 of the Revised Code as that section existed prior to July 1, 1998.	32026 32027 32028 32029
(7) "Internet- or computer-based community school" means a community school established under this chapter in which the enrolled students work primarily from their residences on assignments in nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method that does not rely on regular classroom instruction or via	32030 32031 32032 32033 32034 32035

comprehensive instructional methods that include internet-based, 32036
other computer-based, and noncomputer-based learning 32037
opportunities. 32038

(B) Any person or group of individuals may initially propose 32039
under this division the conversion of all or a portion of a public 32040
school or a building operated by an educational service center to 32041
a community school. The proposal shall be made to the board of 32042
education of the city, local, or exempted village school district 32043
in which the public school is proposed to be converted or, in the 32044
case of the conversion of a building operated by an educational 32045
service center, to the governing board of the service center. Upon 32046
receipt of a proposal, a board may enter into a preliminary 32047
agreement with the person or group proposing the conversion of the 32048
public school or service center building, indicating the intention 32049
of the board to support the conversion to a community school. A 32050
proposing person or group that has a preliminary agreement under 32051
this division may proceed to finalize plans for the school, 32052
establish a governing authority for the school, and negotiate a 32053
contract with the board. Provided the proposing person or group 32054
adheres to the preliminary agreement and all provisions of this 32055
chapter, the board shall negotiate in good faith to enter into a 32056
contract in accordance with section 3314.03 of the Revised Code 32057
and division (C) of this section. 32058

(C)(1) Any person or group of individuals may propose under 32059
this division the establishment of a new start-up school to be 32060
located in a challenged school district. The proposal may be made 32061
to any of the following entities: 32062

(a) The board of education of the district in which the 32063
school is proposed to be located; 32064

(b) The board of education of any joint vocational school 32065
district with territory in the county in which is located the 32066
majority of the territory of the district in which the school is 32067

proposed to be located; 32068

(c) The board of education of any other city, local, or 32069
exempted village school district having territory in the same 32070
county where the district in which the school is proposed to be 32071
located has the major portion of its territory; 32072

(d) The governing board of any educational service center, as 32073
long as the proposed school will be located in a county within the 32074
territory of the service center or in a county contiguous to such 32075
county; 32076

(e) A sponsoring authority designated by the board of 32077
trustees of any of the thirteen state universities listed in 32078
section 3345.011 of the Revised Code or the board of trustees 32079
itself as long as a mission of the proposed school to be specified 32080
in the contract under division (A)(2) of section 3314.03 of the 32081
Revised Code and as approved by the department of education under 32082
division (B)(2) of section 3314.015 of the Revised Code will be 32083
the practical demonstration of teaching methods, educational 32084
technology, or other teaching practices that are included in the 32085
curriculum of the university's teacher preparation program 32086
approved by the state board of education; 32087

(f) Any qualified tax-exempt entity under section 501(c)(3) 32088
of the Internal Revenue Code as long as all of the following 32089
conditions are satisfied: 32090

(i) The entity has been in operation for at least five years 32091
prior to applying to be a community school sponsor. 32092

(ii) The entity has assets of at least five hundred thousand 32093
dollars and a demonstrated record of financial responsibility. 32094

(iii) The department of education has determined that the 32095
entity is an education-oriented entity under division (B)(3) of 32096
section 3314.015 of the Revised Code and the entity has a 32097
demonstrated record of successful implementation of educational 32098

programs. 32099

(iv) The entity is not a community school. 32100

Any entity described in division (C)(1) of this section may 32101
enter into a preliminary agreement pursuant to division (C)(2) of 32102
this section with the proposing person or group. 32103

(2) A preliminary agreement indicates the intention of an 32104
entity described in division (C)(1) of this section to sponsor the 32105
community school. A proposing person or group that has such a 32106
preliminary agreement may proceed to finalize plans for the 32107
school, establish a governing authority as described in division 32108
(E) of this section for the school, and negotiate a contract with 32109
the entity. Provided the proposing person or group adheres to the 32110
preliminary agreement and all provisions of this chapter, the 32111
entity shall negotiate in good faith to enter into a contract in 32112
accordance with section 3314.03 of the Revised Code. 32113

(3) A new start-up school that is established in a school 32114
district while that district is either in a state of academic 32115
emergency or in a state of academic watch under section 3302.03 of 32116
the Revised Code may continue in existence once the school 32117
district is no longer in a state of academic emergency or academic 32118
watch, provided there is a valid contract between the school and a 32119
sponsor. 32120

(4) A copy of every preliminary agreement entered into under 32121
this division shall be filed with the superintendent of public 32122
instruction. 32123

(D) A majority vote of the board of a sponsoring entity and a 32124
majority vote of the members of the governing authority of a 32125
community school shall be required to adopt a contract and convert 32126
the public school or educational service center building to a 32127
community school or establish the new start-up school. Beginning 32128
September 29, 2005, adoption of the contract shall occur not later 32129

than the fifteenth day of March, and signing of the contract shall 32130
occur not later than the fifteenth day of May, prior to the school 32131
year in which the school will open. The governing authority shall 32132
notify the department of education when the contract has been 32133
signed. Subject to sections 3314.013, 3314.014, 3314.016, and 32134
3314.017 of the Revised Code, an unlimited number of community 32135
schools may be established in any school district provided that a 32136
contract is entered into for each community school pursuant to 32137
this chapter. 32138

(E)(1) As used in this division, "immediate relatives" are 32139
limited to spouses, children, parents, grandparents, siblings, and 32140
in-laws. 32141

Each new start-up community school established under this 32142
chapter shall be under the direction of a governing authority 32143
which shall consist of a board of not less than five individuals. 32144

No person shall serve on the governing authority or operate 32145
the community school under contract with the governing authority 32146
so long as the person owes the state any money or is in a dispute 32147
over whether the person owes the state any money concerning the 32148
operation of a community school that has closed. 32149

(2) No person shall serve on the governing authorities of 32150
more than two start-up community schools at the same time. 32151

(3) No present or former member, or immediate relative of a 32152
present or former member, of the governing authority of any 32153
community school established under this chapter shall be an owner, 32154
employee, or consultant of any ~~nonprofit or for-profit~~ operator of 32155
a community school, unless at least one year has elapsed since the 32156
conclusion of the person's membership. 32157

(F)(1) A new start-up school that is established prior to 32158
August 15, 2003, in an urban school district that is not also a 32159
big-eight school district may continue to operate after that date 32160

and the contract between the school's governing authority and the 32161
school's sponsor may be renewed, as provided under this chapter, 32162
after that date, but no additional new start-up schools may be 32163
established in such a district unless the district is a challenged 32164
school district as defined in this section as it exists on and 32165
after that date. 32166

(2) A community school that was established prior to June 29, 32167
1999, and is located in a county contiguous to the pilot project 32168
area and in a school district that is not a challenged school 32169
district may continue to operate after that date, provided the 32170
school complies with all provisions of this chapter. The contract 32171
between the school's governing authority and the school's sponsor 32172
may be renewed, but no additional start-up community school may be 32173
established in that district unless the district is a challenged 32174
school district. 32175

(3) Any educational service center that, on June 30, 2007, 32176
sponsors a community school that is not located in a county within 32177
the territory of the service center or in a county contiguous to 32178
such county may continue to sponsor that community school on and 32179
after June 30, 2007, and may renew its contract with the school. 32180
However, the educational service center shall not enter into a 32181
contract with any additional community school unless the school is 32182
located in a county within the territory of the service center or 32183
in a county contiguous to such county. 32184

Sec. 3314.021. (A) This section applies to any entity that is 32185
exempt from taxation under section 501(c)(3) of the Internal 32186
Revenue Code and that satisfies the conditions specified in 32187
divisions (C)(1)(f)(ii) and (iii) of section 3314.02 of the 32188
Revised Code but does not satisfy the condition specified in 32189
division (C)(1)(f)(i) of that section. 32190

(B) Notwithstanding division (C)(1)(f)(i) of section 3314.02 32191

of the Revised Code, an entity described in division (A) of this 32192
section may do both of the following without obtaining the 32193
department of education's initial approval of its sponsorship 32194
under ~~division~~ divisions (A)(2) and (B)(1) of section 3314.015 of 32195
the Revised Code: 32196

(1) Succeed the board of trustees of a state university 32197
located in the pilot project area or that board's designee as the 32198
sponsor of a community school established under this chapter; 32199

(2) Continue to sponsor that school in conformance with the 32200
terms of the contract between the board of trustees or its 32201
designee and the governing authority of the community school and 32202
renew that contract as provided in division (E) of section 3314.03 32203
of the Revised Code. 32204

(C) The entity that succeeds the board of trustees or the 32205
board's designee as sponsor of a community school under division 32206
(B) of this section also may enter into contracts to sponsor other 32207
community schools located in any challenged school district, 32208
without obtaining the department's initial approval of its 32209
sponsorship of those schools under ~~division~~ divisions (A)(2) and 32210
(B)(1) of section 3314.015 of the Revised Code, and not subject to 32211
the restriction of division (A)(7) of section 3314.013 of the 32212
Revised Code, as long as the contracts conform with and the entity 32213
complies with all other requirements of this chapter. 32214

(D) Regardless of the entity's authority to sponsor community 32215
schools without the initial approval of the department, the entity 32216
is under the continuing oversight of the department in accordance 32217
with rules adopted under section 3314.015 of the Revised Code. The 32218
department, in accordance with divisions (C), (D), and (E) of 32219
section 3314.015 of the Revised Code, may revoke, suspend, or 32220
restrict the entity's authority to sponsor any school, or may 32221
declare the sponsor to be in a probationary status, in the same 32222
manner as if that authority were initially subject to approval of 32223

the department under that section. 32224

Sec. 3314.024. ~~A management company~~ (A) No governing 32225
authority of a community school shall enter into a new contract, 32226
or renew an existing contract, with an operator, unless the 32227
contract was selected through a competitive bidding process 32228
established by the department of education. 32229

(B) An operator that provides services to a community school 32230
that amounts to more than twenty per cent of the annual gross 32231
revenues of the school shall provide a detailed accounting 32232
including the nature and costs of the services it provides to the 32233
community school. This information shall be included in the 32234
footnotes of the financial statements of the school and be subject 32235
to audit during the course of the regular financial audit of the 32236
community school. 32237

Sec. 6 3314.027. ~~The State Board of Education shall continue~~ 32238
~~to sponsor any community school for which it has entered into a~~ 32239
~~contract at the time of the effective date of this section until~~ 32240
~~the earlier of the expiration of two school years or until a new~~ 32241
~~sponsor, as described in division (C)(1) of section 3314.02 of the~~ 32242
~~Revised Code, as amended by this act, is secured by the school's~~ 32243
~~governing authority. The State Board shall not thereafter sponsor~~ 32244
~~any community school except as provided in division (C) of section~~ 32245
~~3314.015 of the Revised Code. The State Board may extend the term~~ 32246
~~of any existing contract with a community school governing~~ 32247
~~authority only as necessary to accommodate the term of the Board's~~ 32248
~~authorization to sponsor the school as specified in this section.~~ 32249

Notwithstanding the requirement for initial approval of 32250
sponsorship by the ~~Department~~ department of ~~Education~~ education 32251
prescribed in ~~division~~ divisions (A)(2) and (B)(1) of section 32252
3314.015 of the Revised Code, ~~as enacted by this act,~~ and any 32253

geographical restriction or mission requirement prescribed in 32254
division (C)(1) of section 3314.02 of the Revised Code, ~~as amended~~ 32255
~~by this act~~, an entity ~~other than the State Board of Education~~ 32256
that has entered into a contract to sponsor a community school on 32257
~~the effective date of this section~~ April 8, 2003, may continue to 32258
sponsor the school in conformance with the terms of that contract 32259
as long as the entity complies with all other sponsorship 32260
provisions of ~~Chapter 3314. of the Revised Code as amended by this~~ 32261
~~act~~ this chapter. Such an entity also may enter into new contracts 32262
to sponsor community schools after ~~the effective date of this~~ 32263
~~section~~ April 8, 2003, and need not be approved by the ~~Department~~ 32264
~~of Education~~ department for such sponsorship, as otherwise 32265
required under ~~division~~ divisions (A)(2) and (B)(1) of section 32266
3314.015 of the Revised Code, ~~as enacted by this act~~, as long as 32267
the contracts conform to and the entity complies with all other 32268
provisions of ~~Chapter 3314. of the Revised Code as amended by this~~ 32269
~~act~~ this chapter. 32270

Regardless of the entity's authority to sponsor community 32271
schools without the initial approval of the department, each 32272
entity described in this section is under the continuing oversight 32273
of the department in accordance with rules adopted under section 32274
3314.015 of the Revised Code. The department, in accordance with 32275
divisions (C), (D), and (E) of section 3314.015 of the Revised 32276
Code, may revoke, suspend, or restrict the entity's authority to 32277
sponsor any school, or may declare the entity to be in a 32278
probationary status, in the same manner as if that authority were 32279
initially subject to approval of the department under that 32280
section. 32281

Sec. 3314.028. If, on the effective date of this section, the 32282
governing authority of a community school has a contract with an 32283
operator that is not a nonprofit entity as required by division 32284
(A) of section 3314.014 of the Revised Code, as it exists on and 32285

after the effective date of this section, the governing authority 32286
shall not be subject to the requirement that an operator of a 32287
community school be a nonprofit entity until the expiration of 32288
that contract. If the governing authority elects to continue 32289
management of the school by an operator after the expiration of 32290
that contract, the governing authority shall enter into a contract 32291
with a new operator that complies with division (A) of section 32292
3314.014 of the Revised Code, as it exists on and after the 32293
effective date of this section. Section 3314.026 of the Revised 32294
Code shall not apply to any operator that is not a nonprofit 32295
entity and whose contract is not renewed pursuant to this section. 32296

Sec. 3314.03. A copy of every contract entered into under 32297
this section shall be filed with the superintendent of public 32298
instruction. 32299

(A) Each contract entered into between a sponsor and the 32300
governing authority of a community school shall specify the 32301
following: 32302

(1) That the school shall be established as either of the 32303
following: 32304

(a) A nonprofit corporation established under Chapter 1702. 32305
of the Revised Code, if established prior to April 8, 2003; 32306

(b) A public benefit corporation established under Chapter 32307
1702. of the Revised Code, if established after April 8, 2003; 32308

(2) The education program of the school, including the 32309
school's mission, the characteristics of the students the school 32310
is expected to attract, the ages and grades of students, and the 32311
focus of the curriculum; 32312

(3) The academic goals to be achieved and the method of 32313
measurement that will be used to determine progress toward those 32314
goals, which shall include the statewide achievement ~~tests~~ 32315

<u>assessments;</u>	32316
(4) Performance standards by which the success of the school will be evaluated by the sponsor;	32317 32318
(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;	32319 32320 32321
(6)(a) Dismissal procedures;	32322
(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student.	32323 32324 32325 32326 32327 32328
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	32329 32330
(8) Requirements for financial audits by the auditor of state. The contract shall require <u>the governing authority of the school, and any operator with which the governing authority contracts, to comply with the financial reporting standards adopted by the state board of education under division (B)(2) of section 3301.07 of the Revised Code, and that</u> financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state, and the audits. Audits shall be conducted in accordance with section 117.10 of the Revised Code.	32331 32332 32333 32334 32335 32336 32337 32338 32339 32340
(9) The facilities to be used and their locations;	32341
(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to	32342 32343 32344 32345

~~twelve hours per week pursuant to section 3319.301 in compliance~~ 32346
~~with section 3314.102~~ of the Revised Code; 32347

(11) That the school will comply with the following 32348
requirements: 32349

(a) The school will provide learning opportunities to a 32350
minimum of twenty-five students for ~~a minimum of nine hundred~~ 32351
~~twenty~~ at least the applicable number of hours per school year 32352
prescribed by section 3314.031 of the Revised Code. 32353

(b) The governing authority will purchase liability 32354
insurance, or otherwise provide for the potential liability of the 32355
school. 32356

(c) The school will be nonsectarian in its programs, 32357
admission policies, employment practices, and all other 32358
operations, and will not be operated by a sectarian school or 32359
religious institution. 32360

(d) The school will comply with division (A)(9) of section 32361
3313.60 of the Revised Code and sections 9.90, 9.91, 109.65, 32362
121.22, 149.43, 2151.357, 2151.421, 2313.18, 3301.0710, 3301.0711, 32363
3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, 3313.605, 32364
3313.607, 3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.643, 32365
3313.648, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 32366
3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 32367
3313.718, 3313.80, 3313.82, 3313.821, 3313.96, 3319.073, 3319.321, 32368
3319.39, 3319.391, 3319.41, 3321.01, 3321.13, 3321.14, 3321.17, 32369
3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 32370
5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 32371
4123., 4141., and 4167. of the Revised Code as if it were a school 32372
district and will comply with section 3301.0714 of the Revised 32373
Code in the manner specified in section 3314.17 of the Revised 32374
Code. 32375

(e) The school shall comply with Chapter 102. and section 32376

2921.42 of the Revised Code. 32377

(f) The school will comply with sections 3313.61, 3313.611, 32378
and 3313.614 of the Revised Code, except that for students who 32379
enter ninth grade for the first time before July 1, 2010, the 32380
requirement in sections 3313.61 and 3313.611 of the Revised Code 32381
that a person must successfully complete the curriculum in any 32382
high school prior to receiving a high school diploma may be met by 32383
completing the curriculum adopted by the governing authority of 32384
the community school rather than the curriculum specified in Title 32385
XXXVIII of the Revised Code or any rules of the state board of 32386
education. Beginning with students who enter ninth grade for the 32387
first time on or after July 1, 2010, the requirement in sections 32388
3313.61 and 3313.611 of the Revised Code that a person must 32389
successfully complete the curriculum of a high school prior to 32390
receiving a high school diploma shall be met by completing the 32391
Ohio core curriculum prescribed in division (C) of section 32392
3313.603 of the Revised Code, unless the person qualifies under 32393
division (D) or (F) of that section. Each school shall comply with 32394
the plan for awarding high school credit based on demonstration of 32395
subject area competency, adopted by the state board of education 32396
under division (J) of section 3313.603 of the Revised Code. 32397

(g) The school governing authority will submit within four 32398
months after the end of each school year a report of its 32399
activities and progress in meeting the goals and standards of 32400
divisions (A)(3) and (4) of this section and its financial status 32401
to the sponsor and the parents of all students enrolled in the 32402
school. 32403

(h) The school, unless it is an internet- or computer-based 32404
community school, will comply with section 3313.801 of the Revised 32405
Code as if it were a school district. 32406

(12) Arrangements for providing health and other benefits to 32407
employees; 32408

(13) The length of the contract, which shall begin at the beginning of an academic year. No contract shall exceed five years unless such contract has been renewed pursuant to division (E) of this section.

(14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;

(15) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year. ~~The plan shall specify for each year the base formula amount that will be used for purposes of funding calculations under section 3314.08 of the Revised Code. This base formula amount for any year shall not exceed the formula amount defined under section 3317.02 of the Revised Code. The plan may also specify for any year a percentage figure to be used for reducing the per pupil amount of the subsidy calculated pursuant to section 3317.029 of the Revised Code the school is to receive that year under section 3314.08 of the Revised Code.~~

(16) Requirements and procedures regarding the disposition of employees of the school in the event the contract is terminated or not renewed pursuant to section 3314.07 of the Revised Code;

(17) Whether the school is to be created by converting all or part of an existing public school or educational service center building or is to be a new start-up school, and if it is a converted public school or service center building, specification of any duties or responsibilities of an employer that the board of education or service center governing board that operated the school or building before conversion is delegating to the governing authority of the community school with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees;

(18) Provisions establishing procedures for resolving 32441
disputes or differences of opinion between the sponsor and the 32442
governing authority of the community school; 32443

(19) A provision requiring the governing authority to adopt a 32444
policy regarding the admission of students who reside outside the 32445
district in which the school is located. That policy shall comply 32446
with the admissions procedures specified in sections 3314.06 and 32447
3314.061 of the Revised Code and, at the sole discretion of the 32448
authority, shall do one of the following: 32449

(a) Prohibit the enrollment of students who reside outside 32450
the district in which the school is located; 32451

(b) Permit the enrollment of students who reside in districts 32452
adjacent to the district in which the school is located; 32453

(c) Permit the enrollment of students who reside in any other 32454
district in the state. 32455

(20) A provision recognizing the authority of the department 32456
of education to take over the sponsorship of the school in 32457
accordance with the provisions of division (C) of section 3314.015 32458
of the Revised Code; 32459

(21) A provision recognizing the sponsor's authority to 32460
assume the operation of a school under the conditions specified in 32461
division (B) of section 3314.073 of the Revised Code; 32462

(22) A provision recognizing both of the following: 32463

(a) The authority of public health and safety officials to 32464
inspect the facilities of the school and to order the facilities 32465
closed if those officials find that the facilities are not in 32466
compliance with health and safety laws and regulations; 32467

(b) The authority of the department of education as the 32468
community school oversight body to suspend the operation of the 32469
school under section 3314.072 of the Revised Code if the 32470

department has evidence of conditions or violations of law at the 32471
school that pose an imminent danger to the health and safety of 32472
the school's students and employees and the sponsor refuses to 32473
take such action; 32474

(23) A description of the learning opportunities that will be 32475
offered to students including both classroom-based and 32476
non-classroom-based learning opportunities that is in compliance 32477
with criteria for student participation established by the 32478
department under division ~~(I)~~(J)(2) of section 3314.08 of the 32479
Revised Code; 32480

(24) The school will comply with sections 3302.04 and 32481
3302.041 of the Revised Code, except that any action required to 32482
be taken by a school district pursuant to those sections shall be 32483
taken by the sponsor of the school. However, the sponsor shall not 32484
be required to take any action described in division (F) of 32485
section 3302.04 of the Revised Code. 32486

(25) Beginning in the 2006-2007 school year, the school will 32487
open for operation not later than the thirtieth day of September 32488
each school year, ~~unless the mission of the school as specified~~ 32489
~~under division (A)(2) of this section is solely to serve dropouts.~~ 32490
In its initial year of operation, if the school fails to open by 32491
the thirtieth day of September, ~~or within one year after the~~ 32492
~~adoption of the contract pursuant to division (D) of section~~ 32493
~~3314.02 of the Revised Code if the mission of the school is solely~~ 32494
~~to serve dropouts,~~ the contract shall be void. 32495

(B) The community school shall also submit to the sponsor a 32496
comprehensive plan for the school. The plan shall specify the 32497
following: 32498

(1) The process by which the governing authority of the 32499
school will be selected in the future; 32500

(2) The management and administration of the school; 32501

(3) If the community school is a currently existing public school or educational service center building, alternative arrangements for current public school students who choose not to attend the converted school and for teachers who choose not to teach in the school or building after conversion;

(4) The instructional program and educational philosophy of the school;

(5) Internal financial controls.

(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby authorized to receive such payments as set forth in the contract between the governing authority and the sponsor. The total amount of such payments for oversight and monitoring of the school shall not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.

(D) The contract shall specify the duties of the sponsor which shall be in accordance with the written agreement entered into with the department of education under division (B) of section 3314.015 of the Revised Code and shall include the following:

(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;

(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;

(3) Report on an annual basis the results of the evaluation conducted under division (D)(2) of this section to the department of education and to the parents of students enrolled in the community school;

(4) Provide technical assistance to the community school in 32533
complying with laws applicable to the school and terms of the 32534
contract; 32535

(5) Take steps to intervene in the school's operation to 32536
correct problems in the school's overall performance, declare the 32537
school to be on probationary status pursuant to section 3314.073 32538
of the Revised Code, suspend the operation of the school pursuant 32539
to section 3314.072 of the Revised Code, or terminate the contract 32540
of the school pursuant to section 3314.07 of the Revised Code as 32541
determined necessary by the sponsor; 32542

(6) Have in place a plan of action to be undertaken in the 32543
event the community school experiences financial difficulties or 32544
closes prior to the end of a school year. 32545

(E) Upon the expiration of a contract entered into under this 32546
section, the sponsor of a community school may, with the approval 32547
of the governing authority of the school, renew that contract for 32548
a period of time determined by the sponsor, but not ending earlier 32549
than the end of any school year, if the sponsor finds that the 32550
school's compliance with applicable laws and terms of the contract 32551
and the school's progress in meeting the academic goals prescribed 32552
in the contract have been satisfactory. Any contract that is 32553
renewed under this division remains subject to the provisions of 32554
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 32555

(F) If a community school fails to open for operation within 32556
one year after the contract entered into under this section is 32557
adopted pursuant to division (D) of section 3314.02 of the Revised 32558
Code or permanently closes prior to the expiration of the 32559
contract, the contract shall be void and the school shall not 32560
enter into a contract with any other sponsor. A school shall not 32561
be considered permanently closed because the operations of the 32562
school have been suspended pursuant to section 3314.072 of the 32563
Revised Code. Any contract that becomes void under this division 32564

shall not count toward any statewide limit on the number of such 32565
contracts prescribed by section 3314.013 of the Revised Code. 32566

Sec. 3314.031. Each community school established under this 32567
chapter shall provide at least the following number of hours of 32568
learning opportunities to each student enrolled in the school for 32569
a full school year: 32570

(A) For each school year prior to the school year that begins 32571
on July 1, 2009, nine hundred twenty hours; 32572

(B) In each of the school years beginning on July 1, 2009, 32573
and July 1, 2010, respectively, nine hundred thirty hours; 32574

(C) In each of the school years beginning on July 1, 2011, 32575
and July 1, 2012, respectively, nine hundred fifty hours; 32576

(D) In each of the school years beginning on July 1, 2013, 32577
and July 1, 2014, respectively, nine hundred seventy hours; 32578

(E) In each of the school years beginning on July 1, 2015, 32579
and July 1, 2016, respectively, nine hundred ninety hours; 32580

(F) In the school year that begins on July 1, 2017, and in 32581
each school year thereafter, one thousand ten hours. 32582

Sec. 3314.051. (A) When the governing authority of a 32583
community school that acquired real property from a school 32584
district pursuant to division (G)(2) of section 3313.41 of the 32585
Revised Code, as it existed prior to the effective date of this 32586
amendment, decides to dispose of that property, it first shall 32587
offer that property for sale to the school district board of 32588
education from which it acquired the property, at a price that is 32589
not higher than the appraised fair market value of that property. 32590
If the district board does not accept the offer within sixty days 32591
after the offer is made, the community school may dispose of the 32592
property in another lawful manner. 32593

(B) When a community school that acquired real property from a school district pursuant to division (G)(2) of section 3313.41 of the Revised Code, as it existed prior to the effective date of this amendment, permanently closes, in distributing the school's assets under section 3314.074 of the Revised Code, that property first shall be offered for sale to the school district board of education from which the community school acquired the property, at a price that is not higher than the appraised fair market value of that property. If the district board does not accept the offer within sixty days after the offer is made, the property may be disposed in another lawful manner.

Sec. 3314.08. (A) As used in this section:

~~(1) "Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.~~

~~(2) "IEP" has the same meaning as in section 3323.01 of the Revised Code.~~

~~(3) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a disability described in that section.~~

~~(4) "Applicable vocational education weight" means:~~

~~(a) For a student enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division;~~

~~(b) For a student enrolled in vocational education programs or classes described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division.~~

~~(5)(2) "Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code.~~

~~(6) A community school student is "included in the poverty student count" of a school district if the student is entitled to attend school in the district and the student's family receives assistance under the Ohio works first program.~~ 32624
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~~(7) "Poverty based assistance reduction factor" means the percentage figure, if any, for reducing the per pupil amount of poverty based assistance a community school is entitled to receive pursuant to divisions (D)(5) to (9) of this section in any year, as specified in the school's financial plan for the year pursuant to division (A)(15) of section 3314.03 of the Revised Code.~~ 32628
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~~(8) "All day kindergarten" has the same meaning as in section 3317.029 of the Revised Code.~~ 32634
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~~(9) "State education aid" has the same meaning as in section 5751.20 of the Revised Code.~~ 32636
32637

(B) The state board of education shall adopt rules requiring both of the following: 32638
32639

~~(1) The board of education of each city, exempted village, and local school district to annually report the number of students entitled to attend school in the district who are enrolled in grades one through twelve in a community school established under this chapter, the number of students entitled to attend school in the district who are enrolled in kindergarten in a community school, the number of those kindergartners who are enrolled in all day kindergarten in their community school, and for each child, the community school in which the child is enrolled.~~ 32640
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~~(2) The the governing authority of each community school established under this chapter to ~~annually~~ report all of the following:~~ 32650
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32652

~~(a)(1) The number of students enrolled in each of grades ~~one kindergarten~~ through twelve and the number of students enrolled in 32653
32654~~

~~kindergarten~~ in the school who are not receiving special education and related services pursuant to an IEP; 32655
32656

~~(b)(2)~~ The number of enrolled students in each of grades ~~one~~ kindergarten through twelve ~~and the number of enrolled students in kindergarten,~~ who are receiving special education and related services pursuant to an IEP; 32657
32658
32659
32660

~~(e)(3)~~ The number of students reported under division (B)(2)~~(b)~~ of this section receiving special education and related services pursuant to an IEP for a disability described in each of divisions ~~(A) to (F)~~(C)(1) to (6) of section ~~3317.013~~ 3306.02 of the Revised Code; 32661
32662
32663
32664
32665

~~(d)(4)~~ The full-time equivalent number of students reported under divisions (B)(1) and (2)~~(a) and (b)~~ of this section who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code that are provided by the community school; 32666
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~~(e)(5)~~ Twenty per cent of the number of students reported under divisions (B)(1) and (2)~~(a) and (b)~~ of this section who are not reported under division (B)~~(2)~~(d)(4) of this section but who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code at a joint vocational school district under a contract between the community school and the joint vocational school district and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district; 32671
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~~(f)(6)~~ The number of enrolled preschool children with disabilities receiving special education services in a state-funded unit; 32681
32682
32683

~~(g)~~ ~~The community school's base formula amount;~~ 32684

~~(h)(7)~~ For each student, the city, exempted village, or local 32685

school district in which the student is entitled to attend school+ 32686

~~(i) Any poverty based assistance reduction factor that 32687
applies to a school year. 32688~~

~~(C) From the state education aid calculated for a city, 32689
exempted village, or local school district and, if necessary, from 32690
the payment made to the district under sections 321.24 and 323.156 32691
of the Revised Code, the department of education shall annually 32692
subtract the sum of the amounts described in divisions (C)(1) to 32693
(9) of this section. However, when deducting payments on behalf of 32694
students enrolled in internet or computer based community 32695
schools, the department shall deduct only those amounts described 32696
in divisions (C)(1) and (2) of this section. Furthermore, the 32697
aggregate amount deducted under this division shall not exceed the 32698
sum of the district's state education aid and its payment under 32699
sections 321.24 and 323.156 of the Revised Code. 32700~~

32701

~~(1) An amount equal to the sum of the amounts obtained when, 32702
for each community school where the district's students are 32703
enrolled, the number of the district's students reported under 32704
divisions (B)(2)(a), (b), and (c) of this section who are enrolled 32705
in grades one through twelve, and one half the number of students 32706
reported under those divisions who are enrolled in kindergarten, 32707
in that community school is multiplied by the sum of the base 32708
formula amount of that community school plus the per pupil amount 32709
of the base funding supplements specified in divisions (C)(1) to 32710
(4) of section 3317.012 of the Revised Code. 32711~~

~~(2) The sum of the amounts calculated under divisions 32712
(C)(2)(a) and (b) of this section+ 32713~~

~~(a) For each of the district's students reported under 32714
division (B)(2)(c) of this section as enrolled in a community 32715
school in grades one through twelve and receiving special 32716~~

~~education and related services pursuant to an IEP for a disability 32717
described in section 3317.013 of the Revised Code, the product of 32718
the applicable special education weight times the community 32719
school's base formula amount; 32720~~

~~(b) For each of the district's students reported under 32721
division (B)(2)(c) of this section as enrolled in kindergarten in 32722
a community school and receiving special education and related 32723
services pursuant to an IEP for a disability described in section 32724
3317.013 of the Revised Code, one half of the amount calculated as 32725
prescribed in division (C)(2)(a) of this section. 32726~~

~~(3) For each of the district's students reported under 32727
division (B)(2)(d) of this section for whom payment is made under 32728
division (D)(4) of this section, the amount of that payment; 32729~~

~~(4) An amount equal to the sum of the amounts obtained when, 32730
for each community school where the district's students are 32731
enrolled, the number of the district's students enrolled in that 32732
community school who are included in the district's poverty 32733
student count is multiplied by the per pupil amount of 32734
poverty based assistance the school district receives that year 32735
pursuant to division (C) of section 3317.029 of the Revised Code, 32736
as adjusted by any poverty based assistance reduction factor of 32737
that community school. The per pupil amount of that aid for the 32738
district shall be calculated by the department. 32739~~

~~(5) An amount equal to the sum of the amounts obtained when, 32740
for each community school where the district's students are 32741
enrolled, the district's per pupil amount of aid received under 32742
division (E) of section 3317.029 of the Revised Code, as adjusted 32743
by any poverty based assistance reduction factor of the community 32744
school, is multiplied by the sum of the following: 32745~~

~~(a) The number of the district's students reported under 32746
division (B)(2)(a) of this section who are enrolled in grades one 32747~~

~~to three in that community school and who are not receiving 32748
special education and related services pursuant to an IEP; 32749~~

~~(b) One half of the district's students who are enrolled in 32750
all day or any other kindergarten class in that community school 32751
and who are not receiving special education and related services 32752
pursuant to an IEP; 32753~~

~~(c) One half of the district's students who are enrolled in 32754
all day kindergarten in that community school and who are not 32755
receiving special education and related services pursuant to an 32756
IEP. 32757~~

~~The district's per pupil amount of aid under division (E) of 32758
section 3317.029 of the Revised Code is the quotient of the amount 32759
the district received under that division divided by the 32760
district's kindergarten through third grade ADM, as defined in 32761
that section. 32762~~

~~(6) An amount equal to the sum of the amounts obtained when, 32763
for each community school where the district's students are 32764
enrolled, the district's per pupil amount received under division 32765
(F) of section 3317.029 of the Revised Code, as adjusted by any 32766
poverty based assistance reduction factor of that community 32767
school, is multiplied by the number of the district's students 32768
enrolled in the community school who are identified as 32769
limited English proficient. 32770~~

~~(7) An amount equal to the sum of the amounts obtained when, 32771
for each community school where the district's students are 32772
enrolled, the district's per pupil amount received under division 32773
(G) of section 3317.029 of the Revised Code, as adjusted by any 32774
poverty based assistance reduction factor of that community 32775
school, is multiplied by the sum of the following: 32776~~

~~(a) The number of the district's students enrolled in grades 32777
one through twelve in that community school; 32778~~

~~(b) One half of the number of the district's students
enrolled in kindergarten in that community school.~~ 32779
32780

~~The district's per pupil amount under division (G) of section
3317.029 of the Revised Code is the district's amount per teacher
calculated under division (G)(1) or (2) of that section divided by
17.~~ 32781
32782
32783
32784

~~(8) An amount equal to the sum of the amounts obtained when,
for each community school where the district's students are
enrolled, the district's per pupil amount received under divisions
(H) and (I) of section 3317.029 of the Revised Code, as adjusted
by any poverty based assistance reduction factor of that community
school, is multiplied by the sum of the following:~~ 32785
32786
32787
32788
32789
32790

~~(a) The number of the district's students enrolled in grades
one through twelve in that community school;~~ 32791
32792

~~(b) One half of the number of the district's students
enrolled in kindergarten in that community school.~~ 32793
32794

~~The district's per pupil amount under divisions (H) and (I)
of section 3317.029 of the Revised Code is the amount calculated
under each division divided by the district's formula ADM, as
defined in section 3317.02 of the Revised Code.~~ 32795
32796
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32798

~~(9) An amount equal to the per pupil state parity aid funding
calculated for the school district under either division (C) or
(D) of section 3317.0217 of the Revised Code multiplied by the sum
of the number of students in grades one through twelve, and
one half of the number of students in kindergarten, who are
entitled to attend school in the district and are enrolled in a
community school as reported under division (B)(1) of this
section.~~ 32799
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32801
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32806

~~(D) The department of education shall annually pay to a
community school established under this chapter the sum of the
amounts described in divisions (D)(1) to (10) of this section.~~ 32807
32808
32809

~~However, the department shall calculate and pay to each internet- 32810
or computer based community school only the amounts described in 32811
divisions (D)(1) to (3) of this section. Furthermore, the sum of 32812
the payments to all community schools under divisions (D)(1), (2), 32813
and (4) to (10) of this section for the students entitled to 32814
attend school in any particular school district shall not exceed 32815
the sum of that district's state education aid and its payment 32816
under sections 321.24 and 323.156 of the Revised Code. If the sum 32817
of the payments calculated under those divisions for the students 32818
entitled to attend school in a particular school district exceeds 32819
the sum of that district's state education aid and its payment 32820
under sections 321.24 and 323.156 of the Revised Code, the 32821
department shall calculate and apply a proration factor to the 32822
payments to all community schools under those divisions for the 32823
students entitled to attend school in that district. 32824~~

32825

~~(1) Subject to section 3314.085 of the Revised Code, an 32826
amount equal to the sum of the amounts obtained when the number of 32827
students enrolled in grades one through twelve, plus one half of 32828
the kindergarten students in the school, reported under divisions 32829
(B)(2)(a), (b), and (c) of this section who are not receiving 32830
special education and related services pursuant to an IEP for a 32831
disability described in section 3317.013 of the Revised Code is 32832
multiplied by the sum of the community school's base formula 32833
amount plus the per pupil amount of the base funding supplements 32834
specified in divisions (C)(1) to (4) of section 3317.012 of the 32835
Revised Code. 32836~~

~~(2) Prior to fiscal year 2007, the greater of the amount 32837
calculated under division (D)(2)(a) or (b) of this section, and in 32838
fiscal year 2007 and thereafter, the amount calculated under 32839
division (D)(2)(b) of this section: 32840~~

~~(a) The aggregate amount that the department paid to the 32841~~

~~community school in fiscal year 1999 for students receiving 32842
special education and related services pursuant to IEPs, excluding 32843
federal funds and state disadvantaged pupil impact aid funds; 32844~~

~~(b) The sum of the amounts calculated under divisions 32845
(D)(2)(b)(i) and (ii) of this section; 32846~~

~~(i) For each student reported under division (B)(2)(c) of 32847
this section as enrolled in the school in grades one through 32848
twelve and receiving special education and related services 32849
pursuant to an IEP for a disability described in section 3317.013 32850
of the Revised Code, the following amount: 32851~~

~~(the school's base formula amount plus 32852
the per pupil amount of the base funding supplements specified in 32853
divisions (C)(1) to (4) of section 3317.012 of the Revised Code) 32854
+ (the applicable special education weight X the 32855
community school's base formula amount); 32856~~

~~(ii) For each student reported under division (B)(2)(c) of 32857
this section as enrolled in kindergarten and receiving special 32858
education and related services pursuant to an IEP for a disability 32859
described in section 3317.013 of the Revised Code, one half of the 32860
amount calculated under the formula prescribed in division 32861
(D)(2)(b)(i) of this section. 32862~~

~~(3) An amount received from federal funds to provide special 32863
education and related services to students in the community 32864
school, as determined by the superintendent of public instruction. 32865~~

~~(4) For each student reported under division (B)(2)(d) of 32866
this section as enrolled in vocational education programs or 32867
classes that are described in section 3317.014 of the Revised 32868
Code, are provided by the community school, and are comparable as 32869
determined by the superintendent of public instruction to school 32870
district vocational education programs and classes eligible for 32871
state weighted funding under section 3317.014 of the Revised Code, 32872~~

~~an amount equal to the applicable vocational education weight 32873
times the community school's base formula amount times the 32874
percentage of time the student spends in the vocational education 32875
programs or classes. 32876~~

~~(5) An amount equal to the sum of the amounts obtained when, 32877
for each school district where the community school's students are 32878
entitled to attend school, the number of that district's students 32879
enrolled in the community school who are included in the 32880
district's poverty student count is multiplied by the per pupil 32881
amount of poverty based assistance that school district receives 32882
that year pursuant to division (C) of section 3317.029 of the 32883
Revised Code, as adjusted by any poverty based assistance 32884
reduction factor of the community school. The per pupil amount of 32885
aid shall be determined as described in division (C)(4) of this 32886
section. 32887~~

~~(6) An amount equal to the sum of the amounts obtained when, 32888
for each school district where the community school's students are 32889
entitled to attend school, the district's per pupil amount of aid 32890
received under division (E) of section 3317.029 of the Revised 32891
Code, as adjusted by any poverty based assistance reduction factor 32892
of the community school, is multiplied by the sum of the 32893
following: 32894~~

~~(a) The number of the district's students reported under 32895
division (B)(2)(a) of this section who are enrolled in grades one 32896
to three in that community school and who are not receiving 32897
special education and related services pursuant to an IEP; 32898~~

~~(b) One half of the district's students who are enrolled in 32899
all-day or any other kindergarten class in that community school 32900
and who are not receiving special education and related services 32901
pursuant to an IEP; 32902~~

~~(c) One half of the district's students who are enrolled in 32903~~

~~all day kindergarten in that community school and who are not 32904
receiving special education and related services pursuant to an 32905
IEP. 32906~~

~~The district's per pupil amount of aid under division (E) of 32907
section 3317.029 of the Revised Code shall be determined as 32908
described in division (C)(5) of this section. 32909~~

~~(7) An amount equal to the sum of the amounts obtained when, 32910
for each school district where the community school's students are 32911
entitled to attend school, the number of that district's students 32912
enrolled in the community school who are identified as 32913
limited English proficient is multiplied by the district's per 32914
pupil amount received under division (F) of section 3317.029 of 32915
the Revised Code, as adjusted by any poverty based assistance 32916
reduction factor of the community school. 32917~~

~~(8) An amount equal to the sum of the amounts obtained when, 32918
for each school district where the community school's students are 32919
entitled to attend school, the district's per pupil amount 32920
received under division (G) of section 3317.029 of the Revised 32921
Code, as adjusted by any poverty based assistance reduction factor 32922
of the community school, is multiplied by the sum of the 32923
following: 32924~~

~~(a) The number of the district's students enrolled in grades 32925
one through twelve in that community school; 32926~~

~~(b) One half of the number of the district's students 32927
enrolled in kindergarten in that community school. 32928~~

~~The district's per pupil amount under division (G) of section 32929
3317.029 of the Revised Code shall be determined as described in 32930
division (C)(7) of this section. 32931~~

~~(9) An amount equal to the sum of the amounts obtained when, 32932
for each school district where the community school's students are 32933
entitled to attend school, the district's per pupil amount 32934~~

~~received under divisions (H) and (I) of section 3317.029 of the Revised Code, as adjusted by any poverty based assistance reduction factor of the community school, is multiplied by the sum of the following:~~

~~(a) The number of the district's students enrolled in grades one through twelve in that community school;~~

~~(b) One half of the number of the district's students enrolled in kindergarten in that community school.~~

~~The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code shall be determined as described in division (C)(8) of this section.~~

~~(10) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of state parity aid funding calculated under either division (C) or (D) of section 3317.0217 of the Revised Code is multiplied by the sum of the number of that district's students enrolled in grades one through twelve, and one half of the number of that district's students enrolled in kindergarten, in the community school as reported under division (B)(2)(a) and (b) of this section amount calculated for the school under section 3306.16 of the Revised Code.~~

~~(E)(D)(1) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a disability described in divisions (B) ~~to (F)(C)(2) to (6)~~ of section ~~3317.013~~ 3306.02 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation~~

for a student of the type and in the manner prescribed, the 32966
department shall pay to the community school an amount equal to 32967
the school's costs for the student in excess of the threshold 32968
catastrophic costs. 32969

(2) The community school shall only report under division 32970
~~(E)~~(D)(1) of this section, and the department shall only pay for, 32971
the costs of educational expenses and the related services 32972
provided to the student in accordance with the student's 32973
~~individualized education program~~ IEP. Any legal fees, court costs, 32974
or other costs associated with any cause of action relating to the 32975
student may not be included in the amount. 32976

~~(F)~~(E) A community school may apply to the department of 32977
education for preschool children with disabilities ~~or gifted~~ unit 32978
funding the school would receive if it were a school district. 32979
Upon request of its governing authority, a community school that 32980
received such preschool unit funding as a school district-operated 32981
school before it became a community school shall retain any units 32982
awarded to it as a school district-operated school provided the 32983
school continues to meet eligibility standards for the unit. 32984

A community school shall be considered a school district and 32985
its governing authority shall be considered a board of education 32986
for the purpose of applying to any state or federal agency for 32987
grants that a school district may receive under federal or state 32988
law or any appropriations act of the general assembly. The 32989
governing authority of a community school may apply to any private 32990
entity for additional funds. 32991

~~(G)~~(F) A board of education sponsoring a community school may 32992
utilize local funds to make enhancement grants to the school or 32993
may agree, either as part of the contract or separately, to 32994
provide any specific services to the community school at no cost 32995
to the school. 32996

~~(H)~~(G) A community school may not levy taxes or issue bonds secured by tax revenues. 32997
32998

~~(I)~~(H) No community school shall charge tuition for the enrollment of any student. 32999
33000

~~(J)~~(I)(1)(a) A community school may borrow money to pay any necessary and actual expenses of the school in anticipation of the receipt of any portion of the payments to be received by the school pursuant to division ~~(D)~~(C) of this section. The school may issue notes to evidence such borrowing. The proceeds of the notes shall be used only for the purposes for which the anticipated receipts may be lawfully expended by the school. 33001
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(b) A school may also borrow money for a term not to exceed fifteen years for the purpose of acquiring facilities. 33008
33009

(2) Except for any amount guaranteed under section 3318.50 of the Revised Code, the state is not liable for debt incurred by the governing authority of a community school. 33010
33011
33012

~~(K) For purposes of determining the number of students for which divisions (D)(5) and (6) of this section applies in any school year, a community school may submit to the department of job and family services, no later than the first day of March, a list of the students enrolled in the school. For each student on the list, the community school shall indicate the student's name, address, and date of birth and the school district where the student is entitled to attend school. Upon receipt of a list under this division, the department of job and family services shall determine, for each school district where one or more students on the list is entitled to attend school, the number of students residing in that school district who were included in the department's report under section 3317.10 of the Revised Code. The department shall make this determination on the basis of information readily available to it. Upon making this~~ 33013
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determination and no later than ninety days after submission of 33028
the list by the community school, the department shall report to 33029
the state department of education the number of students on the 33030
list who reside in each school district who were included in the 33031
department's report under section 3317.10 of the Revised Code. In 33032
complying with this division, the department of job and family 33033
services shall not report to the state department of education any 33034
personally identifiable information on any student. 33035

~~(L)(J)~~ The department of education shall adjust the amounts 33036
~~subtracted and amount~~ paid under ~~divisions~~ division (C) and ~~(D)~~ of 33037
this section to reflect any enrollment of students in community 33038
schools for less than the equivalent of a full school year. The 33039
state board of education ~~within ninety days after April 8, 2003,~~ 33040
shall adopt in accordance with Chapter 119. of the Revised Code 33041
rules governing the payments to community schools under this 33042
section and ~~section 3314.13 of the Revised Code~~ including initial 33043
payments in a school year and adjustments and reductions made in 33044
subsequent periodic payments to community schools ~~and~~ 33045
~~corresponding deductions from school district accounts as provided~~ 33046
~~under divisions (C) and (D) of this section and section 3314.13 of~~ 33047
~~the Revised Code.~~ For purposes of this section and ~~section 3314.13~~ 33048
~~of the Revised Code:~~ 33049

(1) A student shall be considered enrolled in the community 33050
school for any portion of the school year the student is 33051
participating at a college under Chapter 3365. of the Revised 33052
Code. 33053

(2) A student shall be considered to be enrolled in a 33054
community school during a school year for the period of time 33055
beginning on the later of the date on which the school both has 33056
received documentation of the student's enrollment from a parent 33057
and the student has commenced participation in learning 33058
opportunities as defined in the contract with the sponsor, or 33059

thirty days prior to the date on which the student is entered into 33060
the education management information system established under 33061
section 3301.0714 of the Revised Code. For purposes of applying 33062
this division and division ~~(I)~~(J)(3) of this section to a 33063
community school student, "learning opportunities" shall be 33064
defined in the contract, which shall describe both classroom-based 33065
and non-classroom-based learning opportunities and shall be in 33066
compliance with criteria and documentation requirements for 33067
student participation which shall be established by the 33068
department. Any student's instruction time in non-classroom-based 33069
learning opportunities shall be certified by an employee of the 33070
community school. A student's enrollment shall be considered to 33071
cease on the date on which any of the following occur: 33072

(a) The community school receives documentation from a parent 33074
terminating enrollment of the student. 33075

(b) The community school is provided documentation of a 33076
student's enrollment in another public or private school. 33077

(c) The community school ceases to offer learning 33078
opportunities to the student pursuant to the terms of the contract 33079
with the sponsor or the operation of any provision of this 33080
chapter. 33081

(3) The department shall determine each community school 33082
student's percentage of full-time equivalency based on the 33083
percentage of learning opportunities offered by the community 33084
school to that student, reported either as number of hours or 33085
number of days, is of the total learning opportunities offered by 33086
the community school to a student who attends for the school's 33087
entire school year. However, no internet- or computer-based 33088
community school shall be credited for any time a student spends 33089
participating in learning opportunities beyond ten hours within 33090
any period of twenty-four consecutive hours. Whether it reports 33091

hours or days of learning opportunities, each community school 33092
shall offer not less than ~~nine hundred twenty~~ the applicable 33093
minimum number of hours of learning opportunities during the 33094
school year prescribed by section 3314.031 of the Revised Code. 33095

~~(M)~~(K) The department of education shall reduce the amounts 33096
paid under division ~~(D)~~(C) of this section to reflect payments 33097
made to colleges under division (B) of section 3365.07 of the 33098
Revised Code or through alternative funding agreements entered 33099
into under rules adopted under section 3365.12 of the Revised 33100
Code. 33101

~~(N)~~(L)(1) No student shall be considered enrolled in any 33102
internet- or computer-based community school or, if applicable to 33103
the student, in any community school that is required to provide 33104
the student with a computer pursuant to division (C) of section 33105
3314.22 of the Revised Code, unless both of the following 33106
conditions are satisfied: 33107

(a) The student possesses or has been provided with all 33108
required hardware and software materials and all such materials 33109
are operational so that the student is capable of fully 33110
participating in the learning opportunities specified in the 33111
contract between the school and the school's sponsor as required 33112
by division (A)(23) of section 3314.03 of the Revised Code; 33113

(b) The school is in compliance with division (A) of section 33114
3314.22 of the Revised Code, relative to such student. 33115

(2) In accordance with policies adopted jointly by the 33116
superintendent of public instruction and the auditor of state, the 33117
department shall reduce the amounts otherwise payable under 33118
division ~~(D)~~(C) of this section to any community school that 33119
includes in its program the provision of computer hardware and 33120
software materials to any student, if such hardware and software 33121
materials have not been delivered, installed, and activated for 33122

each such student in a timely manner or other educational 33123
materials or services have not been provided according to the 33124
contract between the individual community school and its sponsor. 33125

The superintendent of public instruction and the auditor of 33126
state shall jointly establish a method for auditing any community 33127
school to which this division pertains to ensure compliance with 33128
this section. 33129

The superintendent, auditor of state, and the governor shall 33130
jointly make recommendations to the general assembly for 33131
legislative changes that may be required to assure fiscal and 33132
academic accountability for such schools. 33133

~~(O)~~(M)(1) If the department determines that a review of a 33134
community school's enrollment is necessary, such review shall be 33135
completed and written notice of the findings shall be provided to 33136
the governing authority of the community school and its sponsor 33137
within ninety days of the end of the community school's fiscal 33138
year, unless extended for a period not to exceed thirty additional 33139
days for one of the following reasons: 33140

(a) The department and the community school mutually agree to 33141
the extension. 33142

(b) Delays in data submission caused by either a community 33143
school or its sponsor. 33144

(2) If the review results in a finding that additional 33145
funding is owed to the school, such payment shall be made within 33146
thirty days of the written notice. If the review results in a 33147
finding that the community school owes moneys to the state, the 33148
following procedure shall apply: 33149

(a) Within ten business days of the receipt of the notice of 33150
findings, the community school may appeal the department's 33151
determination to the state board of education or its designee. 33152

(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an appeal and shall issue a decision within fifteen days of the conclusion of the hearing.

(c) If the board has enlisted a designee to conduct the hearing, the designee shall certify its decision to the board. The board may accept the decision of the designee or may reject the decision of the designee and issue its own decision on the matter.

(d) Any decision made by the board under this division is final.

(3) If it is decided that the community school owes moneys to the state, the department shall deduct such amount from the school's future payments in accordance with guidelines issued by the superintendent of public instruction.

~~(Q)~~(N) The department ~~shall not subtract from a school district's state aid account under division (C) of this section~~ and shall not pay to a community school under division ~~(D)~~(C) of this section any amount for any of the following:

(1) Any student who has graduated from the twelfth grade of a public or nonpublic high school;

(2) Any student who is not a resident of the state;

(3) Any student who was enrolled in the community school during the previous school year when ~~tests~~ assessments were administered under section 3301.0711 of the Revised Code but did not take one or more of the ~~tests~~ assessments required by that section and was not excused pursuant to division (C)(1) or (3) of that section, unless the superintendent of public instruction grants the student a waiver from the requirement to take the ~~test~~ assessment and a parent is not paying tuition for the student pursuant to section 3314.26 of the Revised Code. The superintendent may grant a waiver only for good cause in

accordance with rules adopted by the state board of education. 33184

(4) Any student who has attained the age of twenty-two years, 33185
except for veterans of the armed services whose attendance was 33186
interrupted before completing the recognized twelve-year course of 33187
the public schools by reason of induction or enlistment in the 33188
armed forces and who apply for enrollment in a community school 33189
not later than four years after termination of war or their 33190
honorable discharge. If, however, any such veteran elects to 33191
enroll in special courses organized for veterans for whom tuition 33192
is paid under federal law, or otherwise, the department ~~shall not~~ 33193
~~subtract from a school district's state aid account under division~~ 33194
~~(C) of this section and~~ shall not pay to a community school under 33195
division ~~(D)~~(C) of this section any amount for that veteran. 33196

Sec. 3314.083. If the department of education pays a joint 33197
vocational school district under division (G)(4) of section 33198
3317.16 of the Revised Code for excess costs of providing special 33199
education and related services to a student with a disability who 33200
is enrolled in a community school, as calculated under division 33201
(G)(2) of that section, the department shall deduct the amount of 33202
that payment from the amount calculated for payment to the 33203
community school under section ~~3314.08~~ 3306.16 of the Revised 33204
Code. 33205

Sec. 3314.084. (A) As used in this section: 33206

(1) ~~"Formula ADM" has the same meaning as in section 3317.03~~ 33207
~~of the Revised Code.~~ 33208

~~(2)~~ "Home" has the same meaning as in section 3313.64 of the 33209
Revised Code. 33210

~~(3)~~(2) "School district of residence" has the same meaning as 33211
in section 3323.01 of the Revised Code; however, a community 33212
school established under this chapter is not a "school district of 33213

residence" for purposes of this section. 33214

(B) Notwithstanding anything to the contrary in section 33215
3314.08 or 3317.03 of the Revised Code, ~~all of the following apply~~ 33216
in the case of a child who is enrolled in a community school and 33217
is also living in a home+ 33218

~~(1) For, for~~ purposes of the report required under division 33219
(B)~~(1)~~ of section 3314.08 of the Revised Code, the child's school 33220
district of residence, and not the school district in which the 33221
home that the child is living in is located, shall be considered 33222
to be the school district in which the child is entitled to attend 33223
school. ~~That school district of residence, therefore, shall make~~ 33224
~~the report required under division (B)(1) of section 3314.08 of~~ 33225
~~the Revised Code with respect to the child.~~ 33226

~~(2) For purposes of the report required under division (B)(2)~~ 33227
~~of section 3314.08 of the Revised Code, the community school shall~~ 33228
~~report the name of the child's school district of residence.~~ 33229

~~(3) The child's school district of residence shall count the~~ 33230
~~child in that district's formula ADM.~~ 33231

~~(4) The school district in which the home that the child is~~ 33232
~~living in is located shall not count the child in that district's~~ 33233
~~formula ADM.~~ 33234

~~(5) The Department of Education shall deduct the applicable~~ 33235
~~amounts prescribed under division (C) of section 3314.08 and~~ 33236
~~division (D) of section 3314.13 of the Revised Code from the~~ 33237
~~child's school district of residence and shall not deduct those~~ 33238
~~amounts from the school district in which the home that the child~~ 33239
~~is living in is located.~~ 33240

~~(6) The Department shall make the payments prescribed in~~ 33241
~~divisions (D) and (E) of section 3314.08 and section 3314.13 of~~ 33242
~~the Revised Code, as applicable, to the community school.~~ 33243

Sec. 3314.087. (A) As used in this section: 33244

(1) "Career-technical program" means vocational programs or 33245
classes described in division (A) or (B) of section 3317.014 of 33246
the Revised Code in which a student is enrolled. 33247

(2) "Formula ADM," "category one or two vocational education 33248
ADM," and "FTE basis" have the same meanings as in section 3317.02 33249
of the Revised Code. 33250

(3) "Resident school district" means the city, exempted 33251
village, or local school district in which a student is entitled 33252
to attend school under section 3313.64 or 3313.65 of the Revised 33253
Code. 33254

(B) Notwithstanding anything to the contrary in this chapter 33255
or Chapter 3306. or 3317. of the Revised Code, a student enrolled 33256
in a community school may simultaneously enroll in the 33257
career-technical program operated by the student's resident school 33258
district. On an FTE basis, the student's resident school district 33259
shall count the student in the category one or two vocational 33260
education ADM for the proportion of the time the student is 33261
enrolled in the district's career-technical program and, 33262
accordingly, the department of education shall calculate funds 33263
under Chapter 3317. for the district attributable to the student 33264
for the proportion of time the student attends the 33265
career-technical program. The community school shall count the 33266
student in its enrollment report under section 3314.08 of the 33267
Revised Code and shall report to the department the proportion of 33268
time that the student attends classes at the community school. The 33269
department shall pay the community school ~~and deduct from the~~ 33270
~~student's resident school district~~ the amount computed for the 33271
student under section ~~3314.08~~ 3306.16 of the Revised Code in 33272
proportion to the fraction of the time on an FTE basis that the 33273
student attends classes at the community school. "Full-time 33274

equivalency" for a community school student, as defined in 33275
division ~~(L)~~(J) of section 3314.08 of the Revised Code, does not 33276
apply to the student. 33277

Sec. 3314.091. (A) A school district is not required to 33278
provide transportation for any native student enrolled in a 33279
community school if the district board of education has entered 33280
into an agreement with the community school's governing authority 33281
that designates the community school as responsible for providing 33282
or arranging for the transportation of the district's native 33283
students to and from the community school. For any such agreement 33284
to be effective, it must be certified by the superintendent of 33285
public instruction as having met all of the following 33286
requirements: 33287

(1) It is submitted to the department of education by a 33288
deadline which shall be established by the department. 33289

(2) In accordance with divisions (C)(1) and (2) of this 33290
section, it specifies qualifications, such as residing a minimum 33291
distance from the school, for students to have their 33292
transportation provided or arranged. 33293

(3) The transportation provided by the community school is 33294
subject to all provisions of the Revised Code and all rules 33295
adopted under the Revised Code pertaining to pupil transportation. 33296

(4) The sponsor of the community school also has signed the 33297
agreement. 33298

(B)(1) For the school year that begins on July 1, 2007, a 33299
school district is not required to provide transportation for any 33300
native student enrolled in a community school, if the community 33301
school during the previous school year transported the students 33302
enrolled in the school or arranged for the students' 33303
transportation, even if that arrangement consisted of having 33304

parents transport their children to and from the school, but did 33305
not enter into an agreement to transport or arrange for 33306
transportation for those students under division (A) of this 33307
section, and if the governing authority of the community school by 33308
July 15, 2007, submits written notification to the district board 33309
of education stating that the governing authority is accepting 33310
responsibility for providing or arranging for the transportation 33311
of the district's native students to and from the community 33312
school. 33313

(2) For any school year subsequent to the school year that 33314
begins on July 1, 2007, a school district is not required to 33315
provide transportation for any native student enrolled in a 33316
community school if the governing authority of the community 33317
school, by the thirty-first day of January of the previous school 33318
year, submits written notification to the district board of 33319
education stating that the governing authority is accepting 33320
responsibility for providing or arranging for the transportation 33321
of the district's native students to and from the community 33322
school. If the governing authority of the community school has 33323
previously accepted responsibility for providing or arranging for 33324
the transportation of a district's native students to and from the 33325
community school, under division (B)(1) or (2) of this section, 33326
and has since relinquished that responsibility under division 33327
(B)(3) of this section, the governing authority shall not accept 33328
that responsibility again unless the district board consents to 33329
the governing authority's acceptance of that responsibility. 33330

(3) A governing authority's acceptance of responsibility 33331
under division (B)(1) or (2) of this section shall cover an entire 33332
school year, and shall remain in effect for subsequent school 33333
years unless the governing authority submits written notification 33334
to the district board that the governing authority is 33335
relinquishing the responsibility. However, a governing authority 33336

shall not relinquish responsibility for transportation before the 33337
end of a school year, and shall submit the notice relinquishing 33338
responsibility by the thirty-first day of January, in order to 33339
allow the school district reasonable time to prepare 33340
transportation for its native students enrolled in the school. 33341

(C)(1) A community school governing authority that enters 33342
into an agreement under division (A) of this section, or that 33343
accepts responsibility under division (B) of this section, shall 33344
provide or arrange transportation free of any charge for each of 33345
its enrolled students who is required to be transported under 33346
section 3327.01 of the Revised Code or who would otherwise be 33347
transported by the school district under the district's 33348
transportation policy. The governing authority shall report to the 33349
department of education the number of students transported or for 33350
whom transportation is arranged under this section in accordance 33351
with rules adopted by the state board of education. 33352

(2) The governing authority may provide or arrange 33353
transportation for any other enrolled student who is not eligible 33354
for transportation in accordance with division (C)(1) of this 33355
section and may charge a fee for such service up to the actual 33356
cost of the service. 33357

(3) Notwithstanding anything to the contrary in division 33358
(C)(1) or (2) of this section, a community school governing 33359
authority shall provide or arrange transportation free of any 33360
charge for any disabled student enrolled in the school for whom 33361
the student's individualized education program developed under 33362
Chapter 3323. of the Revised Code specifies transportation. 33363

(D)(1) If a school district board and a community school 33364
governing authority elect to enter into an agreement under 33365
division (A) of this section, the department of education shall 33366
make payments to the community school according to the terms of 33367
the agreement for each student actually transported under division 33368

(C)(1) of this section. 33369

If a community school governing authority accepts 33370
transportation responsibility under division (B) of this section, 33371
the department shall make payments to the community school for 33372
each student actually transported or for whom transportation is 33373
arranged by the community school under division (C)(1) of this 33374
section, calculated as follows: 33375

(a) For any fiscal year which the general assembly has 33376
specified that transportation payments to school districts be 33377
based on an across-the-board percentage of the district's payment 33378
for the previous school year, the per pupil payment to the 33379
community school shall be the following quotient: 33380

(i) The total amount calculated for the school district in 33381
which the child is entitled to attend school for student 33382
transportation other than transportation of children with 33383
disabilities; divided by 33384

(ii) The number of students included in the district's 33385
transportation ADM for the current fiscal year, as reported under 33386
division (B)(13) of section 3317.03 of the Revised Code, plus the 33387
number of students enrolled in the community school not counted in 33388
the district's transportation ADM who are transported under 33389
division (B)(1) or (2) of this section. 33390

(b) For any fiscal year which the general assembly has 33391
specified that the transportation payments to school districts be 33392
calculated in accordance with ~~division (D) of section 3317.022~~ 33393
3306.12 of the Revised Code and any rules of the state board of 33394
education implementing that ~~division~~ section, the payment to the 33395
community school shall be the amount so calculated that otherwise 33396
would be paid to the school district in which the student is 33397
entitled to attend school by the method of transportation the 33398
district would have used. The community school, however, is not 33399

required to use the same method to transport that student. 33400

As used in this division "entitled to attend school" means 33401
entitled to attend school under section 3313.64 or 3313.65 of the 33402
Revised Code. 33403

(2) The department shall deduct the payment under division 33404
(D)(1) of this section from the state education aid, as defined in 33405
section ~~3314.08~~ 5751.20 of the Revised Code, and, if necessary, 33406
the payment under sections 321.14 and 323.156 of the Revised Code, 33407
that is otherwise paid to the school district in which the student 33408
enrolled in the community school is entitled to attend school. The 33409
department shall include the number of the district's native 33410
students for whom payment is made to a community school under 33411
division (D)(1) of this section in the calculation of the 33412
district's transportation payment under ~~division (D)~~ of section 33413
~~3317.022~~ 3306.12 of the Revised Code and the operating 33414
appropriations act. 33415

(3) A community school shall be paid under division (D)(1) of 33416
this section only for students who are eligible as specified in 33417
section 3327.01 of the Revised Code and division (C)(1) of this 33418
section, and whose transportation to and from school is actually 33419
provided, who actually utilized transportation arranged, or for 33420
whom a payment in lieu of transportation is made by the community 33421
school's governing authority. To qualify for the payments, the 33422
community school shall report to the department, in the form and 33423
manner required by the department, data on the number of students 33424
transported or whose transportation is arranged, the number of 33425
miles traveled, cost to transport, and any other information 33426
requested by the department. 33427

(4) A community school shall use payments received under this 33428
section solely to pay the costs of providing or arranging for the 33429
transportation of students who are eligible as specified in 33430
section 3327.01 of the Revised Code and division (C)(1) of this 33431

section, which may include payments to a parent, guardian, or 33432
other person in charge of a child in lieu of transportation. 33433

(E) Except when arranged through payment to a parent, 33434
guardian, or person in charge of a child, transportation provided 33435
or arranged for by a community school pursuant to an agreement 33436
under this section is subject to all provisions of the Revised 33437
Code, and all rules adopted under the Revised Code, pertaining to 33438
the construction, design, equipment, and operation of school buses 33439
and other vehicles transporting students to and from school. The 33440
drivers and mechanics of the vehicles are subject to all 33441
provisions of the Revised Code, and all rules adopted under the 33442
Revised Code, pertaining to drivers and mechanics of such 33443
vehicles. The community school also shall comply with sections 33444
3313.201, 3327.09, and 3327.10 of the Revised Code, division (B) 33445
of section 3327.16 of the Revised Code and, subject to division 33446
(C)(1) of this section, sections 3327.01 and 3327.02 of the 33447
Revised Code, as if it were a school district. 33448

Sec. 3314.10. (A)(1) The governing authority of any community 33449
school established under this chapter may employ teachers and 33450
nonteaching employees necessary to carry out its mission and 33451
fulfill its contract. 33452

(2) Except as provided under division (A)(3) of this section, 33453
employees hired under this section may organize and collectively 33454
bargain pursuant to Chapter 4117. of the Revised Code. 33455
Notwithstanding division (D)(1) of section 4117.06 of the Revised 33456
Code, a unit containing teaching and nonteaching employees 33457
employed under this section shall be considered an appropriate 33458
unit. As applicable, employment under this section is subject to 33459
either Chapter 3307. or 3309. of the Revised Code. 33460

(3) If a school is created by converting all or part of an 33461
existing public school rather than by establishment of a new 33462

start-up school, at the time of conversion, the employees of the 33463
community school shall remain part of any collective bargaining 33464
unit in which they were included immediately prior to the 33465
conversion and shall remain subject to any collective bargaining 33466
agreement for that unit in effect on the first day of July of the 33467
year in which the community school initially begins operation and 33468
shall be subject to any subsequent collective bargaining agreement 33469
for that unit, unless a petition is certified as sufficient under 33470
division (A)(6) of this section with regard to those employees. 33471
Any new employees of the community school shall also be included 33472
in the unit to which they would have been assigned had not the 33473
conversion taken place and shall be subject to the collective 33474
bargaining agreement for that unit unless a petition is certified 33475
as sufficient under division (A)(6) of this section with regard to 33476
those employees. 33477

Notwithstanding division (B) of section 4117.01 of the 33478
Revised Code, the board of education of a school district and not 33479
the governing authority of a community school shall be regarded, 33480
for purposes of Chapter 4117. of the Revised Code, as the "public 33481
employer" of the employees of a conversion community school 33482
subject to a collective bargaining agreement pursuant to division 33483
(A)(3) of this section unless a petition is certified under 33484
division (A)(6) of this section with regard to those employees. 33485
Only on and after the effective date of a petition certified as 33486
sufficient under division (A)(6) of this section shall division 33487
(A)(2) of this section apply to those employees of that community 33488
school and only on and after the effective date of that petition 33489
shall Chapter 4117. of the Revised Code apply to the governing 33490
authority of that community school with regard to those employees. 33491

(4) Notwithstanding sections 4117.03 to 4117.18 of the 33492
Revised Code and Section 4 of Amended Substitute Senate Bill No. 33493
133 of the 115th general assembly, the employees of a conversion 33494

community school who are subject to a collective bargaining 33495
agreement pursuant to division (A)(3) of this section shall cease 33496
to be subject to that agreement and all subsequent agreements 33497
pursuant to that division and shall cease to be part of the 33498
collective bargaining unit that is subject to that and all 33499
subsequent agreements, if a majority of the employees of that 33500
community school who are subject to that collective bargaining 33501
agreement sign and submit to the state employment relations board 33502
a petition requesting all of the following: 33503

(a) That all the employees of the community school who are 33504
subject to that agreement be removed from the bargaining unit that 33505
is subject to that agreement and be designated by the state 33506
employment relations board as a new and separate bargaining unit 33507
for purposes of Chapter 4117. of the Revised Code; 33508

(b) That the employee organization certified as the exclusive 33509
representative of the employees of the bargaining unit from which 33510
the employees are to be removed be certified as the exclusive 33511
representative of the new and separate bargaining unit for 33512
purposes of Chapter 4117. of the Revised Code; 33513

(c) That the governing authority of the community school be 33514
regarded as the "public employer" of these employees for purposes 33515
of Chapter 4117. of the Revised Code. 33516

(5) Notwithstanding sections 4117.03 to 4117.18 of the 33517
Revised Code and Section 4 of Amended Substitute Senate Bill No. 33518
133 of the 115th general assembly, the employees of a conversion 33519
community school who are subject to a collective bargaining 33520
agreement pursuant to division (A)(3) of this section shall cease 33521
to be subject to that agreement and all subsequent agreements 33522
pursuant to that division, shall cease to be part of the 33523
collective bargaining unit that is subject to that and all 33524
subsequent agreements, and shall cease to be represented by any 33525
exclusive representative of that collective bargaining unit, if a 33526

majority of the employees of the community school who are subject 33527
to that collective bargaining agreement sign and submit to the 33528
state employment relations board a petition requesting all of the 33529
following: 33530

(a) That all the employees of the community school who are 33531
subject to that agreement be removed from the bargaining unit that 33532
is subject to that agreement; 33533

(b) That any employee organization certified as the exclusive 33534
representative of the employees of that bargaining unit be 33535
decertified as the exclusive representative of the employees of 33536
the community school who are subject to that agreement; 33537

(c) That the governing authority of the community school be 33538
regarded as the "public employer" of these employees for purposes 33539
of Chapter 4117. of the Revised Code. 33540

(6) Upon receipt of a petition under division (A)(4) or (5) 33541
of this section, the state employment relations board shall check 33542
the sufficiency of the signatures on the petition. If the 33543
signatures are found sufficient, the board shall certify the 33544
sufficiency of the petition and so notify the parties involved, 33545
including the board of education, the governing authority of the 33546
community school, and any exclusive representative of the 33547
bargaining unit. The changes requested in a certified petition 33548
shall take effect on the first day of the month immediately 33549
following the date on which the sufficiency of the petition is 33550
certified under division (A)(6) of this section. 33551

(B)(1) The board of education of each city, local, and 33552
exempted village school district sponsoring a community school and 33553
the governing board of each educational service center in which a 33554
community school is located shall adopt a policy that provides a 33555
leave of absence of at least three years to each teacher or 33556
nonteaching employee of the district or service center who is 33557

employed by a conversion or new start-up community school 33558
sponsored by the district or located in the district or center for 33559
the period during which the teacher or employee is continuously 33560
employed by the community school. The policy shall also provide 33561
that any teacher or nonteaching employee may return to employment 33562
by the district or service center if the teacher or employee 33563
leaves or is discharged from employment with the community school 33564
for any reason, unless, in the case of a teacher, the board of the 33565
district or service center determines that the teacher was 33566
discharged for a reason for which the board would have sought to 33567
discharge the teacher under section 3319.16 of the Revised Code, 33568
in which case the board may proceed to discharge the teacher 33569
utilizing the procedures of that section. Upon termination of such 33570
a leave of absence, any seniority that is applicable to the person 33571
shall be calculated to include all of the following: all 33572
employment by the district or service center prior to the leave of 33573
absence; all employment by the community school during the leave 33574
of absence; and all employment by the district or service center 33575
after the leave of absence. The policy shall also provide that if 33576
any teacher holding valid certification returns to employment by 33577
the district or service center upon termination of such a leave of 33578
absence, the teacher shall be restored to the previous position 33579
and salary or to a position and salary similar thereto. If, as a 33580
result of teachers returning to employment upon termination of 33581
such leaves of absence, a school district or educational service 33582
center reduces the number of teachers it employs, it shall make 33583
such reductions in accordance with section 3319.17 or, if 33584
applicable, 3319.171 of the Revised Code. 33585

Unless a collective bargaining agreement providing otherwise 33586
is in effect for an employee of a conversion community school 33587
pursuant to division (A)(3) of this section, an employee on a 33588
leave of absence pursuant to this division shall remain eligible 33589
for any benefits that are in addition to benefits under Chapter 33590

3307. or 3309. of the Revised Code provided by the district or 33591
service center to its employees provided the employee pays the 33592
entire cost associated with such benefits, except that personal 33593
leave and vacation leave cannot be accrued for use as an employee 33594
of a school district or service center while in the employ of a 33595
community school unless the district or service center board 33596
adopts a policy expressly permitting this accrual. 33597

(2) While on a leave of absence pursuant to division (B)(1) 33598
of this section, a conversion community school shall permit a 33599
teacher to use sick leave accrued while in the employ of the 33600
school district from which the leave of absence was taken and 33601
prior to commencing such leave. If a teacher who is on such a 33602
leave of absence uses sick leave so accrued, the cost of any 33603
salary paid by the community school to the teacher for that time 33604
shall be reported to the department of education. The cost of 33605
employing a substitute teacher for that time shall be paid by the 33606
community school. The department of education shall add amounts to 33607
the payments made to a community school under this chapter and 33608
section 3306.16 of the Revised Code as necessary to cover the cost 33609
of salary reported by a community school as paid to a teacher 33610
using sick leave so accrued pursuant to this section. The 33611
department shall subtract the amounts of any payments made to 33612
community schools under this division from payments made to such 33613
sponsoring school district under ~~Chapter~~ Chapters 3306. and 3317. 33614
of the Revised Code. 33615

A school district providing a leave of absence and employee 33616
benefits to a person pursuant to this division is not liable for 33617
any action of that person while the person is on such leave and 33618
employed by a community school. 33619

Sec. 3314.102. Each community school shall do both of the 33620
following in the same manner as required of a school district: 33621

(A) Comply with the provisions of section 3319.074 of the Revised Code, except that the prohibition in division (B) of that section shall apply only to teachers hired by the school on or after the effective date of this section; 33622
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(B) Employ as classroom teachers only persons who are licensed under sections 3319.22 to 3319.31 of the Revised Code in a manner that is in compliance with any rules of the state board of education that either implement those sections or otherwise require teachers to teach in the subject areas or grade levels for which they are licensed. 33626
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A community school may engage persons issued permits under section 3319.301 of the Revised Code in the same manner as may school districts. 33632
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Sec. 3314.19. The sponsor of each community school annually shall provide the following assurances in writing to the department of education not later than ten business days prior to the opening of the school: 33635
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(A) That the sponsor has filed a current copy of the contract between the sponsor and the governing authority of the school entered into under section 3314.03 of the Revised Code ~~has been filed~~ with the state office of community schools established under section 3314.11 of the Revised Code and that the sponsor will file any subsequent modifications to that contract ~~will be filed~~ with the office; 33639
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(B) That the school has submitted to the sponsor a plan for providing special education and related services to students with disabilities and has demonstrated the capacity to provide those services in accordance with Chapter 3323. of the Revised Code and federal law; 33646
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(C) That the school has a plan and procedures for 33651

administering the achievement ~~tests~~ and diagnostic assessments 33652
prescribed by sections 3301.0710, 3301.0712, and 3301.0715 of the 33653
Revised Code; 33654

(D) That school personnel have the necessary training, 33655
knowledge, and resources to properly use and submit information to 33656
all databases maintained by the department for the collection of 33657
education data, including the education management information 33658
system established under section 3301.0714 of the Revised Code in 33659
accordance with methods and timelines established under section 33660
3314.17 of the Revised Code; 33661

(E) That the school has submitted all required information 33662
about the school ~~has been submitted~~ to the Ohio education 33663
directory system or any successor system; 33664

(F) That the school will enroll at least the minimum number 33665
of students required by division (A)(11)(a) of section 3314.03 of 33666
the Revised Code in the school year for which the assurances are 33667
provided; 33668

(G) That all classroom teachers are licensed in accordance 33669
with ~~sections 3319.22 to 3319.31 of the Revised Code, except for~~ 33670
~~noncertificated persons engaged to teach up to twelve hours per~~ 33671
~~week pursuant to section 3319.301~~ 3314.102 of the Revised Code; 33672

(H) That the school's fiscal officer is in compliance with 33673
section 3314.011 of the Revised Code; 33674

(I) That the school has complied with sections 3319.39 and 33675
3319.391 of the Revised Code with respect to all employees, that 33676
the school has complied with section 3314.41 of the Revised Code 33677
with respect to persons described in division (B) of that section, 33678
and that the school has conducted a criminal records check of each 33679
of its governing authority members; 33680

(J) That the school holds all of the following: 33681

(1) Proof of property ownership or a lease for the facilities used by the school;	33682 33683
(2) A certificate of occupancy;	33684
(3) Liability insurance for the school, as required by division (A)(11)(b) of section 3314.03 of the Revised Code, that the sponsor considers sufficient to indemnify the school's facilities, staff, and governing authority against risk;	33685 33686 33687 33688
(4) A satisfactory health and safety inspection;	33689
(5) A satisfactory fire inspection;	33690
(6) A valid food permit, if applicable.	33691
(K) That the sponsor has conducted a pre-opening site visit to the school for the school year for which the assurances are provided;	33692 33693 33694
(L) That the school has designated a date it will open for the school year for which the assurances are provided that is in compliance with division (A)(25) of section 3314.03 of the Revised Code;	33695 33696 33697 33698
(M) That the school has met all of the sponsor's requirements for opening and any other requirements of the sponsor.	33699 33700
<u>Sec. 3314.191. The sponsor of a community school is subject to this section if the sponsor fails to take an action described in division (A) or (K) of section 3314.19 of the Revised Code with respect to one or more of the community schools it sponsors, or if one or more of the community schools it sponsors fails to meet any of the criteria specified in divisions (B) to (J), (L), and (M) of that section.</u>	33701 33702 33703 33704 33705 33706 33707
<u>(A) In any year in which a sponsor becomes subject to this section, the department of education shall provide the sponsor with technical assistance to bring the sponsor or the community</u>	33708 33709 33710

school into compliance with the criteria specified in section 33711
3314.19 of the Revised Code, and the sponsor shall take both of 33712
the following actions: 33713

(1) Develop and submit to the department a three-year 33714
operations improvement plan containing all of the following: 33715

(a) An analysis of the reasons for the sponsor's failure to 33716
comply with the criteria and to assure that the community schools 33717
it sponsors comply with the criteria; 33718

(b) Specific strategies the sponsor will use to address the 33719
problems in meeting the criteria; 33720

(c) Identification of the resources the sponsor will use to 33721
meet the criteria and to assure that the schools it sponsors meet 33722
the criteria; 33723

(d) A description of how the sponsor will measure its 33724
progress in meeting the criteria and assuring that the schools it 33725
sponsors meet the criteria. 33726

(2) Notify the parent or guardian of each student enrolled in 33727
each community school it sponsors with respect to which the 33728
criteria were not met, either in writing or by electronic means, 33729
of the criteria the sponsor or the school did not meet, the 33730
actions the sponsor is taking toward meeting the criteria and 33731
assuring that the school meets the criteria, and any progress the 33732
sponsor has achieved in the immediately preceding school year 33733
toward meeting the criteria and assuring that the school meets the 33734
criteria. 33735

(B) If a sponsor becomes subject to this section in a second 33736
consecutive year, both of the following apply: 33737

(1) The sponsor shall take the actions required by divisions 33738
(A)(1) and (2) of this section; 33739

(2) The department shall declare the sponsor to be in 33740

probationary status, and monitor the sponsor's actions to 33741
implement remedies, in accordance with division (D) of section 33742
3314.015 of the Revised Code. The department may suspend or 33743
restrict the sponsor's authority to sponsor community schools 33744
under divisions (D)(3) and (4) of that section if the department 33745
finds that the remedies offered by the sponsor are not 33746
satisfactory, or if the department finds that the sponsor is not 33747
taking actions necessary to implement those remedies. 33748

(C) If a sponsor becomes subject to this section in a third 33749
consecutive year, the department shall revoke the sponsor's 33750
authority to sponsor community schools in accordance with division 33751
(C) of section 3314.015 of the Revised Code. 33752

(D) The department's suspension, restriction, or revocation 33753
of the sponsorship authority of a sponsor that is subject to this 33754
section is subject to appeal under division (E) of section 33755
3314.015 of the Revised Code. 33756

(E) This section does not restrict the department's authority 33757
otherwise to place a sponsor on probationary status, or otherwise 33758
to suspend, restrict, or revoke a sponsor's authority, under 33759
section 3314.015 of the Revised Code. 33760

Sec. 3314.21. (A) As used in this section: 33761

(1) "Harmful to juveniles" has the same meaning as in section 33762
2907.01 of the Revised Code. 33763

(2) "Obscene" has the same meaning as in division (F) of 33764
section 2907.01 of the Revised Code as that division has been 33765
construed by the supreme court of this state. 33766

(3) "Teacher of record" means a teacher who is responsible 33767
for the overall academic development and achievement of a student 33768
and not merely the student's instruction in any single subject. 33769

~~(B)(1)It~~ (1) It is the intent of the general assembly that 33770

teachers employed by internet- or computer-based community schools 33771
conduct visits with their students in person throughout the school 33772
year. 33773

(2) Each internet- or computer-based community school shall 33774
retain an affiliation with at least one full-time teacher of 33775
record licensed in accordance with ~~division (A)(10) of~~ section 33776
~~3314.03~~ 3314.102 of the Revised Code. 33777

(3) Each student enrolled in an internet- or computer-based 33778
community school shall be assigned to at least one teacher of 33779
record. No teacher of record shall be primarily responsible for 33780
the academic development and achievement of more than one hundred 33781
twenty-five students enrolled in the internet- or computer-based 33782
community school that has retained that teacher. 33783

(C) For any internet- or computer-based community school, the 33784
contract between the sponsor and the governing authority of the 33785
school described in section 3314.03 of the Revised Code shall 33786
specify each of the following: 33787

(1) A requirement that the school use a filtering device or 33788
install filtering software that protects against internet access 33789
to materials that are obscene or harmful to juveniles on each 33790
computer provided to students for instructional use. The school 33791
shall provide such device or software at no cost to any student 33792
who works primarily from the student's residence on a computer 33793
obtained from a source other than the school. 33794

(2) A plan for fulfilling the intent of the general assembly 33795
specified in division (B)(1) of this section. The plan shall 33796
indicate the number of times teachers will visit each student 33797
throughout the school year and the manner in which those visits 33798
will be conducted. 33799

(3) That the school will set up a central base of operation 33800
and the sponsor will maintain a representative within fifty miles 33801

of that base of operation to provide monitoring and assistance. 33802

Sec. 3314.25. Each internet- or computer-based community 33803
school shall provide its students a location within a fifty-mile 33804
radius of the student's residence at which to complete the 33805
statewide achievement ~~tests~~ and diagnostic assessments prescribed 33806
under sections 3301.079 ~~and~~, 3301.0710, and 3301.0712 of the 33807
Revised Code. 33808

Sec. 3314.26. (A) Each internet- or computer-based community 33809
school shall withdraw from the school any student who, for two 33810
consecutive school years, has failed to participate in the spring 33811
administration of any ~~test~~ assessment prescribed under section 33812
3301.0710 or 3301.0712 of the Revised Code for the student's grade 33813
level and was not excused from the test pursuant to division 33814
(C)(1) or (3) of section 3301.0711 of the Revised Code, regardless 33815
of whether a waiver was granted for the student under division 33816
~~(Q)~~(N)(3) of section 3314.08 of the Revised Code. The school shall 33817
report any such student's data verification code, as assigned 33818
pursuant to section 3301.0714 of the Revised Code, to the 33819
department of education. The department shall maintain a list of 33820
all data verification codes reported under this division and 33821
section 3313.6410 of the Revised Code and provide that list to 33822
each internet- or computer-based community school and to each 33823
school to which section 3313.6410 of the Revised Code applies. 33824

(B) No internet- or computer-based community school shall 33825
receive any state funds under this chapter for any enrolled 33826
student whose data verification code appears on the list 33827
maintained by the department under division (A) of this section. 33828

Notwithstanding any provision of the Revised Code to the 33829
contrary, the parent of any such student shall pay tuition to the 33830
internet- or computer-based community school in an amount equal to 33831

the state funds the school otherwise would receive for that 33832
student, as determined by the department. An internet- or 33833
computer-based community school may withdraw any student for whom 33834
the parent does not pay tuition as required by this division. 33835

Sec. 3314.35. (A)(1) Except as provided in division (A)(2) of 33836
this section, this section applies to any community school that 33837
meets one of the following criteria after July 1, 2008: 33838

(a) The school does not offer a grade level higher than three 33839
and has been declared to be in a state of academic emergency under 33840
section 3302.03 of the Revised Code for four consecutive school 33841
years. 33842

(b) The school satisfies all of the following conditions: 33843

(i) The school offers any of grade levels four to eight but 33844
does not offer a grade level higher than nine. 33845

(ii) The school has been declared to be in a state of 33846
academic emergency under section 3302.03 of the Revised Code for 33847
three consecutive school years. 33848

(iii) For two of those school years, the school showed less 33849
than one standard year of academic growth in either reading or 33850
mathematics, as determined by the department of education in 33851
accordance with rules adopted under division (A) of section 33852
3302.021 of the Revised Code. 33853

(c) The school satisfies all of the following conditions: 33854

(i) The school offers any of grade levels ten to twelve. 33855

(ii) The school has been declared to be in a state of 33856
academic emergency under section 3302.03 of the Revised Code for 33857
three consecutive school years. 33858

(iii) For two of those school years, the school showed less 33859
than two standard years of academic growth in either reading or 33860

mathematics, as determined by the department in accordance with 33861
rules adopted under division (A) of section 3302.021 of the 33862
Revised Code. 33863

(2) This section does not apply to any community school in 33864
which a majority of the students are enrolled in a dropout 33865
prevention and recovery program that is operated by the school and 33866
that has been granted a waiver under section 3314.36 of the 33867
Revised Code. 33868

(B) Any community school to which this section applies shall 33869
permanently close at the conclusion of the school year in which 33870
the school first becomes subject to this section. The sponsor and 33871
governing authority of the school shall comply with all procedures 33872
for closing a community school adopted by the department under 33873
division ~~(E)~~(F) of section 3314.015 of the Revised Code. The 33874
governing authority of the school shall not enter into a contract 33875
with any other sponsor under section 3314.03 of the Revised Code 33876
after the school closes. 33877

(C) Not later than July 1, 2008, the department shall 33878
determine the feasibility of using the value-added progress 33879
dimension, as defined in section 3302.01 of the Revised Code, as a 33880
factor in evaluating the academic performance of community schools 33881
described in division (A)(1)(c)(i) of this section. 33882
Notwithstanding divisions (A)(1)(c)(ii) and (iii) of this section, 33883
if the department determines that using the value-added progress 33884
dimension to evaluate community schools described in division 33885
(A)(1)(c)(i) of this section is not feasible, a community school 33886
described in that division shall be required to permanently close 33887
under this section only if it has been declared to be in a state 33888
of academic emergency under section 3302.03 of the Revised Code 33889
for four consecutive school years. 33890

Sec. 3314.36. (A) Section 3314.35 of the Revised Code does 33891

not apply to any community school in which a majority of the 33892
students are enrolled in a dropout prevention and recovery program 33893
that is operated by the school and that has been granted a waiver 33894
by the department of education. The department shall grant a 33895
waiver to a dropout prevention and recovery program, within sixty 33896
days after the program applies for the waiver, if the program 33897
meets all of the following conditions: 33898

(1) The program serves only students not younger than sixteen 33899
years of age and not older than twenty-one years of age. 33900

(2) The program enrolls students who, at the time of their 33901
initial enrollment, either, or both, are at least one grade level 33902
behind their cohort age groups or experience crises that 33903
significantly interfere with their academic progress such that 33904
they are prevented from continuing their traditional programs. 33905

(3) The program requires students to attain at least the 33906
applicable score designated for each of the ~~tests~~ assessments 33907
prescribed under division (B)(1) of section 3301.0710 of the 33908
Revised Code or, to the extent prescribed by rule of the state 33909
board of education under division (E)(6) of section 3301.0712 of 33910
the Revised Code, division (B)(2) of that section. 33911

(4) The program develops an individual career plan for the 33912
student that specifies the student's matriculating to a two-year 33913
degree program, acquiring a business and industry credential, or 33914
entering an apprenticeship. 33915

(5) The program provides counseling and support for the 33916
student related to the plan developed under division (A)(4) of 33917
this section during the remainder of the student's high school 33918
experience. 33919

(6) Prior to receiving the waiver, the program has submitted 33920
to the department an instructional plan that demonstrates how the 33921
academic content standards adopted by the state board of education 33922

under section 3301.079 of the Revised Code will be taught and 33923
assessed. 33924

If the department does not act either to grant the waiver or 33925
to reject the program application for the waiver within sixty days 33926
as required under this section, the waiver shall be considered to 33927
be granted. 33928

(B) Notwithstanding division (A) of this section, the 33929
department shall not grant a waiver to any community school that 33930
did not qualify for a waiver under this section when it initially 33931
began operations, unless the state board of education approves the 33932
waiver. 33933

Sec. ~~269.60.60~~ 3314.38. ~~UNAUDITABLE COMMUNITY SCHOOL~~ 33934

(A) If the ~~Auditor~~ auditor of ~~State~~ state or a public 33935
accountant, pursuant to section 117.41 of the Revised Code, 33936
declares a community school established under ~~Chapter 3314. of the~~ 33937
~~Revised Code~~ this chapter to be unauditabile, the ~~Auditor~~ auditor 33938
of ~~State~~ state shall provide written notification of that 33939
declaration to the school, the school's sponsor, and the 33940
~~Department~~ department of ~~Education~~ education. The ~~Auditor~~ auditor 33941
of ~~State~~ state also shall post the notification on the ~~Auditor~~ 33942
auditor of ~~State's~~ state's web site. 33943

(B) Notwithstanding any provision to the contrary in ~~Chapter~~ 33944
~~3314. of the Revised Code~~ this chapter or any other provision of 33945
law, a sponsor of a community school that is notified by the 33946
~~Auditor~~ auditor of ~~State~~ state under division (A) of this section 33947
that a community school it sponsors is unauditabile shall not enter 33948
into contracts with any additional community schools under section 33949
3314.03 of the Revised Code until the ~~Auditor~~ auditor of ~~State~~ 33950
state or a public accountant has completed a financial audit of 33951
that school. 33952

(C) Not later than forty-five days after receiving 33953
notification by the ~~Auditor~~ auditor of ~~State~~ state under division 33954
(A) of this section that a community school is unaudit-able, the 33955
sponsor of the school shall provide a written response to the 33956
~~Auditor~~ auditor of ~~State~~ state. The response shall include the 33957
following: 33958

(1) An overview of the process the sponsor will use to review 33959
and understand the circumstances that led to the community school 33960
becoming unaudit-able; 33961

(2) A plan for providing the ~~Auditor~~ auditor of ~~State~~ state 33962
with the documentation necessary to complete an audit of the 33963
community school and for ensuring that all financial documents are 33964
available in the future; 33965

(3) The actions the sponsor will take to ensure that the plan 33966
described in division (C)(2) of this section is implemented. 33967

(D) If a community school fails to make reasonable efforts 33968
and continuing progress to bring its accounts, records, files, or 33969
reports into an audit-able condition within ninety days after being 33970
declared unaudit-able, the ~~Auditor~~ auditor of ~~State~~ state, in 33971
addition to requesting legal action under sections 117.41 and 33972
117.42 of the Revised Code, shall notify the ~~Department~~ department 33973
of the school's failure. If the ~~Auditor~~ auditor of ~~State~~ state or 33974
a public accountant subsequently is able to complete a financial 33975
audit of the school, the ~~Auditor~~ auditor of ~~State~~ state shall 33976
notify the ~~Department~~ department that the audit has been 33977
completed. 33978

(E) Notwithstanding any provision to the contrary in ~~Chapter~~ 33979
~~3314. of the Revised Code~~ this chapter or any other provision of 33980
law, upon notification by the ~~Auditor~~ auditor of ~~State~~ state under 33981
division (D) of this section that a community school has failed to 33982
make reasonable efforts and continuing progress to bring its 33983

accounts, records, files, or reports into an auditable condition 33984
following a declaration that the school is unauditable, the 33985
~~Department~~ department shall immediately cease all payments to the 33986
school under ~~Chapter 3314. of the Revised Code~~ this chapter and 33987
any other provision of law. Upon subsequent notification from the 33988
~~Auditor~~ auditor of ~~State~~ state under that division that the 33989
~~Auditor~~ auditor of ~~State~~ state or a public accountant was able to 33990
complete a financial audit of the community school, the ~~Department~~ 33991
department shall release all funds withheld from the school under 33992
this section. 33993

Sec. 3314.39. (A) The department of education shall conduct 33994
an on-site visit of each community school at least every five 33995
years to evaluate the school's operations. During each visit, the 33996
department shall do all of the following: 33997

(1) Determine if the school has complied with the terms of 33998
the contract with its sponsor; 33999

(2) Determine if the school has complied with all laws 34000
regarding community school academic and fiscal accountability and 34001
with all other applicable laws and administrative rules; 34002

(3) Corroborate the information reported to the department by 34003
the sponsor under division (D)(3) of section 3314.03 of the 34004
Revised Code; 34005

(4) Review the school's progress in implementing a continuous 34006
improvement plan developed under division (B) of section 3302.04 34007
of the Revised Code, if applicable. 34008

(B) Each on-site visit conducted under this section may 34009
include school tours, classroom observations, and interviews with 34010
administrators, teachers, other school staff, parents, or 34011
students. 34012

(C) Each community school shall provide any data, documents, 34013

or other materials the department considers necessary to enable it 34014
to conduct a thorough on-site visit. 34015

(D) Upon completion of each on-site visit, the department 34016
shall issue a written report summarizing its findings. The 34017
department shall provide a copy of the report to the sponsor and 34018
governing authority of the community school. The sponsor or the 34019
governing authority may submit factual corrections to the 34020
department by a deadline established by the department. Upon 34021
receipt of any factual corrections, the department shall revise 34022
the report and issue a final version. The department shall post 34023
the final version of the report on its web site. 34024

(E) The sponsor of a community school may consider findings 34025
contained in the report issued under division (D) of this section 34026
in deciding whether to place the school in probationary status 34027
pursuant to section 3314.073 of the Revised Code, suspend the 34028
operation of the school pursuant to section 3314.072 of the 34029
Revised Code, or terminate the school's contract pursuant to 34030
section 3314.07 of the Revised Code. If the sponsor fails to take 34031
any of these actions that the department determines are warranted 34032
based on the findings in the report, the department may revoke the 34033
sponsor's approval to sponsor community schools in accordance with 34034
division (C) of section 3314.015 of the Revised Code. 34035

(F) Any on-site visit required by this section may be 34036
conducted in conjunction with a site evaluation required under 34037
division (D) of section 3302.04 of the Revised Code. 34038

(G) The state board of education shall adopt rules to 34039
implement this section. 34040

Sec. 3314.42. (A) The governing authority of each community 34041
school established under this chapter shall submit to the school's 34042
sponsor a copy of any corrective action plan for the school 34043
required by the department of education, including a corrective 34044

action plan required under division (L) of section 3301.0714 of 34045
the Revised Code. The chief administrative officer of that sponsor 34046
shall review and sign the corrective action plan and return it to 34047
the governing authority. The signature of the sponsor's chief 34048
administrative officer shall signify the sponsor's receipt of 34049
notice of the content of the corrective action plan. 34050

(B) The sponsor shall monitor and may assist the school's 34051
implementation of the corrective action plan. 34052

(C) The school's failure to submit any corrective action plan 34053
required by the department to the chief administrative officer of 34054
the school's sponsor or to implement all of the provisions of a 34055
corrective action plan may be considered by the sponsor when 34056
determining whether to take any action under section 3314.07, 34057
3314.072, or 3314.073 of the Revised Code. 34058

Sec. 3314.43. For purposes of section 3319.321 of the Revised 34059
Code, the sponsor of a community school established under this 34060
chapter shall be an "educational institution," to which the 34061
records of a pupil enrolled in the school may be released for a 34062
legitimate educational purpose without the consent of the pupil or 34063
the pupil's parent, guardian, or custodian in accordance with that 34064
section. The sponsor shall handle any educational records released 34065
to the sponsor in accordance with the requirements of that section 34066
and the "Family Educational Rights and Privacy Act of 1974," 20 34067
U.S.C. 1232g. 34068

Sec. 3314.44. (A) If a community school established under 34069
this chapter closes for any reason, the chief administrative 34070
officer of the school at the time the school closes shall in good 34071
faith take all reasonable steps necessary to collect and assemble 34072
in an orderly manner the educational records of each student who 34073
is or has been enrolled in the school so that those records may be 34074

transmitted in accordance with this division. The chief 34075
administrative officer shall transmit the records to the 34076
department of education, in the manner and by the date prescribed 34077
by the department. 34078

(B) No person required to collect, assemble, and transmit 34079
student records under division (A) of this section shall fail to 34080
comply with that division. 34081

(C) Whoever violates division (B) of this section is guilty 34082
of a misdemeanor in the third degree. 34083

Sec. 3315.17. (A) The board of education of each city, 34084
exempted village, local, and joint vocational school district 34085
shall establish a textbook and instructional materials fund. Each 34086
board annually shall deposit into that fund an amount derived from 34087
revenues received by the district for operating expenses that is 34088
equal to three per cent of the formula amount for the preceding 34089
fiscal year, as defined in section 3317.02 of the Revised Code, or 34090
another percentage if established by the auditor of state under 34091
division (C) of this section, multiplied by the district's student 34092
population for the preceding fiscal year. Money in the fund shall 34093
be used solely for textbooks, instructional software, and 34094
instructional materials, supplies, and equipment. Any money in the 34095
fund that is not used in any fiscal year shall carry forward to 34096
the next fiscal year. 34097

(B)(1) Notwithstanding division (A) of this section, if in a 34098
fiscal year a district board deposits in the textbook and 34099
instructional materials fund an amount of money greater than the 34100
amount required to be deposited by this section or the rules 34101
adopted under division (C) of this section, the board may deduct 34102
the excess amount of money from the amount of money required to be 34103
deposited in succeeding fiscal years. 34104

(2) Notwithstanding division (A) of this section, in any year 34105
a district is in fiscal emergency status as declared pursuant to 34106
section 3316.03 of the Revised Code, the district may deposit an 34107
amount less than required by division (A) of this section, or make 34108
no deposit, into the district textbook and instructional materials 34109
fund for that year. 34110

(3) Notwithstanding division (A) of this section, in any 34111
fiscal year that a school district is either in fiscal watch 34112
status, as declared pursuant to section 3316.03 of the Revised 34113
Code, or in fiscal caution status, as declared pursuant to section 34114
3316.031 of the Revised Code, the district may apply to the 34115
superintendent of public instruction for a waiver from the 34116
requirements of division (A) of this section, under which the 34117
district may be permitted to deposit an amount less than required 34118
by that division or permitted to make no deposit into the district 34119
textbook and instructional materials fund for that year. The 34120
superintendent may grant a waiver under division (B)(3) of this 34121
section if the district demonstrates to the satisfaction of the 34122
superintendent that compliance with division (A) of this section 34123
that year will create an undue financial hardship on the district. 34124

(4) Notwithstanding division (A) of this section, not more 34125
often than one fiscal year in every three consecutive fiscal 34126
years, any school district that does not satisfy the conditions 34127
for the exemption described in division (B)(2) of this section or 34128
the conditions to apply for the waiver described in division 34129
(B)(3) of this section may apply to the superintendent of public 34130
instruction for a waiver from the requirements of division (A) of 34131
this section, under which the district may be permitted to deposit 34132
an amount less than required by that division or permitted to make 34133
no deposit into the district textbook and instructional materials 34134
fund for that year. The superintendent may grant a waiver under 34135
division (B)(4) of this section if the district demonstrates to 34136

the satisfaction of the superintendent that compliance with 34137
division (A) of this section that year will necessitate the 34138
reduction or elimination of a program currently offered by the 34139
district that is critical to the academic success of students of 34140
the district and that no reasonable alternatives exist for 34141
spending reductions in other areas of operation within the 34142
district that negate the necessity of the reduction or elimination 34143
of that program. 34144

(C) The state superintendent of public instruction and the 34145
auditor of state jointly shall adopt rules in accordance with 34146
Chapter 119. of the Revised Code defining what constitutes 34147
textbooks, instructional software, and instructional materials, 34148
supplies, and equipment for which money in a school district's 34149
textbook and instructional materials fund may be used. The auditor 34150
of state also may designate a percentage, other than three per 34151
cent, of the formula amount multiplied by the district's student 34152
population that must be deposited into the fund. 34153

(D) Notwithstanding division (A) of this section, a district 34154
board of education in any fiscal year may appropriate money in the 34155
district textbook and instructional materials fund for purposes 34156
other than those permitted by that division if both of the 34157
following occur during that fiscal year: 34158

(1) All of the following certify to the district board in 34159
writing that the district has sufficient textbooks, instructional 34160
software, and instructional materials, supplies, and equipment to 34161
ensure a thorough and efficient education within the district: 34162

(a) The district superintendent; 34163

(b) ~~In districts required to have a business advisory~~ 34164
~~council, a~~ A person designated by vote of the district's business 34165
advisory council; 34166

(c) If the district teachers are represented by an exclusive 34167

bargaining representative for purposes of Chapter 4117. of the 34168
Revised Code, the president of that organization or the 34169
president's designee. 34170

(2) The district board adopts, by unanimous vote of all 34171
members of the board, a resolution stating that the district has 34172
sufficient textbooks, instructional software, and instructional 34173
materials, supplies, and equipment to ensure a thorough and 34174
efficient education within the district. 34175

(E) Notwithstanding any provision to the contrary in Chapter 34176
4117. of the Revised Code, the requirements of this section 34177
prevail over any conflicting provisions of agreements between 34178
employee organizations and public employers entered into on or 34179
after November 21, 1997. 34180

(F) As used in this section and in section 3315.18 of the 34181
Revised Code, "student population" means the average, daily, 34182
full-time-equivalent number of students in kindergarten through 34183
twelfth grade receiving any educational services from the school 34184
district during the first full school week in October, excluding 34185
students enrolled in adult education classes, but including all of 34186
the following: 34187

(1) Adjacent or other district students enrolled in the 34188
district under an open enrollment policy pursuant to section 34189
3313.98 of the Revised Code; 34190

(2) Students receiving services in the district pursuant to a 34191
compact, cooperative education agreement, or a contract, but who 34192
are entitled to attend school in another district pursuant to 34193
section 3313.64 or 3313.65 of the Revised Code; 34194

(3) Students for whom tuition is payable pursuant to sections 34195
3317.081 and 3323.141 of the Revised Code. 34196

The department of education shall determine a district's 34197
student population using data reported to it under section 3317.03 34198

of the Revised Code for the applicable fiscal year. 34199

Sec. 3315.37. The board of education of a school district may 34200
establish a teacher education loan program and may expend school 34201
funds for the program. The program shall be for the purpose of 34202
making loans to students who are residents of the school district 34203
or graduates of schools in the school district, who are enrolled 34204
in teacher preparation programs at institutions approved by the 34205
~~state board~~ chancellor of the Ohio board of regents pursuant to 34206
section ~~3319.23~~ 3333.048 of the Revised Code, and who indicate an 34207
intent to teach in the school district providing the loan. The 34208
district board may forgive the obligation to repay any or all of 34209
the principal and interest on the loan if the borrower teaches in 34210
that school district. 34211

The district board shall adopt rules establishing eligibility 34212
criteria, application procedures, procedures for review of 34213
applications, loan amounts, interest, repayment schedules, 34214
conditions under which principal and interest obligations incurred 34215
under the program will be forgiven, and any other matter 34216
incidental to the operation of the program. 34217

The board may contract with a private, nonprofit foundation, 34218
one or more institutions of higher education, or other educational 34219
agencies to administer the program. 34220

The receipt of a loan under this section does not affect a 34221
student's eligibility for assistance, or the amount of such 34222
assistance, granted under section 3315.33, 3333.12, 3333.122, 34223
3333.22, 3333.26, ~~3333.27~~, 5910.04, or 5919.34 of the Revised 34224
Code, but the board's rules may provide for taking such assistance 34225
into consideration when determining a student's eligibility for a 34226
loan under this section. 34227

Sec. 3316.041. (A) Notwithstanding any provision of Chapter 34228

133. or sections 3313.483 to 3313.4811 of the Revised Code, and 34229
subject to the approval of the superintendent of public 34230
instruction, a school district that is in a state of fiscal watch 34231
declared under section 3316.03 of the Revised Code may restructure 34232
or refinance loans obtained or in the process of being obtained 34233
under section 3313.483 of the Revised Code if all of the following 34234
requirements are met: 34235

(1) The operating deficit certified for the school district 34236
for the current or preceding fiscal year under section 3313.483 of 34237
the Revised Code exceeds fifteen per cent of the district's 34238
general revenue fund for the fiscal year preceding the year for 34239
which the certification of the operating deficit is made. 34240

(2) The school district voters have, during the period of the 34241
fiscal watch, approved the levy of a tax under section 718.09, 34242
718.10, 5705.194, 5705.21, or 5748.02 of the Revised Code that is 34243
not a renewal or replacement levy, or a levy under section 34244
5705.199 of the Revised Code, and that will provide new operating 34245
revenue. 34246

(3) The board of education of the school district has adopted 34247
or amended the financial plan required by section 3316.04 of the 34248
Revised Code to reflect the restructured or refinanced loans, and 34249
sets forth the means by which the district will bring projected 34250
operating revenues and expenditures, and projected debt service 34251
obligations, into balance for the life of any such loan. 34252

(B) Subject to the approval of the superintendent of public 34253
instruction, the school district may issue securities to evidence 34254
the restructuring or refinancing authorized by this section. Such 34255
securities may extend the original period for repayment not to 34256
exceed ten years, and may alter the frequency and amount of 34257
repayments, interest or other financing charges, and other terms 34258
or agreements under which the loans were originally contracted, 34259
provided the loans received under sections 3313.483 of the Revised 34260

Code are repaid from funds the district would otherwise receive 34261
under ~~sections 3317.022 to 3317.025~~ Chapters 3306. and 3317. of 34262
the Revised Code, as required under division (E)(3) of section 34263
3313.483 of the Revised Code. Securities issued for the purpose of 34264
restructuring or refinancing under this section shall be repaid in 34265
equal payments and at equal intervals over the term of the debt 34266
and are not eligible to be included in any subsequent proposal to 34267
restructure or refinance. 34268

(C) Unless the district is declared to be in a state of 34269
fiscal emergency under division (D) of section 3316.04 of the 34270
Revised Code, a school district shall remain in a state of fiscal 34271
watch for the duration of the repayment period of any loan 34272
restructured or refinanced under this section. 34273

Sec. 3316.06. (A) Within one hundred twenty days after the 34274
first meeting of a school district financial planning and 34275
supervision commission, the commission shall adopt a financial 34276
recovery plan regarding the school district for which the 34277
commission was created. During the formulation of the plan, the 34278
commission shall seek appropriate input from the school district 34279
board and from the community. This plan shall contain the 34280
following: 34281

(1) Actions to be taken to: 34282

(a) Eliminate all fiscal emergency conditions declared to 34283
exist pursuant to division (B) of section 3316.03 of the Revised 34284
Code; 34285

(b) Satisfy any judgments, past-due accounts payable, and all 34286
past-due and payable payroll and fringe benefits; 34287

(c) Eliminate the deficits in all deficit funds, except that 34288
any prior year deficits in the textbook and instructional 34289
materials fund established pursuant to section 3315.17 of the 34290

Revised Code and the capital and maintenance fund established 34291
pursuant to section 3315.18 of the Revised Code shall be forgiven; 34292

(d) Restore to special funds any moneys from such funds that 34293
were used for purposes not within the purposes of such funds, or 34294
borrowed from such funds by the purchase of debt obligations of 34295
the school district with the moneys of such funds, or missing from 34296
the special funds and not accounted for, if any; 34297

(e) Balance the budget, avoid future deficits in any funds, 34298
and maintain on a current basis payments of payroll, fringe 34299
benefits, and all accounts; 34300

(f) Avoid any fiscal emergency condition in the future; 34301

(g) Restore the ability of the school district to market 34302
long-term general obligation bonds under provisions of law 34303
applicable to school districts generally. 34304

(2) The management structure that will enable the school 34305
district to take the actions enumerated in division (A)(1) of this 34306
section. The plan shall specify the level of fiscal and management 34307
control that the commission will exercise within the school 34308
district during the period of fiscal emergency, and shall 34309
enumerate respectively, the powers and duties of the commission 34310
and the powers and duties of the school board during that period. 34311
The commission may elect to assume any of the powers and duties of 34312
the school board it considers necessary, including all powers 34313
related to personnel, curriculum, and legal issues in order to 34314
successfully implement the actions described in division (A)(1) of 34315
this section. 34316

(3) The target dates for the commencement, progress upon, and 34317
completion of the actions enumerated in division (A)(1) of this 34318
section and a reasonable period of time expected to be required to 34319
implement the plan. The commission shall prepare a reasonable time 34320
schedule for progress toward and achievement of the requirements 34321

for the plan, and the plan shall be consistent with that time schedule. 34322
34323

(4) The amount and purpose of any issue of debt obligations 34324
that will be issued, together with assurances that any such debt 34325
obligations that will be issued will not exceed debt limits 34326
supported by appropriate certifications by the fiscal officer of 34327
the school district and the county auditor. Debt obligations 34328
issued pursuant to section 133.301 of the Revised Code shall 34329
include assurances that such debt shall be in an amount not to 34330
exceed the amount certified under division (B) of such section. If 34331
the commission considers it necessary in order to maintain or 34332
improve educational opportunities of pupils in the school 34333
district, the plan may include a proposal to restructure or 34334
refinance outstanding debt obligations incurred by the board under 34335
section 3313.483 of the Revised Code contingent upon the approval, 34336
during the period of the fiscal emergency, by district voters of a 34337
tax levied under section 718.09, 718.10, 5705.194, 5705.21, 34338
5748.02, or 5748.08 of the Revised Code that is not a renewal or 34339
replacement levy, or a levy under section 5705.199 of the Revised 34340
Code, and that will provide new operating revenue. Notwithstanding 34341
any provision of Chapter 133. or sections 3313.483 to 3313.4811 of 34342
the Revised Code, following the required approval of the district 34343
voters and with the approval of the commission, the school 34344
district may issue securities to evidence the restructuring or 34345
refinancing. Those securities may extend the original period for 34346
repayment, not to exceed ten years, and may alter the frequency 34347
and amount of repayments, interest or other financing charges, and 34348
other terms of agreements under which the debt originally was 34349
contracted, at the discretion of the commission, provided that any 34350
loans received pursuant to section 3313.483 of the Revised Code 34351
shall be paid from funds the district would otherwise receive 34352
under ~~sections 3317.022 to 3317.025~~ Chapters 3306. and 3317. of 34353
the Revised Code, as required under division (E)(3) of section 34354

3313.483 of the Revised Code. The securities issued for the 34355
purpose of restructuring or refinancing the debt shall be repaid 34356
in equal payments and at equal intervals over the term of the debt 34357
and are not eligible to be included in any subsequent proposal for 34358
the purpose of restructuring or refinancing debt under this 34359
section. 34360

(B) Any financial recovery plan may be amended subsequent to 34361
its adoption. Each financial recovery plan shall be updated 34362
annually. 34363

(C) Each school district financial planning and supervision 34364
commission shall submit the financial recovery plan it adopts or 34365
updates under this section to the state superintendent of public 34366
instruction for approval immediately following its adoption or 34367
updating. The state superintendent shall evaluate the plan and 34368
either approve or disapprove it within thirty calendar days from 34369
the date of its submission. If the plan is disapproved, the state 34370
superintendent shall recommend modifications that will render it 34371
acceptable. No financial planning and supervision commission shall 34372
implement a financial recovery plan that is adopted or updated on 34373
or after April 10, 2001, unless the state superintendent has 34374
approved it. 34375

Sec. 3316.20. (A)(1) The school district solvency assistance 34376
fund is hereby created in the state treasury, to consist of such 34377
amounts designated for the purposes of the fund by the general 34378
assembly. The fund shall be used to provide assistance and grants 34379
to school districts to enable them to remain solvent and to pay 34380
~~unforseeable~~ unforeseeable expenses of a temporary or emergency 34381
nature that they are unable to pay from existing resources. 34382

(2) There is hereby created within the fund an account known 34383
as the school district shared resource account, which shall 34384
consist of money appropriated to it by the general assembly. The 34385

money in the account shall be used solely for solvency assistance 34386
to school districts that have been declared under division (B) of 34387
section 3316.03 of the Revised Code to be in a state of fiscal 34388
emergency. 34389

(3) There is hereby created within the fund an account known 34390
as the catastrophic expenditures account, which shall consist of 34391
money appropriated to the account by the general assembly plus all 34392
investment earnings of the fund. Money in the account shall be 34393
used solely for the following: 34394

(a) Solvency assistance to school districts that have been 34395
declared under division (B) of section 3316.03 of the Revised Code 34396
to be in a state of fiscal emergency, in the event that all money 34397
in the shared resource account is utilized for solvency 34398
assistance; 34399

(b) Grants to school districts under division (C) of this 34400
section. 34401

(B) Solvency assistance payments under division (A)(2) or 34402
(3)(a) of this section shall be made from the fund by the 34403
superintendent of public instruction in accordance with rules 34404
adopted by the director of budget and management, after consulting 34405
with the superintendent, specifying approval criteria and 34406
procedures necessary for administering the fund. 34407

The fund shall be reimbursed for any solvency assistance 34408
amounts paid under division (A)(2) or (3)(a) of this section not 34409
later than the end of the second fiscal year following the fiscal 34410
year in which the solvency assistance payment was made. If not 34411
made directly by the school district, such reimbursement shall be 34412
made by the director of budget and management from the amounts the 34413
school district would otherwise receive pursuant to ~~sections~~ 34414
~~3317.022 to 3317.025~~ Chapters 3306. and 3317. of the Revised Code, 34415
or from any other funds appropriated for the district by the 34416

general assembly. Reimbursements shall be credited to the 34417
respective account from which the solvency assistance paid to the 34418
district was deducted. 34419

(C) The superintendent of public instruction may make 34420
recommendations, and the controlling board may grant money from 34421
the catastrophic expenditures account to any school district that 34422
suffers an unforeseen catastrophic event that severely depletes 34423
the district's financial resources. The superintendent shall make 34424
recommendations for the grants in accordance with rules adopted by 34425
the director of budget and management, after consulting with the 34426
superintendent. A school district shall not be required to repay 34427
any grant awarded to the district under this division, unless the 34428
district receives money from this state or a third party, 34429
including an agency of the government of the United States, 34430
specifically for the purpose of compensating the district for 34431
revenue lost or expenses incurred as a result of the unforeseen 34432
catastrophic event. If a school district receives a grant from the 34433
catastrophic expenditures account on the basis of the same 34434
circumstances for which an adjustment or recomputation is 34435
authorized under section 3317.025, 3317.026, 3317.027, 3317.028, 34436
3317.0210, or 3317.0211 of the Revised Code, the department of 34437
education shall reduce the adjustment or recomputation by an 34438
amount not to exceed the total amount of the grant, and an amount 34439
equal to the reduction shall be transferred, from the funding 34440
source from which the adjustment or recomputation would be paid, 34441
to the catastrophic expenditures account. Any adjustment or 34442
recomputation under such sections that is in excess of the total 34443
amount of the grant shall be paid to the school district. 34444

Sec. 3317.01. As used in this section and section 3317.011 of 34445
the Revised Code, "school district," unless otherwise specified, 34446
means any city, local, exempted village, joint vocational, or 34447
cooperative education school district and any educational service 34448

center. 34449

This chapter shall be administered by the state board of 34450
education. The superintendent of public instruction shall 34451
calculate the amounts payable to each school district and shall 34452
certify the amounts payable to each eligible district to the 34453
treasurer of the district as provided by this chapter. As soon as 34454
possible after such amounts are calculated, the superintendent 34455
shall certify to the treasurer of each school district the 34456
district's adjusted charge-off increase, as defined in section 34457
5705.211 of the Revised Code. No moneys shall be distributed 34458
pursuant to this chapter without the approval of the controlling 34459
board. 34460

The state board of education shall, in accordance with 34461
appropriations made by the general assembly, meet the financial 34462
obligations of this chapter. 34463

~~Annually, the department of education shall calculate and 34464
report to each school district the district's total state and 34465
local funds for providing an adequate basic education to the 34466
district's nondisabled students, utilizing the determination in 34467
section 3317.012 of the Revised Code. In addition, the department 34468
shall calculate and report separately for each school district the 34469
district's total state and local funds for providing an adequate 34470
education for its students with disabilities, utilizing the 34471
determinations in both sections 3317.012 and 3317.013 of the 34472
Revised Code. 34473~~

~~Not later than the thirty first day of August of each fiscal 34474
year, the department of education shall provide to each school 34475
district and county MR/DD board a preliminary estimate of the 34476
amount of funding that the department calculates the district will 34477
receive under each of divisions (C)(1) and (4) of section 3317.022 34478
of the Revised Code. No later than the first day of December of 34479
each fiscal year, the department shall update that preliminary 34480~~

~~estimate.~~ 34481

Moneys distributed pursuant to this chapter shall be 34482
calculated and paid on a fiscal year basis, beginning with the 34483
first day of July and extending through the thirtieth day of June. 34484
The moneys appropriated for each fiscal year shall be distributed 34485
at least monthly to each school district unless otherwise provided 34486
for. The state board shall submit a yearly distribution plan to 34487
the controlling board at its first meeting in July. The state 34488
board shall submit any proposed midyear revision of the plan to 34489
the controlling board in January. Any year-end revision of the 34490
plan shall be submitted to the controlling board in June. If 34491
moneys appropriated for each fiscal year are distributed other 34492
than monthly, such distribution shall be on the same basis for 34493
each school district. 34494

The total amounts paid each month shall constitute, as nearly 34495
as possible, one-twelfth of the total amount payable for the 34496
entire year. 34497

~~Until fiscal year 2007, payments made during the first six 34498
months of the fiscal year may be based on an estimate of the 34499
amounts payable for the entire year. Payments made in the last six 34500
months shall be based on the final calculation of the amounts 34501
payable to each school district for that fiscal year. Payments 34502
made in the last six months may be adjusted, if necessary, to 34503
correct the amounts distributed in the first six months, and to 34504
reflect enrollment increases when such are at least three per 34505
cent.~~ 34506

~~Beginning in fiscal year 2007, payments shall be calculated 34507
to reflect the biannual reporting of average daily membership. In 34508
fiscal year 2007 and in each fiscal year thereafter, annualized 34509
periodic payments for each school district shall be based on the 34510
district's final student counts verified by the superintendent of 34511
public instruction based on reports under section 3317.03 of the 34512~~

Revised Code, as adjusted, if so ordered, under division (K) of 34513
that section, as follows: 34514

~~the sum of one half of the number of students verified 34515
and adjusted for the first full week in October 34516
plus one half of the average of the numbers 34517
verified and adjusted for the first full week 34518
in October and for the first full week in February 34519~~

Except as otherwise provided, payments under this chapter 34520
shall be made only to those school districts in which: 34521

(A) The school district, except for any educational service 34522
center and any joint vocational or cooperative education school 34523
district, levies for current operating expenses at least twenty 34524
mills. Levies for joint vocational or cooperative education school 34525
districts or county school financing districts, limited to or to 34526
the extent apportioned to current expenses, shall be included in 34527
this qualification requirement. School district income tax levies 34528
under Chapter 5748. of the Revised Code, limited to or to the 34529
extent apportioned to current operating expenses, shall be 34530
included in this qualification requirement to the extent 34531
determined by the tax commissioner under division (D) of section 34532
3317.021 of the Revised Code. 34533

(B) The ~~school~~ learning year next preceding the fiscal year 34534
for which such payments are authorized meets the requirement of 34535
section 3313.48 or 3313.481 of the Revised Code, with regard to 34536
the minimum number of days or hours school must be open for 34537
instruction with pupils in attendance, for individualized 34538
parent-teacher conference and reporting periods, and for 34539
professional meetings of teachers. ~~This requirement~~ Up to five 34540
learning days shall be waived by the superintendent of public 34541
instruction if it had been necessary for a school to be closed 34542
because of disease epidemic, hazardous weather conditions, 34543
inoperability of school buses or other equipment necessary to the 34544

school's operation, damage to a school building, or other 34545
temporary circumstances due to utility failure rendering the 34546
school building unfit for school use, ~~provided that for those~~ 34547
~~school districts operating pursuant to section 3313.48 of the~~ 34548
~~Revised Code the number of days the school was actually open for~~ 34549
~~instruction with pupils in attendance and for individualized~~ 34550
~~parent teacher conference and reporting periods is not less than~~ 34551
~~one hundred seventy five, or for those school districts operating~~ 34552
~~on a trimester plan the number of days the school was actually~~ 34553
~~open for instruction with pupils in attendance not less than~~ 34554
~~seventy nine days in any trimester, for those school districts~~ 34555
~~operating on a quarterly plan the number of days the school was~~ 34556
~~actually open for instruction with pupils in attendance not less~~ 34557
~~than fifty nine days in any quarter, or for those school districts~~ 34558
~~operating on a pentamester plan the number of days the school was~~ 34559
~~actually open for instruction with pupils in attendance not less~~ 34560
~~than forty four days in any pentamester. The state board shall~~ 34561
~~adopt standards for the superintendent to apply in determining the~~ 34562
~~waiver of days or hours for schools operating under section~~ 34563
~~3313.481 of the Revised Code.~~ 34564

A school district shall not be considered to have failed to 34565
comply with this division or section 3313.481 of the Revised Code 34566
because schools were open for instruction but either twelfth grade 34567
students were excused from attendance for up to three days or only 34568
a portion of the kindergarten students were in attendance for up 34569
to three days in order to allow for the gradual orientation to 34570
school of such students. 34571

The superintendent of public instruction shall waive the 34572
requirements of this section with reference to the minimum number 34573
of days or hours school must be in session with pupils in 34574
attendance for the ~~school~~ learning year succeeding the ~~school~~ 34575
learning year in which a board of education initiates a plan of 34576

operation pursuant to section 3313.481 of the Revised Code. The 34577
minimum requirements of this section shall again be applicable to 34578
such a district beginning with the ~~school~~ learning year commencing 34579
the second July succeeding the initiation of one such plan, and 34580
for each school year thereafter. 34581

A school district shall not be considered to have failed to 34582
comply with this division or section 3313.48 or 3313.481 of the 34583
Revised Code because schools were open for instruction but the 34584
length of the regularly scheduled ~~school~~ learning day, for any 34585
number of days during the ~~school~~ learning year, was reduced by not 34586
more than two hours due to hazardous weather conditions. 34587

(C) The school district has on file, and is paying in 34588
accordance with, a teachers' salary schedule which complies with 34589
section 3317.13 of the Revised Code. 34590

A board of education or governing board of an educational 34591
service center which has not conformed with other law and the 34592
rules pursuant thereto, shall not participate in the distribution 34593
of funds authorized by sections 3317.022 to 3317.0211, 3317.11, 34594
3317.16, 3317.17, and 3317.19 of the Revised Code, except for good 34595
and sufficient reason established to the satisfaction of the state 34596
board of education and the state controlling board. 34597

All funds allocated to school districts under this chapter, 34598
except those specifically allocated for other purposes, shall be 34599
used to pay current operating expenses only. 34600

Sec. 3317.018. (A) The department of education shall make no 34601
calculations or payments under Chapter 3317. of the Revised Code 34602
for any fiscal year after fiscal year 2009 except as prescribed in 34603
this section. 34604

(B) School districts shall report student enrollment data as 34605
prescribed by section 3317.03 of the Revised Code, which data the 34606

department shall use to make payments under Chapters 3306. and 34607
3317. of the Revised Code. 34608

(C) The tax commissioner shall report data regarding tax 34609
valuation and receipts for school districts as prescribed by 34610
sections 3317.015, 3317.021, 3317.025, 3317.026, 3317.027, 34611
3317.028, 3317.0210, 3317.0211, and 3317.08 and by division (M) of 34612
section 3317.02 of the Revised Code, which data the department 34613
shall use to make payments under Chapters 3306. and 3317. of the 34614
Revised Code. 34615

(D) Unless otherwise specified by another provision of law, 34616
in addition to the payments prescribed by Chapter 3306. of the 34617
Revised Code, the department shall continue to make payments to or 34618
adjustments for school districts in fiscal years after fiscal year 34619
2009 under the following provisions of Chapter 3317. of the 34620
Revised Code: 34621

(1) The catastrophic cost reimbursement under division (C)(3) 34622
of section 3317.022 of the Revised Code. No other payments shall 34623
be made under that section. 34624

(2) All payments or adjustments under section 3317.023 of the 34625
Revised Code, except no payments or adjustments shall be made 34626
under divisions (B), (C), and (D) of that section. 34627

(3) All payments or adjustments under section 3317.024 of the 34628
Revised Code, except no payments or adjustments shall be made 34629
under divisions (F), (L), and (N) of that section. 34630

(4) All payments and adjustments under sections 3317.025, 34631
3317.026, 3317.027, 3317.028, 3317.0210, and 3317.0211 of the 34632
Revised Code; 34633

(5) Payments under section 3317.04 of the Revised Code; 34634

(6) Unit payments under sections 3317.05, 3317.051, 3317.052, 34635
and 3317.053 of the Revised Code, except that no units for gifted 34636

<u>funding are authorized after fiscal year 2009.</u>	34637
<u>(7) Payments under sections 3317.06, 3317.063, and 3317.064 of the Revised Code;</u>	34638
<u>(8) Payments under section 3317.07 of the Revised Code;</u>	34639
<u>(9) Payments to educational service centers under section 3317.11 of the Revised Code;</u>	34640
<u>(10) The catastrophic cost reimbursement under division (E) of section 3317.16 of the Revised Code and excess cost reimbursements under division (G) of that section. No other payments shall be made under that section;</u>	34641
<u>(11) Payments under section 3317.17 of the Revised Code;</u>	34642
<u>(12) Adjustments under section 3317.18 of the Revised Code;</u>	34643
<u>(13) Payments to cooperative education school districts under section 3317.19 of the Revised Code;</u>	34644
<u>(14) Payments to county MR/DD boards under section 3317.20 of the Revised Code;</u>	34645
<u>(15) Payments to state institutions for weighted special education funding under section 3317.201 of the Revised Code.</u>	34646
<u>(E) Sections 3317.016 and 3317.017 shall not apply to fiscal years after fiscal year 2009.</u>	34647
<u>(F) This section does not affect the provisions of sections 3317.031, 3317.032, 3317.033, 3317.035, 3317.061, 3317.08, 3317.081, 3317.082, 3317.09, 3317.12, 3317.13, 3317.14, 3317.15, 3317.50, 3317.51, 3317.62, 3317.63, and 3317.64 of the Revised Code.</u>	34648
Sec. 3317.02. As used in this chapter:	34649
(A) Unless otherwise specified, "school district" means city, local, and exempted village school districts.	34650
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(B) "Formula amount" means ~~the base cost for the fiscal year~~ 34665
~~specified in division (B)(4) of section 3317.012 of the Revised~~ 34666
~~Code \$5,841, for fiscal year 2010, and \$5,952, for fiscal year~~ 34667
~~2011.~~ 34668

(C) "FTE basis" means a count of students based on full-time 34669
equivalency, in accordance with rules adopted by the department of 34670
education pursuant to section 3317.03 of the Revised Code. In 34671
adopting its rules under this division, the department shall 34672
provide for counting any student in category one, two, three, 34673
four, five, or six special education ADM or in category one or two 34674
vocational education ADM in the same proportion the student is 34675
counted in formula ADM. 34676

(D) "Formula ADM" means, for a city, local, or exempted 34677
village school district, the final number verified by the 34678
superintendent of public instruction, based on the number reported 34679
pursuant to division (A) of section 3317.03 of the Revised Code, 34680
~~as adjusted, if so ordered, under division (K) of that section~~ 34681
"formula ADM" as defined in section 3306.02 of the Revised Code. 34682
"Formula ADM" means, for a joint vocational school district, the 34683
final number verified by the superintendent of public instruction, 34684
based on the number reported pursuant to division (D) of section 34685
3317.03 of the Revised Code, as adjusted, if so ordered, under 34686
division (K) of that section. ~~Beginning in fiscal year 2007, for~~ 34687
~~payments in which formula ADM is a factor, the formula ADM for~~ 34688
~~each school district for the fiscal year is the sum of one half of~~ 34689
~~the number verified and adjusted for October of that fiscal year~~ 34690
~~plus one half of the average of the numbers verified and adjusted~~ 34691
~~for October and February of that fiscal year. For purposes of the~~ 34692
calculation of payments to or adjustments for a city, exempted 34693
village, local, or joint vocational school district under this 34694
chapter or under Chapter 3306. of the Revised Code, calculations 34695
required under Chapter 3318. of the Revised Code, or adjustments 34696

required under Chapter 3365. of the Revised Code, the department 34697
of education shall use the district's formula ADM as reported and 34698
verified under section 3317.03 of the Revised Code for the 34699
previous fiscal year, unless the district's formula ADM as so 34700
reported and verified for the current fiscal year is at least two 34701
per cent greater than the formula ADM reported for the previous 34702
fiscal year, in which case the department shall use the district's 34703
formula ADM for the current fiscal year. 34704

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(E) "Three-year average formula ADM" means the average of 34706
formula ADMs for the preceding three fiscal years. 34707

(F)(1) "Category one special education ADM" means the average 34708
daily membership of children with disabilities receiving special 34709
education services for the disability specified in division 34710
~~(A)(C)(1)~~ of section ~~3317.013~~ 3306.02 of the Revised Code and 34711
reported under division (B)(5) or (D)(2)(b) of section 3317.03 of 34712
the Revised Code. ~~Beginning in fiscal year 2007, the district's~~ 34713
~~category one special education ADM for a fiscal year is the sum of~~ 34714
~~one half of the number reported for October of that fiscal year~~ 34715
~~plus one half of the average of the numbers reported for October~~ 34716
~~and February of that fiscal year.~~ 34717

(2) "Category two special education ADM" means the average 34718
daily membership of children with disabilities receiving special 34719
education services for those disabilities specified in division 34720
~~(B)(C)(2)~~ of section ~~3317.013~~ 3306.02 of the Revised Code and 34721
reported under division (B)(6) or (D)(2)(c) of section 3317.03 of 34722
the Revised Code. ~~Beginning in fiscal year 2007, the district's~~ 34723
~~category two special education ADM for a fiscal year is the sum of~~ 34724
~~one half of the number reported for October of that fiscal year~~ 34725
~~plus one half of the average of the numbers reported for October~~ 34726
~~and February of that fiscal year.~~ 34727

(3) "Category three special education ADM" means the average 34728

daily membership of students receiving special education services 34729
for those disabilities specified in division (C)(3) of section 34730
~~3317.013~~ 3306.02 of the Revised Code, and reported under division 34731
(B)(7) or (D)(2)(d) of section 3317.03 of the Revised Code. 34732
~~Beginning in fiscal year 2007, the district's category three~~ 34733
~~special education ADM for a fiscal year is the sum of one half of~~ 34734
~~the number reported for October of that fiscal year plus one half~~ 34735
~~of the average of the numbers reported for October and February of~~ 34736
~~that fiscal year.~~ 34737

(4) "Category four special education ADM" means the average 34738
daily membership of students receiving special education services 34739
for those disabilities specified in division ~~(D)~~(C)(4) of section 34740
~~3317.013~~ 3306.02 of the Revised Code and reported under division 34741
(B)(8) or (D)(2)(e) of section 3317.03 of the Revised Code. 34742
~~Beginning in fiscal year 2007, the district's category four~~ 34743
~~special education ADM for a fiscal year is the sum of one half of~~ 34744
~~the number reported for October of that fiscal year plus one half~~ 34745
~~of the average of the numbers reported for October and February of~~ 34746
~~that fiscal year.~~ 34747

(5) "Category five special education ADM" means the average 34748
daily membership of students receiving special education services 34749
for the disabilities specified in division ~~(E)~~(C)(5) of section 34750
~~3317.013~~ 3306.02 of the Revised Code and reported under division 34751
(B)(9) or (D)(2)(f) of section 3317.03 of the Revised Code. 34752
~~Beginning in fiscal year 2007, the district's category five~~ 34753
~~special education ADM for a fiscal year is the sum of one half of~~ 34754
~~the number reported for October of that fiscal year plus one half~~ 34755
~~of the average of the numbers reported for October and February of~~ 34756
~~that fiscal year.~~ 34757

(6) "Category six special education ADM" means the average 34758
daily membership of students receiving special education services 34759
for the disabilities specified in division ~~(F)~~(C)(6) of section 34760

~~3317.013 3306.02 of the Revised Code and reported under division 34761
(B)(10) or (D)(2)(g) of section 3317.03 of the Revised Code. 34762
Beginning in fiscal year 2007, the district's category six special 34763
education ADM for a fiscal year is the sum of one half of the 34764
number reported for October of that fiscal year plus one half of 34765
the average of the numbers reported for October and February of 34766
that fiscal year. 34767~~

(7) "Category one vocational education ADM" means the average 34768
daily membership of students receiving vocational education 34769
services described in division (A) of section 3317.014 of the 34770
Revised Code and reported under division (B)(11) or (D)(2)(h) of 34771
section 3317.03 of the Revised Code. ~~Beginning in fiscal year 34772
2007, the district's category one vocational education ADM for a 34773
fiscal year is the sum of one half of the number reported for 34774
October of that fiscal year plus one half of the average of the 34775
numbers reported for October and February of that fiscal year. 34776~~

(8) "Category two vocational education ADM" means the average 34777
daily membership of students receiving vocational education 34778
services described in division (B) of section 3317.014 of the 34779
Revised Code and reported under division (B)(12) or (D)(2)(i) of 34780
section 3317.03 of the Revised Code. ~~Beginning in fiscal year 34781
2007, the district's category two vocational education ADM for a 34782
fiscal year is the sum of one half of the number reported for 34783
October of that fiscal year plus one half of the average of the 34784
numbers reported for October and February of that fiscal year. 34785~~

(G) "Preschool child with a disability" means a child with a 34786
disability, as defined in section 3323.01 of the Revised Code, who 34787
is at least age three but is not of compulsory school age, as 34788
defined in section 3321.01 of the Revised Code, and who is not 34789
currently enrolled in kindergarten. 34790

(H) "County MR/DD board" means a county board of mental 34791
retardation and developmental disabilities. 34792

(I) "Recognized valuation" means the amount calculated for a school district pursuant to section 3317.015 of the Revised Code. 34793
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(J) "Transportation ADM" means the number of children reported under division (B)(13) of section 3317.03 of the Revised Code. 34795
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(K) "Average efficient transportation use cost per student" means a statistical representation of transportation costs as calculated under division (D)(2) of section 3317.022 of the Revised Code. 34798
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(L) "Taxes charged and payable" means the taxes charged and payable against real and public utility property after making the reduction required by section 319.301 of the Revised Code, plus the taxes levied against tangible personal property. 34802
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(M) "Total taxable value" means the sum of the amounts certified for a city, local, exempted village, or joint vocational school district under divisions (A)(1) and (2) of section 3317.021 of the Revised Code. 34806
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(N) "Tax exempt value" of a school district means the amount certified for a school district under division (A)(4) of section 3317.021 of the Revised Code. 34810
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(O) "Potential value" of a school district means the recognized valuation of a school district plus the tax exempt value of the district. 34813
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(P) "District median income" means the median Ohio adjusted gross income certified for a school district. On or before the first day of July of each year, the tax commissioner shall certify to the department of education and the office of budget and management for each city, exempted village, and local school district the median Ohio adjusted gross income of the residents of the school district determined on the basis of tax returns filed for the second preceding tax year by the residents of the 34816
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district.	34824
(Q) "Statewide median income" means the median district	34825
median income of all city, exempted village, and local school	34826
districts in the state.	34827
(R) "Income factor" for a city, exempted village, or local	34828
school district means the quotient obtained by dividing that	34829
district's median income by the statewide median income.	34830
(S) "Medically fragile child" means a child to whom all of	34831
the following apply:	34832
(1) The child requires the services of a doctor of medicine	34833
or osteopathic medicine at least once a week due to the	34834
instability of the child's medical condition.	34835
(2) The child requires the services of a registered nurse on	34836
a daily basis.	34837
(3) The child is at risk of institutionalization in a	34838
hospital, skilled nursing facility, or intermediate care facility	34839
for the mentally retarded.	34840
(T) A child may be identified as having an "other health	34841
impairment-major" if the child's condition meets the definition of	34842
"other health impaired" established in rules adopted by the state	34843
board of education prior to July 1, 2001, and if either of the	34844
following apply:	34845
(1) The child is identified as having a medical condition	34846
that is among those listed by the superintendent of public	34847
instruction as conditions where a substantial majority of cases	34848
fall within the definition of "medically fragile child." The	34849
superintendent of public instruction shall issue an initial list	34850
no later than September 1, 2001.	34851
(2) The child is determined by the superintendent of public	34852
instruction to be a medically fragile child. A school district	34853

superintendent may petition the superintendent of public 34854
instruction for a determination that a child is a medically 34855
fragile child. 34856

(U) A child may be identified as having an "other health 34857
impairment-minor" if the child's condition meets the definition of 34858
"other health impaired" established in rules adopted by the state 34859
board of education prior to July 1, 2001, but the child's 34860
condition does not meet either of the conditions specified in 34861
division (T)(1) or (2) of this section. 34862

(V) "State education aid" has the same meaning as in section 34863
5751.20 of the Revised Code. 34864

(W) "Property exemption value" means zero in fiscal year 34865
2006, and in fiscal year 2007 and each fiscal year thereafter, the 34866
amount certified for a school district under divisions (A)(6) and 34867
(7) of section 3317.021 of the Revised Code. 34868

(X) "Internet- or computer-based community school" has the 34869
same meaning as in section 3314.02 of the Revised Code. 34870

(Y) "State share percentage" has the same meaning as in 34871
section 3306.02 of the Revised Code. 34872

Sec. 3317.021. ~~(A)~~ The information certified under this 34873
section shall be used to calculate payments under this chapter and 34874
Chapter 3306. of the Revised Code. 34875

(A) On or before the first day of June of each year, the tax 34876
commissioner shall certify to the department of education and the 34877
office of budget and management the information described in 34878
divisions (A)(1) to ~~(8)~~(7) of this section for each city, exempted 34879
village, and local school district, and the information required 34880
by divisions (A)(1) and (2) of this section for each joint 34881
vocational school district, and it shall be used, along with the 34882
information certified under division (B) of this section, in 34883

making the computations for the district under sections 3317.022,	34884
3317.0216, and 3317.0217 or section 3317.16 <u>this chapter and</u>	34885
<u>Chapter 3306.</u> of the Revised Code.	34886
(1) The taxable value of real and public utility real	34887
property in the school district subject to taxation in the	34888
preceding tax year, by class and by county of location.	34889
(2) The taxable value of tangible personal property,	34890
including public utility personal property, subject to taxation by	34891
the district for the preceding tax year.	34892
(3)(a) The total property tax rate and total taxes charged	34893
and payable for the current expenses for the preceding tax year	34894
and the total property tax rate and the total taxes charged and	34895
payable to a joint vocational district for the preceding tax year	34896
that are limited to or to the extent apportioned to current	34897
expenses.	34898
(b) The portion of the amount of taxes charged and payable	34899
reported for each city, local, and exempted village school	34900
district under division (A)(3)(a) of this section attributable to	34901
a joint vocational school district.	34902
(4) The <u>For fiscal years prior to fiscal year 2010, the</u> value	34903
of all real and public utility real property in the school	34904
district exempted from taxation minus both of the following:	34905
(a) The value of real and public utility real property in the	34906
district owned by the United States government and used	34907
exclusively for a public purpose;	34908
(b) The value of real and public utility real property in the	34909
district exempted from taxation under Chapter 725. or 1728. or	34910
section 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632,	34911
5709.73, or 5709.78 of the Revised Code.	34912
<u>The tax commissioner need not report information prescribed</u>	34913

by division (A)(4) of this section for fiscal years after fiscal 34914
year 2009. 34915

(5) The total federal adjusted gross income of the residents 34916
of the school district, based on tax returns filed by the 34917
residents of the district, for the most recent year for which this 34918
information is available. 34919

(6) The sum of the school district compensation value as 34920
indicated on the list of exempted property for the preceding tax 34921
year under section 5713.08 of the Revised Code as if such property 34922
had been assessed for taxation that year and the other 34923
compensation value for the school district, minus the amounts 34924
described in divisions (A)(6)(c) to (i) of this section. The 34925
portion of school district compensation value or other 34926
compensation value attributable to an incentive district exemption 34927
may be subtracted only once even if that incentive district 34928
satisfies more than one of the criteria in divisions (A)(6)(c) to 34929
(i) of this section. 34930

(a) "School district compensation value" means the aggregate 34931
value of real property in the school district exempted from 34932
taxation pursuant to an ordinance or resolution adopted under 34933
division (C) of section 5709.40, division (C) of section 5709.73, 34934
or division (B) of section 5709.78 of the Revised Code to the 34935
extent that the exempted value results in the charging of payments 34936
in lieu of taxes required to be paid to the school district under 34937
division (D)(1) or (2) of section 5709.40, division (D) of section 34938
5709.73, or division (C) of section 5709.78 of the Revised Code. 34939

(b) "Other compensation value" means the quotient that 34940
results from dividing (i) the dollar value of compensation 34941
received by the school district during the preceding tax year 34942
pursuant to division (B), (C), or (D) of section 5709.82 of the 34943
Revised Code and the amounts received pursuant to an agreement as 34944
specified in division (D)(2) of section 5709.40, division (D) of 34945

section 5709.73, or division (C) of section 5709.78 of the Revised Code to the extent those amounts were not previously reported or included in division (A)(6)(a) of this section, and so that any such amount is reported only once under division (A)(6)(b) of this section, in relation to exemptions from taxation granted pursuant to an ordinance or resolution adopted under division (C) of section 5709.40, division (C) of section 5709.73, or division (B) of section 5709.78 of the Revised Code, by (ii) the real property tax rate in effect for the preceding tax year for nonresidential/agricultural real property after making the reductions required by section 319.301 of the Revised Code.

(c) The portion of school district compensation value or other compensation value that was exempted from taxation pursuant to such an ordinance or resolution for the preceding tax year, if the ordinance or resolution is adopted prior to January 1, 2006, and the legislative authority or board of township trustees or county commissioners, prior to January 1, 2006, executes a contract or agreement with a developer, whether for-profit or not-for-profit, with respect to the development of a project undertaken or to be undertaken and identified in the ordinance or resolution, and upon which parcels such project is being, or will be, undertaken;

(d) The portion of school district compensation value that was exempted from taxation for the preceding tax year and for which payments in lieu of taxes for the preceding tax year were provided to the school district under division (D)(1) of section 5709.40 of the Revised Code.

(e) The portion of school district compensation value that was exempted from taxation for the preceding tax year pursuant to such an ordinance or resolution, if and to the extent that, on or before April 1, 2006, the fiscal officer of the municipal corporation that adopted the ordinance, or of the township or

county that adopted the resolution, certifies and provides 34978
appropriate supporting documentation to the tax commissioner and 34979
the director of development that, based on hold-harmless 34980
provisions in any agreement between the school district and the 34981
legislative authority of the municipal corporation, board of 34982
township trustees, or board of county commissioners that was 34983
entered into on or before June 1, 2005, the ability or obligation 34984
of the municipal corporation, township, or county to repay bonds, 34985
notes, or other financial obligations issued or entered into prior 34986
to January 1, 2006, will be impaired, including obligations to or 34987
of any other body corporate and politic with whom the legislative 34988
authority of the municipal corporation or board of township 34989
trustees or county commissioners has entered into an agreement 34990
pertaining to the use of service payments derived from the 34991
improvements exempted; 34992

(f) The portion of school district compensation value that 34993
was exempted from taxation for the preceding tax year pursuant to 34994
such an ordinance or resolution, if the ordinance or resolution is 34995
adopted prior to January 1, 2006, in a municipal corporation with 34996
a population that exceeds one hundred thousand, as shown by the 34997
most recent federal decennial census, that includes a major 34998
employment center and that is adjacent to historically distressed 34999
neighborhoods, if the legislative authority of the municipal 35000
corporation that exempted the property prepares an economic 35001
analysis that demonstrates that all taxes generated within the 35002
incentive district accruing to the state by reason of improvements 35003
constructed within the district during its existence exceed the 35004
amount the state pays the school district under section 3317.022 35005
of the Revised Code attributable to such property exemption from 35006
the school district's recognized valuation. The analysis shall be 35007
submitted to and approved by the department of development prior 35008
to January 1, 2006, and the department shall not unreasonably 35009
withhold approval. 35010

(g) The portion of school district compensation value that 35011
was exempted from taxation for the preceding tax year under such 35012
an ordinance or resolution, if the ordinance or resolution is 35013
adopted prior to January 1, 2006, and if service payments have 35014
been pledged to be used for mixed-use riverfront entertainment 35015
development in any county with a population that exceeds six 35016
hundred thousand, as shown by the most recent federal decennial 35017
census; 35018

(h) The portion of school district compensation value that 35019
was exempted from taxation for the preceding tax year under such 35020
an ordinance or resolution, if, prior to January 1, 2006, the 35021
legislative authority of a municipal corporation, board of 35022
township trustees, or board of county commissioners has pledged 35023
service payments for a designated transportation capacity project 35024
approved by the transportation review advisory council under 35025
Chapter 5512. of the Revised Code; 35026

(i) The portion of school district compensation value that 35027
was exempted from taxation for the preceding tax year under such 35028
an ordinance or resolution if the legislative authority of a 35029
municipal corporation, board of township trustees, or board of 35030
county commissioners have, by January 1, 2006, pledged proceeds 35031
for designated transportation improvement projects that involve 35032
federal funds for which the proceeds are used to meet a local 35033
share match requirement for such funding. 35034

As used in division (A)(6) of this section, "project" has the 35035
same meaning as in section 5709.40 of the Revised Code. 35036

(7) The aggregate value of real property in the school 35037
district for which an exemption from taxation is granted by an 35038
ordinance or resolution adopted on or after January 1, 2006, under 35039
Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 35040
5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the Revised 35041
Code, as indicated on the list of exempted property for the 35042

preceding tax year under section 5713.08 of the Revised Code and 35043
as if such property had been assessed for taxation that year, 35044
minus the product determined by multiplying (a) the aggregate 35045
value of the real property in the school district exempted from 35046
taxation for the preceding tax year under any of the chapters or 35047
sections specified in this division, by (b) a fraction, the 35048
numerator of which is the difference between (i) the amount of 35049
anticipated revenue such school district would have received for 35050
the preceding tax year if the real property exempted from taxation 35051
had not been exempted from taxation and (ii) the aggregate amount 35052
of payments in lieu of taxes on the exempt real property for the 35053
preceding tax year and other compensation received for the 35054
preceding tax year by the school district pursuant to any 35055
agreements entered into on or after January 1, 2006, under section 35056
5709.82 of the Revised Code between the school district and the 35057
legislative authority of a political subdivision that acted under 35058
the authority of a chapter or statute specified in this division, 35059
that were entered into in relation to such exemption, and the 35060
denominator of which is the amount of anticipated revenue such 35061
school district would have received in the preceding fiscal year 35062
if the real property exempted from taxation had not been exempted. 35063

~~(8) For each school district receiving payments under 35064
division (B) or (C) of section 3317.0216 of the Revised Code 35065
during the current fiscal year, as included on the most recent 35066
list of such districts sent to the tax commissioner under division 35067
(F) of that section, the following:~~ 35068

~~(a) The portion of the total amount of taxes charged and 35069
payable for current expenses certified under division (A)(3)(a) of 35070
this section that is attributable to each new levy approved and 35071
charged in the preceding tax year and the respective tax rate of 35072
each of those new levies;~~ 35073

~~(b) The portion of the total taxes collected for current 35074~~

~~expenses under a school district income tax adopted pursuant to 35075
section 5748.03 or 5748.08 of the Revised Code, as certified under 35076
division (A)(2) of section 3317.08 of the Revised Code, that is 35077
attributable to each new school district income tax first 35078
effective in the current taxable year or in the preceding taxable 35079
year. 35080~~

(B) On or before the first day of May each year, the tax 35081
commissioner shall certify to the department of education and the 35082
office of budget and management the total taxable real property 35083
value of railroads and, separately, the total taxable tangible 35084
personal property value of all public utilities for the preceding 35085
tax year, by school district and by county of location. 35086

(C) If a public utility has properly and timely filed a 35087
petition for reassessment under section 5727.47 of the Revised 35088
Code with respect to an assessment issued under section 5727.23 of 35089
the Revised Code affecting taxable property apportioned by the tax 35090
commissioner to a school district, the taxable value of public 35091
utility tangible personal property included in the certification 35092
under divisions (A)(2) and (B) of this section for the school 35093
district shall include only the amount of taxable value on the 35094
basis of which the public utility paid tax for the preceding year 35095
as provided in division (B)(1) or (2) of section 5727.47 of the 35096
Revised Code. 35097

(D) If on the basis of the information certified under 35098
division (A) of this section, the department determines that any 35099
district fails in any year to meet the qualification requirement 35100
specified in division (A)(1) of section 3306.01 and division (A) 35101
of section 3317.01 of the Revised Code, the department shall 35102
immediately request the tax commissioner to determine the extent 35103
to which any school district income tax levied by the district 35104
under Chapter 5748. of the Revised Code shall be included in 35105
meeting that requirement. Within five days of receiving such a 35106

request from the department, the tax commissioner shall make the 35107
determination required by this division and report the quotient 35108
obtained under division (D)(3) of this section to the department 35109
and the office of budget and management. This quotient represents 35110
the number of mills that the department shall include in 35111
determining whether the district meets the qualification 35112
requirement of division (A)(1) of section 3306.01 and division (A) 35113
of section 3317.01 of the Revised Code. 35114

The tax commissioner shall make the determination required by 35115
this division as follows: 35116

(1) Multiply one mill times the total taxable value of the 35117
district as determined in divisions (A)(1) and (2) of this 35118
section; 35119

(2) Estimate the total amount of tax liability for the 35120
current tax year under taxes levied by Chapter 5748. of the 35121
Revised Code that are apportioned to current operating expenses of 35122
the district, excluding any income tax receipts allocated for the 35123
project cost, debt service, or maintenance set-aside associated 35124
with a state-assisted classroom facilities project as authorized 35125
by section 3318.052 of the Revised Code; 35126

(3) Divide the amount estimated under division (D)(2) of this 35127
section by the product obtained under division (D)(1) of this 35128
section. 35129

(E)(1) On or before June 1, 2006, and the first day of April 35130
of each year thereafter, the director of development shall report 35131
to the department of education, the tax commissioner, and the 35132
director of budget and management the total amounts of payments 35133
received by each city, local, exempted village, or joint 35134
vocational school district for the preceding tax year pursuant to 35135
division (D) of section 5709.40, division (D) of section 5709.73, 35136
division (C) of section 5709.78, or division (B)(1), (B)(2), (C), 35137

or (D) of section 5709.82 of the Revised Code in relation to 35138
exemptions from taxation granted pursuant to an ordinance adopted 35139
by the legislative authority of a municipal corporation under 35140
division (C) of section 5709.40 of the Revised Code, or a 35141
resolution adopted by a board of township trustees or board of 35142
county commissioners under division (C) of section 5709.73 or 35143
division (B) of section 5709.78 of the Revised Code, respectively. 35144
On or before April 1, 2006, and the first day of March of each 35145
year thereafter, the treasurer of each city, local, exempted 35146
village, or joint vocational school district that has entered into 35147
such an agreement shall report to the director of development the 35148
total amounts of such payments the district received for the 35149
preceding tax year as provided in this section. The state board of 35150
education, in accordance with sections 3319.31 and 3319.311 of the 35151
Revised Code, may suspend or revoke the license of a treasurer 35152
found to have willfully reported erroneous, inaccurate, or 35153
incomplete data under this division. 35154

(2) On or before April 1, 2007, and the first day of April of 35155
each year thereafter, the director of development shall report to 35156
the department of education, the tax commissioner, and the 35157
director of budget and management the total amounts of payments 35158
received by each city, local, exempted village, or joint 35159
vocational school district for the preceding tax year pursuant to 35160
divisions (B), (C), and (D) of section 5709.82 of the Revised Code 35161
in relation to exemptions from taxation granted pursuant to 35162
ordinances or resolutions adopted on or after January 1, 2006, 35163
under Chapter 725. or 1728., sections 3735.65 to 3735.70, or 35164
section 5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the 35165
Revised Code. On or before March 1, 2007, and the first day of 35166
March of each year thereafter, the treasurer of each city, local, 35167
exempted village, or joint vocational school district that has 35168
entered into such an agreement shall report to the director of 35169
development the total amounts of such payments the district 35170

received for the preceding tax year as provided by this section. 35171
The state board of education, in accordance with sections 3319.31 35172
and 3319.311 of the Revised Code, may suspend or revoke the 35173
license of a treasurer found to have willfully reported erroneous, 35174
inaccurate, or incomplete data under this division. 35175

Sec. 3317.022. (A)(1) The department of education shall 35176
compute and distribute state base cost funding to each eligible 35177
school district for the fiscal year, using the information 35178
obtained under section 3317.021 of the Revised Code in the 35179
calendar year in which the fiscal year begins, according to the 35180
following formula: 35181

{[the formula amount X (formula ADM + 35182
preschool scholarship ADM)] + 35183
the sum of the base funding supplements 35184
prescribed in divisions (C)(1) to (4) 35185
of section 3317.012 of the Revised Code} - 35186
[.023 x (the sum of recognized valuation 35187
and property exemption value)] + 35188
the amounts calculated for the district under 35189
sections 3317.029 and 3317.0217 of the Revised Code 35190

If the difference obtained is a negative number, the 35191
district's computation shall be zero. 35192

(2)(a) For each school district for which the tax exempt 35193
value of the district equals or exceeds twenty-five per cent of 35194
the potential value of the district, the department of education 35195
shall calculate the difference between the district's tax exempt 35196
value and twenty-five per cent of the district's potential value. 35197

(b) For each school district to which division (A)(2)(a) of 35198
this section applies, the department shall adjust the recognized 35199
valuation used in the calculation under division (A)(1) of this 35200
section by subtracting from it the amount calculated under 35201

division (A)(2)(a) of this section.	35202
(B) As used in this section:	35203
(1) The "total special education weight" for a district means the sum of the following amounts:	35204
(a) The district's category one special education ADM multiplied by the multiple specified in division (A) of section 3317.013 of the Revised Code;	35206 35207 35208
(b) The district's category two special education ADM multiplied by the multiple specified in division (B) of section 3317.013 of the Revised Code;	35209 35210 35211
(c) The district's category three special education ADM multiplied by the multiple specified in division (C) of section 3317.013 of the Revised Code;	35212 35213 35214
(d) The district's category four special education ADM multiplied by the multiple specified in division (D) of section 3317.013 of the Revised Code;	35215 35216 35217
(e) The district's category five special education ADM multiplied by the multiple specified in division (E) of section 3317.013 of the Revised Code;	35218 35219 35220
(f) The district's category six special education ADM multiplied by the multiple specified in division (F) of section 3317.013 of the Revised Code.	35221 35222 35223
(2) "State share percentage" means the percentage calculated for a district as follows:	35224 35225
(a) Calculate the state base cost funding amount for the district for the fiscal year under division (A) of this section. If the district would not receive any state base cost funding for that year under that division, the district's state share percentage is zero.	35226 35227 35228 35229 35230
(b) If the district would receive state base cost funding	35231

~~under that division, divide that amount by an amount equal to the~~ 35232
~~following:~~ 35233

~~(the formula amount X formula ADM) +~~ 35234
~~the sum of the base funding supplements~~ 35235
~~prescribed in divisions (C)(1) to (4)~~ 35236
~~of section 3317.012 of the Revised Code +~~ 35237
~~the sum of the amounts calculated for the district under~~ 35238
~~sections 3317.029 and 3317.0217 of the Revised Code~~ 35239

~~The resultant number is the district's state share~~ 35240
~~percentage.~~ 35241

~~(3) "Related services" includes:~~ 35242

(a) Child study, special education supervisors and 35243
coordinators, speech and hearing services, adaptive physical 35244
development services, occupational or physical therapy, teacher 35245
assistants for children with disabilities whose disabilities are 35246
described in division (B) of section 3317.013 or division (F)(3) 35247
of section 3317.02 of the Revised Code, behavioral intervention, 35248
interpreter services, work study, nursing services, and 35249
specialized integrative services as those terms are defined by the 35250
department; 35251

(b) Speech and language services provided to any student with 35252
a disability, including any student whose primary or only 35253
disability is a speech and language disability; 35254

(c) Any related service not specifically covered by other 35255
state funds but specified in federal law, including but not 35256
limited to, audiology and school psychological services; 35257

(d) Any service included in units funded under former 35258
division (O)(1) of section 3317.024 of the Revised Code; 35259

(e) Any other related service needed by children with 35260
disabilities in accordance with their individualized education 35261
programs. 35262

~~(4)~~(3) The "total vocational education weight" for a district 35263
means the sum of the following amounts: 35264

(a) The district's category one vocational education ADM 35265
multiplied by the multiple specified in division (A) of section 35266
3317.014 of the Revised Code; 35267

(b) The district's category two vocational education ADM 35268
multiplied by the multiple specified in division (B) of section 35269
3317.014 of the Revised Code. 35270

~~(5)~~(4) "Preschool scholarship ADM" means the number of 35271
preschool children with disabilities reported under division 35272
(B)(3)(h) of section 3317.03 of the Revised Code. 35273

(C)(1) The department shall compute and distribute state 35274
special education and related services additional weighted costs 35275
funds to each school district in accordance with the following 35276
formula: 35277

The district's state share percentage X 35278
the formula amount for the year for which 35279
the aid is calculated X the district's 35280
total special education weight 35281

(2) The attributed local share of special education and 35282
related services additional weighted costs equals: 35283

(1 - the district's state share percentage) X the district's 35284
total special education weight X the formula amount 35285

(3)(a) The department shall compute and pay in accordance 35286
with this division additional state aid to school districts for 35287
students in categories two through six special education ADM. If a 35288
district's costs for the fiscal year for a student in its 35289
categories two through six special education ADM exceed the 35290
threshold catastrophic cost for serving the student, the district 35291
may submit to the superintendent of public instruction 35292
documentation, as prescribed by the superintendent, of all its 35293

costs for that student. Upon submission of documentation for a 35294
student of the type and in the manner prescribed, the department 35295
shall pay to the district an amount equal to the sum of the 35296
following: 35297

(i) One-half of the district's costs for the student in 35298
excess of the threshold catastrophic cost; 35299

(ii) The product of one-half of the district's costs for the 35300
student in excess of the threshold catastrophic cost multiplied by 35301
the district's state share percentage. 35302

(b) For purposes of division (C)(3)(a) of this section, the 35303
threshold catastrophic cost for serving a student equals: 35304

(i) For a student in the school district's category two, 35305
three, four, or five special education ADM, twenty-seven thousand 35306
three hundred seventy-five dollars ~~in fiscal years 2008 and 2009;~~ 35307

(ii) For a student in the district's category six special 35308
education ADM, thirty-two thousand eight hundred fifty dollars ~~in~~ 35309
~~fiscal years 2008 and 2009.~~ 35310

(c) The district shall only report under division (C)(3)(a) 35311
of this section, and the department shall only pay for, the costs 35312
of educational expenses and the related services provided to the 35313
student in accordance with the student's individualized education 35314
program. Any legal fees, court costs, or other costs associated 35315
with any cause of action relating to the student may not be 35316
included in the amount. 35317

(4)(a) As used in this division, the "personnel allowance" 35318
means thirty thousand dollars in fiscal years 2008 and 2009. 35319

(b) For the provision of speech language pathology services 35320
to students, including students who do not have individualized 35321
education programs prepared for them under Chapter 3323. of the 35322
Revised Code, and for no other purpose, the department of 35323

education shall pay each school district an amount calculated 35324
under the following formula: 35325

(formula ADM divided by 2000) X 35326

the personnel allowance X 35327

the state share percentage 35328

(5) In any fiscal year, a school district shall spend for 35329
purposes that the department designates as approved for special 35330
education and related services expenses at least the amount 35331
calculated as follows: 35332

(formula amount X the sum of categories 35333
one through six special education ADM) + 35334

(total special education weight X formula amount) 35335

The purposes approved by the department for special education 35336
expenses shall include, but shall not be limited to, 35337
identification of children with disabilities, compliance with 35338
state rules governing the education of children with disabilities 35339
and prescribing the continuum of program options for children with 35340
disabilities, provision of speech language pathology services, and 35341
the portion of the school district's overall administrative and 35342
overhead costs that are attributable to the district's special 35343
education student population. 35344

The scholarships deducted from the school district's account 35345
under section 3310.41 of the Revised Code shall be considered to 35346
be an approved special education and related services expense for 35347
the purpose of the school district's compliance with division 35348
(C)(5) of this section. 35349

The department shall require school districts to report data 35350
annually to allow for monitoring compliance with division (C)(5) 35351
of this section. The department shall annually report to the 35352
governor and the general assembly the amount of money spent by 35353
each school district for special education and related services. 35354

(6) In any fiscal year, a school district shall spend for the provision of speech language pathology services not less than the sum of the amount calculated under division (C)(1) of this section for the students in the district's category one special education ADM and the amount calculated under division (C)(4) of this section.

(D)(1) As used in this division:

(a) "Daily bus miles per student" equals the number of bus miles traveled per day, divided by transportation base.

(b) "Transportation base" equals total student count as defined in section 3301.011 of the Revised Code, minus the number of students enrolled in units for preschool children with disabilities, plus the number of nonpublic school students included in transportation ADM.

(c) "Transported student percentage" equals transportation ADM divided by transportation base.

(d) "Transportation cost per student" equals total operating costs for board-owned or contractor-operated school buses divided by transportation base.

(2) Analysis of student transportation cost data has resulted in a finding that an average efficient transportation use cost per student can be calculated by means of a regression formula that has as its two independent variables the number of daily bus miles per student and the transported student percentage. For fiscal year 1998 transportation cost data, the average efficient transportation use cost per student is expressed as follows:

$$51.79027 + (139.62626 \times \text{daily bus miles per student}) + (116.25573 \times \text{transported student percentage})$$

The department of education shall annually determine the average efficient transportation use cost per student in accordance with the principles stated in division (D)(2) of this

section, updating the intercept and regression coefficients of the regression formula modeled in this division, based on an annual statewide analysis of each school district's daily bus miles per student, transported student percentage, and transportation cost per student data. The department shall conduct the annual update using data, including daily bus miles per student, transported student percentage, and transportation cost per student data, from the prior fiscal year. The department shall notify the office of budget and management of such update by the fifteenth day of February of each year.

(3) In addition to funds paid under divisions (A), (C), and (E) of this section, each district with a transported student percentage greater than zero shall receive a payment equal to a percentage of the product of the district's transportation base from the prior fiscal year times the annually updated average efficient transportation use cost per student, times an inflation factor of two and eight-tenths per cent to account for the one-year difference between the data used in updating the formula and calculating the payment and the year in which the payment is made. The percentage shall be the following percentage of that product specified for the corresponding fiscal year:

FISCAL YEAR	PERCENTAGE	
2000	52.5%	
2001	55%	
2002	57.5%	
2003 and thereafter	The greater of 60% or the district's state share percentage	

The payments made under division (D)(3) of this section each year shall be calculated based on all of the same prior year's data used to update the formula.

(4) In addition to funds paid under divisions (D)(2) and (3)

of this section, a school district shall receive a rough road subsidy if both of the following apply:

(a) Its county rough road percentage is higher than the statewide rough road percentage, as those terms are defined in division (D)(5) of this section;

(b) Its district student density is lower than the statewide student density, as those terms are defined in that division.

(5) The rough road subsidy paid to each district meeting the qualifications of division (D)(4) of this section shall be calculated in accordance with the following formula:

(per rough mile subsidy X total rough road miles)
X density multiplier

where:

(a) "Per rough mile subsidy" equals the amount calculated in accordance with the following formula:

$0.75 - \{0.75 \times [(\text{maximum rough road percentage} - \text{county rough road percentage}) / (\text{maximum rough road percentage} - \text{statewide rough road percentage})]\}$

(i) "Maximum rough road percentage" means the highest county rough road percentage in the state.

(ii) "County rough road percentage" equals the percentage of the mileage of state, municipal, county, and township roads that is rated by the department of transportation as type A, B, C, E2, or F in the county in which the school district is located or, if the district is located in more than one county, the county to which it is assigned for purposes of determining its cost-of-doing-business factor.

(iii) "Statewide rough road percentage" means the percentage of the statewide total mileage of state, municipal, county, and township roads that is rated as type A, B, C, E2, or F by the

department of transportation. 35446

(b) "Total rough road miles" means a school district's total 35447
bus miles traveled in one year times its county rough road 35448
percentage. 35449

(c) "Density multiplier" means a figure calculated in 35450
accordance with the following formula: 35451

1 - [(minimum student density - district student 35452
density)/(minimum student density - 35453
statewide student density)] 35454

(i) "Minimum student density" means the lowest district 35455
student density in the state. 35456

(ii) "District student density" means a school district's 35457
transportation base divided by the number of square miles in the 35458
district. 35459

(iii) "Statewide student density" means the sum of the 35460
transportation bases for all school districts divided by the sum 35461
of the square miles in all school districts. 35462

(6) In addition to funds paid under divisions (D)(2) to (5) 35463
of this section, each district shall receive in accordance with 35464
rules adopted by the state board of education a payment for 35465
students transported by means other than board-owned or 35466
contractor-operated buses and whose transportation is not funded 35467
under division (G) of section 3317.024 of the Revised Code. The 35468
rules shall include provisions for school district reporting of 35469
such students. 35470

(E)(1) The department shall compute and distribute state 35471
vocational education additional weighted costs funds to each 35472
school district in accordance with the following formula: 35473

state share percentage X 35474
the formula amount X 35475

total vocational education weight 35476

In any fiscal year, a school district receiving funds under 35477
division (E)(1) of this section shall spend those funds only for 35478
the purposes that the department designates as approved for 35479
vocational education expenses. Vocational educational expenses 35480
approved by the department shall include only expenses connected 35481
to the delivery of career-technical programming to 35482
career-technical students. The department shall require the school 35483
district to report data annually so that the department may 35484
monitor the district's compliance with the requirements regarding 35485
the manner in which funding received under division (E)(1) of this 35486
section may be spent. 35487

(2) The department shall compute for each school district 35488
state funds for vocational education associated services in 35489
accordance with the following formula: 35490

state share percentage X .05 X the formula amount X 35491
the sum of categories one and two vocational education ADM 35492

In any fiscal year, a school district receiving funds under 35493
division (E)(2) of this section, or through a transfer of funds 35494
pursuant to division (L) of section 3317.023 of the Revised Code, 35495
shall spend those funds only for the purposes that the department 35496
designates as approved for vocational education associated 35497
services expenses, which may include such purposes as 35498
apprenticeship coordinators, coordinators for other vocational 35499
education services, vocational evaluation, and other purposes 35500
designated by the department. The department may deny payment 35501
under division (E)(2) of this section to any district that the 35502
department determines is not operating those services or is using 35503
funds paid under division (E)(2) of this section, or through a 35504
transfer of funds pursuant to division (L) of section 3317.023 of 35505
the Revised Code, for other purposes. 35506

(F) The actual local share in any fiscal year for the 35507

combination of special education and related services additional 35508
weighted costs funding calculated under division (C)(1) of this 35509
section, transportation funding calculated under divisions (D)(2) 35510
and (3) of this section, and vocational education and associated 35511
services additional weighted costs funding calculated under 35512
divisions (E)(1) and (2) of this section shall not exceed for any 35513
school district the product of three and three-tenths mills times 35514
the district's recognized valuation. The department annually shall 35515
pay each school district as an excess cost supplement any amount 35516
by which the sum of the district's attributed local shares for 35517
that funding exceeds that product. For purposes of calculating the 35518
excess cost supplement: 35519

(1) The attributed local share for special education and 35520
related services additional weighted costs funding is the amount 35521
specified in division (C)(2) of this section. 35522

(2) The attributed local share of transportation funding 35523
equals the difference of the total amount calculated for the 35524
district using the formula developed under division (D)(2) of this 35525
section minus the actual amount paid to the district after 35526
applying the percentage specified in division (D)(3) of this 35527
section. 35528

(3) The attributed local share of vocational education and 35529
associated services additional weighted costs funding is the 35530
amount determined as follows: 35531

(1 - state share percentage) X 35532
[(total vocational education weight X 35533
the formula amount) + the payment under 35534
division (E)(2) of this section] 35535

Sec. 3317.023. (A) ~~Notwithstanding section 3317.022 of the~~ 35536
~~Revised Code, the~~ The amounts required to be paid to a district 35537
under this chapter and Chapter 3306. of the Revised Code shall be 35538

adjusted by the amount of the computations made under divisions 35539
(B) to (N) of this section. The department of education shall not 35540
make payments or adjustments under divisions (B), (C), and (D) of 35541
this section for any fiscal year after fiscal year 2009. 35542

As used in this section: 35543

(1) "Classroom teacher" means a licensed employee who 35544
provides direct instruction to pupils, excluding teachers funded 35545
from money paid to the district from federal sources; educational 35546
service personnel; and vocational and special education teachers. 35547

(2) "Educational service personnel" shall not include such 35548
specialists funded from money paid to the district from federal 35549
sources or assigned full-time to vocational or special education 35550
students and classes and may only include those persons employed 35551
in the eight specialist areas in a pattern approved by the 35552
department of education under guidelines established by the state 35553
board of education. 35554

(3) "Annual salary" means the annual base salary stated in 35555
the state minimum salary schedule for the performance of the 35556
teacher's regular teaching duties that the teacher earns for 35557
services rendered for the first full week of October of the fiscal 35558
year for which the adjustment is made under division (C) of this 35559
section. It shall not include any salary payments for supplemental 35560
teachers contracts. 35561

(4) "Regular student population" means the formula ADM plus 35562
the number of students reported as enrolled in the district 35563
pursuant to division (A)(1) of section 3313.981 of the Revised 35564
Code; minus the number of students reported under division (A)(2) 35565
of section 3317.03 of the Revised Code; minus the FTE of students 35566
reported under division (B)(6), (7), (8), (9), (10), (11), or (12) 35567
of that section who are enrolled in a vocational education class 35568
or receiving special education; and minus twenty per cent of the 35569

students enrolled concurrently in a joint vocational school 35570
district. 35571

~~(5) "State share percentage" has the same meaning as in 35572
section 3317.022 of the Revised Code. 35573~~

~~(6)~~ "VEPD" means a school district or group of school 35574
districts designated by the department of education as being 35575
responsible for the planning for and provision of vocational 35576
education services to students within the district or group. 35577

~~(7)~~(6) "Lead district" means a school district, including a 35578
joint vocational school district, designated by the department as 35579
a VEPD, or designated to provide primary vocational education 35580
leadership within a VEPD composed of a group of districts. 35581

(B) If the district employs less than one full-time 35582
equivalent classroom teacher for each twenty-five pupils in the 35583
regular student population in any school district, deduct the sum 35584
of the amounts obtained from the following computations: 35585

(1) Divide the number of the district's full-time equivalent 35586
classroom teachers employed by one twenty-fifth; 35587

(2) Subtract the quotient in (1) from the district's regular 35588
student population; 35589

(3) Multiply the difference in (2) by seven hundred fifty-two 35590
dollars. 35591

(C) If a positive amount, add one-half of the amount obtained 35592
by multiplying the number of full-time equivalent classroom 35593
teachers by: 35594

(1) The mean annual salary of all full-time equivalent 35595
classroom teachers employed by the district at their respective 35596
training and experience levels minus; 35597

(2) The mean annual salary of all such teachers at their 35598
respective levels in all school districts receiving payments under 35599

this section. 35600

The number of full-time equivalent classroom teachers used in 35601
this computation shall not exceed one twenty-fifth of the 35602
district's regular student population. In calculating the 35603
district's mean salary under this division, those full-time 35604
equivalent classroom teachers with the highest training level 35605
shall be counted first, those with the next highest training level 35606
second, and so on, in descending order. Within the respective 35607
training levels, teachers with the highest years of service shall 35608
be counted first, the next highest years of service second, and so 35609
on, in descending order. 35610

(D) This division does not apply to a school district that 35611
has entered into an agreement under division (A) of section 35612
3313.42 of the Revised Code. Deduct the amount obtained from the 35613
following computations if the district employs fewer than five 35614
full-time equivalent educational service personnel, including 35615
elementary school art, music, and physical education teachers, 35616
counselors, librarians, visiting teachers, school social workers, 35617
and school nurses for each one thousand pupils in the regular 35618
student population: 35619

(1) Divide the number of full-time equivalent educational 35620
service personnel employed by the district by five 35621
one-thousandths; 35622

(2) Subtract the quotient in (1) from the district's regular 35623
student population; 35624

(3) Multiply the difference in (2) by ninety-four dollars. 35625

(E) If a local school district, or a city or exempted village 35626
school district to which a governing board of an educational 35627
service center provides services pursuant to section 3313.843 of 35628
the Revised Code, deduct the amount of the payment required for 35629
the reimbursement of the governing board under section 3317.11 of 35630

the Revised Code. 35631

(F)(1) If the district is required to pay to or entitled to 35632
receive tuition from another school district under division (C)(2) 35633
or (3) of section 3313.64 or section 3313.65 of the Revised Code, 35634
or if the superintendent of public instruction is required to 35635
determine the correct amount of tuition and make a deduction or 35636
credit under section 3317.08 of the Revised Code, deduct and 35637
credit such amounts as provided in division (J) of section 3313.64 35638
or section 3317.08 of the Revised Code. 35639

(2) For each child for whom the district is responsible for 35640
tuition or payment under division (A)(1) of section 3317.082 or 35641
section 3323.091 of the Revised Code, deduct the amount of tuition 35642
or payment for which the district is responsible. 35643

(G) If the district has been certified by the superintendent 35644
of public instruction under section 3313.90 of the Revised Code as 35645
not in compliance with the requirements of that section, deduct an 35646
amount equal to ten per cent of the amount computed for the 35647
district under ~~section 3317.022~~ Chapter 3306. of the Revised Code. 35648

(H) If the district has received a loan from a commercial 35649
lending institution for which payments are made by the 35650
superintendent of public instruction pursuant to division (E)(3) 35651
of section 3313.483 of the Revised Code, deduct an amount equal to 35652
such payments. 35653

(I)(1) If the district is a party to an agreement entered 35654
into under division (D), (E), or (F) of section 3311.06 or 35655
division (B) of section 3311.24 of the Revised Code and is 35656
obligated to make payments to another district under such an 35657
agreement, deduct an amount equal to such payments if the district 35658
school board notifies the department in writing that it wishes to 35659
have such payments deducted. 35660

(2) If the district is entitled to receive payments from 35661

another district that has notified the department to deduct such 35662
payments under division (I)(1) of this section, add the amount of 35663
such payments. 35664

(J) If the district is required to pay an amount of funds to 35665
a cooperative education district pursuant to a provision described 35666
by division (B)(4) of section 3311.52 or division (B)(8) of 35667
section 3311.521 of the Revised Code, deduct such amounts as 35668
provided under that provision and credit those amounts to the 35669
cooperative education district for payment to the district under 35670
division (B)(1) of section 3317.19 of the Revised Code. 35671

(K)(1) If a district is educating a student entitled to 35672
attend school in another district pursuant to a shared education 35673
contract, compact, or cooperative education agreement other than 35674
an agreement entered into pursuant to section 3313.842 of the 35675
Revised Code, credit to that educating district on an FTE basis 35676
both of the following: 35677

(a) An amount equal to the ~~sum of the~~ formula amount ~~plus the~~ 35678
~~per pupil amount of the base funding supplements specified in~~ 35679
~~divisions (C)(1) to (4) of section 3317.012 of the Revised Code.~~ 35680

(b) An amount equal to the current formula amount times the 35681
state share percentage times any multiple applicable to the 35682
student pursuant to section ~~3317.013 or 3317.014~~ 3306.11 of the 35683
Revised Code. 35684

(2) Deduct any amount credited pursuant to division (K)(1) of 35685
this section from amounts paid to the school district in which the 35686
student is entitled to attend school pursuant to section 3313.64 35687
or 3313.65 of the Revised Code. 35688

(3) If the district is required by a shared education 35689
contract, compact, or cooperative education agreement to make 35690
payments to an educational service center, deduct the amounts from 35691
payments to the district and add them to the amounts paid to the 35692

service center pursuant to section 3317.11 of the Revised Code. 35693

(L)(1) If a district, including a joint vocational school 35694
district, is a lead district of a VEPD, credit to that district 35695
the amounts calculated for all the school districts within that 35696
VEPD pursuant to division (E)(2) of section 3317.022 of the 35697
Revised Code. 35698

(2) Deduct from each appropriate district that is not a lead 35699
district, the amount attributable to that district that is 35700
credited to a lead district under division (L)(1) of this section. 35701

(M) If the department pays a joint vocational school district 35702
under division (G)(4) of section 3317.16 of the Revised Code for 35703
excess costs of providing special education and related services 35704
to a student with a disability, as calculated under division 35705
(G)(2) of that section, the department shall deduct the amount of 35706
that payment from the city, local, or exempted village school 35707
district that is responsible as specified in that section for the 35708
excess costs. 35709

(N)(1) If the district reports an amount of excess cost for 35710
special education services for a child under division (C) of 35711
section 3323.14 of the Revised Code, the department shall pay that 35712
amount to the district. 35713

(2) If the district reports an amount of excess cost for 35714
special education services for a child under division (C) of 35715
section 3323.14 of the Revised Code, the department shall deduct 35716
that amount from the district of residence of that child. 35717

Sec. 3317.024. ~~In addition to the moneys paid to eligible 35718
school districts pursuant to section 3317.022 of the Revised Code, 35719
moneys appropriated for the education programs in divisions (A) to 35720
(I), (K), (L), and (N) of this section shall be distributed to 35721
school districts meeting the requirements of section 3317.01 of 35722~~

~~the Revised Code; in the case of divisions (G) and (L) of this section, to educational service centers as provided in section 3317.11 of the Revised Code; in the case of divisions (D) and (J) of this section, to county MR/DD boards; in the case of division (N) of this section, to joint vocational school districts; in the case of division (H) of this section, to cooperative education school districts; and in the case of division (M) of this section, to the institutions defined under section 3317.082 of the Revised Code providing elementary or secondary education programs to children other than children receiving special education under section 3323.091 of the Revised Code. The following shall be distributed monthly, quarterly, or annually as may be determined by the state board of education, except that the department of education shall not make payments under divisions (F), (L), and (N) of this section for any fiscal year after fiscal year 2009:~~

(A) An amount for each island school district and each joint state school district for the operation of each high school and each elementary school maintained within such district and for capital improvements for such schools. Such amounts shall be determined on the basis of standards adopted by the state board of education.

(B) An amount for each school district operating classes for children of migrant workers who are unable to be in attendance in an Ohio school during the entire regular school year. The amounts shall be determined on the basis of standards adopted by the state board of education, except that payment shall be made only for subjects regularly offered by the school district providing the classes.

(C) An amount for each school district with guidance, testing, and counseling programs approved by the state board of education. The amount shall be determined on the basis of

standards adopted by the state board of education. 35754

(D) An amount for the emergency purchase of school buses as 35755
provided for in section 3317.07 of the Revised Code; 35756

(E) An amount for each school district required to pay 35757
tuition for a child in an institution maintained by the department 35758
of youth services pursuant to section 3317.082 of the Revised 35759
Code, provided the child was not included in the calculation of 35760
the district's average daily membership for the preceding school 35761
year. 35762

(F) An amount for adult basic literacy education for each 35763
district participating in programs approved by the state board of 35764
education. The amount shall be determined on the basis of 35765
standards adopted by the state board of education. 35766

(G) An amount for the approved cost of transporting eligible 35767
pupils with disabilities attending a special education program 35768
approved by the department of education whom it is impossible or 35769
impractical to transport by regular school bus in the course of 35770
regular route transportation provided by the district or service 35771
center. No district or service center is eligible to receive a 35772
payment under this division for the cost of transporting any pupil 35773
whom it transports by regular school bus and who is included in 35774
the district's transportation ADM. The state board of education 35775
shall establish standards and guidelines for use by the department 35776
of education in determining the approved cost of such 35777
transportation for each district or service center. 35778

(H) An amount to each school district, including each 35779
cooperative education school district, pursuant to section 3313.81 35780
of the Revised Code to assist in providing free lunches to needy 35781
children and an amount to assist needy school districts in 35782
purchasing necessary equipment for food preparation. The amounts 35783
shall be determined on the basis of rules adopted by the state 35784

board of education. 35785

(I) An amount to each school district, for each pupil 35786
attending a chartered nonpublic elementary or high school within 35787
the district. The amount shall equal the amount appropriated for 35788
the implementation of section 3317.06 of the Revised Code divided 35789
by the average daily membership in grades kindergarten through 35790
twelve in nonpublic elementary and high schools within the state 35791
as determined during the first full week in October of each school 35792
year. 35793

(J) An amount for each county MR/DD board, distributed on the 35794
basis of standards adopted by the state board of education, for 35795
the approved cost of transportation required for children 35796
attending special education programs operated by the county MR/DD 35797
board under section 3323.09 of the Revised Code; 35798

(K) An amount for each school district that establishes a 35799
mentor teacher program that complies with rules of the state board 35800
of education. No school district shall be required to establish or 35801
maintain such a program in any year unless sufficient funds are 35802
appropriated to cover the district's total costs for the program. 35803

(L) An amount to each school district or educational service 35804
center for the total number of gifted units approved pursuant to 35805
section 3317.05 of the Revised Code. The amount for each such unit 35806
shall be the sum of the minimum salary for the teacher of the 35807
unit, calculated on the basis of the teacher's training level and 35808
years of experience pursuant to the salary schedule prescribed in 35809
the version of section 3317.13 of the Revised Code in effect prior 35810
to July 1, 2001, plus fifteen per cent of that minimum salary 35811
amount, plus two thousand six hundred seventy-eight dollars. 35812

(M) An amount to each institution defined under section 35813
3317.082 of the Revised Code providing elementary or secondary 35814
education to children other than children receiving special 35815

education under section 3323.091 of the Revised Code. This amount 35816
for any institution in any fiscal year shall equal the total of 35817
all tuition amounts required to be paid to the institution under 35818
division (A)(1) of section 3317.082 of the Revised Code. 35819

(N) A grant to each school district and joint vocational 35820
school district that operates a "graduation, reality, and 35821
dual-role skills" (GRADS) program for pregnant and parenting 35822
students that is approved by the department. The amount of the 35823
payment shall be the district's state share percentage, as defined 35824
in section 3317.022 or 3317.16 of the Revised Code, times the 35825
GRADS personnel allowance times the full-time-equivalent number of 35826
GRADS teachers approved by the department. The GRADS personnel 35827
allowance is \$47,555 in fiscal years 2008 and 2009. The GRADS 35828
program shall include instruction on adoption as an option for 35829
unintended pregnancies. 35830

The state board of education or any other board of education 35831
or governing board may provide for any resident of a district or 35832
educational service center territory any educational service for 35833
which funds are made available to the board by the United States 35834
under the authority of public law, whether such funds come 35835
directly or indirectly from the United States or any agency or 35836
department thereof or through the state or any agency, department, 35837
or political subdivision thereof. 35838

Sec. 3317.025. On or before the first day of June of each 35839
year, the tax commissioner shall certify the following information 35840
to the department of education and the office of budget and 35841
management, for each school district in which the value of the 35842
property described under division (A) of this section exceeds one 35843
per cent of the taxable value of all real and tangible personal 35844
property in the district or in which is located tangible personal 35845
property designed for use or used in strip mining operations, 35846

whose taxable value exceeds five million dollars, and the taxes 35847
upon which the district is precluded from collecting by virtue of 35848
legal proceedings to determine the value of such property: 35849

(A) The total taxable value of all property in the district 35850
owned by a public utility or railroad that has filed a petition 35851
for reorganization under the "Bankruptcy Act," 47 Stat. 1474 35852
(1898), 11 U.S.C. 205, as amended, and all tangible personal 35853
property in the district designed for use or used in strip mining 35854
operations whose taxable value exceeds five million dollars upon 35855
which have not been paid in full on or before the first day of 35856
April of that calendar year all real and tangible personal 35857
property taxes levied for the preceding calendar year and which 35858
the district was precluded from collecting by virtue of 35859
proceedings under section 205 of said act or by virtue of legal 35860
proceedings to determine the tax liability of such strip mining 35861
equipment; 35862

(B) The percentage of the total operating taxes charged and 35863
payable for school district purposes levied against such valuation 35864
for the preceding calendar year that have not been paid by such 35865
date; 35866

(C) The product obtained by multiplying the value certified 35867
under division (A) of this section by the percentage certified 35868
under division (B) of this section. If the value certified under 35869
division (A) of this section includes taxable property owned by a 35870
public utility or railroad that has filed a petition for 35871
reorganization under the bankruptcy act, the amount used in making 35872
the calculation under this division shall be reduced by one per 35873
cent of the total value of all real and tangible personal property 35874
in the district or the value of the utility's or railroad's 35875
property, whichever is less. 35876

Upon receipt of the certification, the department shall 35877
recompute the payments required under ~~section 3317.022~~ this 35878

chapter and Chapter 3306. of the Revised Code in the manner the 35879
payments would have been computed if: 35880

(1) The amount certified under division (C) of this section 35881
was not subject to taxation by the district and was not included 35882
in the certification made under division (A)(1), (A)(2), or (D) of 35883
section 3317.021 of the Revised Code. 35884

(2) The amount of taxes charged and payable and unpaid and 35885
used to make the computation under division (B) of this section 35886
had not been levied and had not been used in the computation 35887
required by division (B) of section 3317.021 of the Revised Code. 35888
The department shall pay the district that amount in the ensuing 35889
fiscal year in lieu of the amounts computed under ~~section 3317.022~~ 35890
this chapter and Chapter 3306. of the Revised Code. 35891

If a school district received a grant from the catastrophic 35892
expenditures account pursuant to division (C) of section 3316.20 35893
of the Revised Code on the basis of the same circumstances for 35894
which a recomputation is made under this section, the amount of 35895
the recomputation shall be reduced and transferred in accordance 35896
with division (C) of section 3316.20 of the Revised Code. 35897

Sec. 3317.0210. (A) As used in this section: 35898

(1) "Bankruptcy Reform Act" means the "Bankruptcy Reform Act 35899
of 1978," 92 Stat. 2558, 11 U.S.C. 301, as amended. 35900

(2) "Chapter 11 corporation" means a corporation, company, or 35901
other business organization that has filed a petition for 35902
reorganization under Chapter 11 of the "Bankruptcy Reform Act," 92 35903
Stat. 2626, 11 U.S.C. 1101, as amended. 35904

(3) "Uncollectable taxes" means property taxes payable in a 35905
calendar year by a Chapter 11 corporation on its property that a 35906
school district is precluded from collecting by virtue of 35907
proceedings under the Bankruptcy Reform Act. 35908

(4) "Basic state aid" means the state aid calculated for a school district under ~~section 3317.022~~ Chapter 3306. of the Revised Code.

(5) "Effective value" means the amount obtained by multiplying the total taxable value certified in a calendar year under section 3317.021 of the Revised Code by a fraction, the numerator of which is the total taxes charged and payable in that calendar year exclusive of the uncollectable taxes payable in that year, and the denominator of which is the total taxes charged and payable in that year.

(6) "Total taxes charged and payable" has the same meaning given "taxes charged and payable" in section 3317.02 of the Revised Code.

(B)(1) Between the first day of January and the first day of February of any year, a school district shall notify the department of education if it has uncollectable taxes payable in the preceding calendar year from one Chapter 11 corporation.

(2) The department shall verify whether the district has such uncollectable taxes from such a corporation, and if the district does, shall immediately request the tax commissioner to certify the district's total taxes charged and payable in the preceding calendar year, and the tax commissioner shall certify that information to the department within thirty days after receiving the request. For the purposes of this section, taxes are payable in the calendar year that includes the day prescribed by law for their payment, including any lawful extension thereof.

(C) Upon receiving the certification from the tax commissioner, the department shall determine whether the amount of uncollectable taxes from the corporation equals at least one per cent of the total taxes charged and payable as certified by the tax commissioner. If it does, the department shall compute the

district's effective value and shall recompute the basic state aid payable to the district for the current fiscal year using the effective value in lieu of the total taxable value used to compute the basic state aid for the current fiscal year. The difference between the basic state aid amount originally computed for the district for the current fiscal year and the recomputed amount shall be paid to the district from the lottery profits education fund before the end of the current fiscal year.

(D) Except as provided in division (E) of this section, amounts received by a school district under division (C) of this section shall be repaid to the department of education in any future year to the extent the district receives payments of uncollectable taxes in such future year. The district shall notify the department of any amount owed under this division.

(E) If a school district received a grant from the catastrophic expenditures account pursuant to division (C) of section 3316.20 of the Revised Code on the basis of the same circumstances for which a recomputation is made under this section, the amount of the recomputation shall be reduced and transferred in accordance with division (C) of section 3316.20 of the Revised Code.

Sec. 3317.0211. (A) As used in this section:

(1) "Port authority" means any port authority as defined in section 4582.01 or 4582.21 of the Revised Code.

(2) "Real property" includes public utility real property and "personal property" includes public utility personal property.

(3) "Uncollected taxes" means property taxes charged and payable against the property of a port authority for a tax year that a school district has not collected.

(4) "Basic state aid" means the state aid calculated for a

school district under ~~section 3317.022~~ Chapter 3306. of the 35970
Revised Code. 35971

(5) "Effective value" means the sum of the effective 35972
residential/agricultural real property value, the effective 35973
nonresidential/agricultural real property value, and the effective 35974
personal value. 35975

(6) "Effective residential/agricultural real property value" 35976
means, for a tax year, the amount obtained by multiplying the 35977
value for that year of residential/agricultural real property 35978
subject to taxation in the district by a fraction, the numerator 35979
of which is the total taxes charged and payable for that year 35980
against the residential/agricultural real property subject to 35981
taxation in the district, exclusive of the uncollected taxes for 35982
that year on all real property subject to taxation in the 35983
district, and the denominator of which is the total taxes charged 35984
and payable for that year against the residential/agricultural 35985
real property subject to taxation in the district. 35986

(7) "Effective nonresidential/agricultural real property 35987
value" means, for a tax year, the amount obtained by multiplying 35988
the value for that year of nonresidential/agricultural real 35989
property subject to taxation in the district by a fraction, the 35990
numerator of which is the total taxes charged and payable for that 35991
year against the nonresidential/agricultural real property subject 35992
to taxation in the district, exclusive of the uncollected taxes 35993
for that year on all real property subject to taxation in the 35994
district, and the denominator of which is the total taxes charged 35995
and payable for that year against the nonresidential/agricultural 35996
real property subject to taxation in the district. 35997

(8) "Effective personal value" means, for a tax year, the 35998
amount obtained by multiplying the value for that year certified 35999
under division (A)(2) of section 3317.021 of the Revised Code by a 36000
fraction, the numerator of which is the total taxes charged and 36001

payable for that year against personal property subject to 36002
taxation in the district, exclusive of the uncollected taxes for 36003
that year on that property, and the denominator of which is the 36004
total taxes charged and payable for that year against personal 36005
property subject to taxation in the district. 36006

(9) "Nonresidential/agricultural real property value" means, 36007
for a tax year, the sum of the values certified for a school 36008
district for that year under division (B)(2)(a) of this section, 36009
and "residential/agricultural real property value" means, for a 36010
tax year, the sum of the values certified for a school district 36011
under division (B)(2)(b) of this section. 36012

(10) "Taxes charged and payable against real property" means 36013
the taxes charged and payable against that property after making 36014
the reduction required by section 319.301 of the Revised Code. 36015

(11) "Total taxes charged and payable" has the same meaning 36016
given "taxes charged and payable" in section 3317.02 of the 36017
Revised Code. 36018

(B)(1) By the first day of August of any calendar year, a 36019
school district shall notify the department of education if it has 36020
any uncollected taxes from one port authority for the second 36021
preceding tax year whose taxes charged and payable represent at 36022
least one-half of one per cent of the district's total taxes 36023
charged and payable for that tax year. 36024

(2) The department shall verify whether the district has such 36025
uncollected taxes by the first day of September, and if the 36026
district does, shall immediately request the county auditor of 36027
each county in which the school district has territory to certify 36028
the following information concerning the district's property 36029
values and taxes for the second preceding tax year, and each such 36030
auditor shall certify that information to the department within 36031
thirty days of receiving the request: 36032

(a) The value of the property subject to taxation in the district that was classified as nonresidential/agricultural real property pursuant to section 5713.041 of the Revised Code, and the taxes charged and payable on that property; and

(b) The value of the property subject to taxation in the district that was classified as residential/agricultural real property under section 5713.041 of the Revised Code.

(C) By the fifteenth day of November, the department shall compute the district's effective nonresidential/agricultural real property value, effective residential/agricultural real property value, effective personal value, and effective value, and shall determine whether the school district's effective value for the second preceding tax year is at least one per cent less than its total value for that year certified under divisions (A)(1) and (2) of section 3317.021 of the Revised Code. If it is, the department shall recompute the basic state aid payable to the district for the immediately preceding fiscal year using the effective value in lieu of the amounts previously certified under section 3317.021 of the Revised Code. The difference between the original basic state aid amount computed for the district for the preceding fiscal year and the recomputed amount shall be paid to the district from the lottery profits education fund before the end of the current fiscal year.

(D) Except as provided in division (E) of this section, amounts received by a school district under division (C) of this section shall be repaid to the department of education in any future year to the extent the district receives payments of uncollectable taxes in such future year. The department shall notify a district of any amount owed under this division.

(E) If a school district received a grant from the catastrophic expenditures account pursuant to division (C) of section 3316.20 of the Revised Code on the basis of the same

circumstances for which a recomputation is made under this 36065
section, the amount of the recomputation shall be reduced and 36066
transferred in accordance with division (C) of section 3316.20 of 36067
the Revised Code. 36068

Sec. 3317.0216. (A) As used in this section: 36069

(1) "Total taxes charged and payable for current expenses" 36070
means the sum of ~~the~~: 36071

(a) The taxes charged and payable as certified under division 36072
(A)(3)(a) of section 3317.021 of the Revised Code less any amounts 36073
reported under division (A)(3)(b) of that section, ~~and the~~; plus 36074

(b) The tax distribution for the preceding year under any 36075
school district income tax levied by the district pursuant to 36076
Chapter 5748. of the Revised Code to the extent the revenue from 36077
the income tax is allocated or apportioned to current expenses, 36078
excluding the amount allocated or apportioned for the project 36079
cost, debt service, or maintenance set-aside associated with a 36080
state-assisted classroom facilities project as authorized by 36081
section 3318.052 of the Revised Code. 36082

(2) "Charge-off amount" means two and three-tenths per cent 36083
multiplied by (the sum of recognized valuation and property 36084
exemption value). 36085

(3) Until fiscal year 2003, the "actual local share of 36086
special education, transportation, and vocational education 36087
funding" for any school district means the sum of the district's 36088
attributed local shares described in divisions (F)(1) to (3) of 36089
section 3317.022 of the Revised Code. Beginning in fiscal year 36090
2003, the "actual local share of special education, 36091
transportation, and vocational education funding" means that sum 36092
minus the amount of any excess cost supplement payment calculated 36093
for the district under division (F) of section 3317.022 of the 36094

Revised Code. 36095

(B) Upon receiving the certifications under section 3317.021 36096
of the Revised Code, the department of education shall determine 36097
for each city, local, and exempted village school district whether 36098
the district's charge-off amount is greater than the district's 36099
total taxes charged and payable for current expenses, and if the 36100
charge-off amount is greater, shall pay the district the amount of 36101
the difference. A payment shall not be made to any school district 36102
for which the computation under division (A) of section 3317.022 36103
of the Revised Code equals zero. 36104

(C)(1) If a district's charge-off amount is equal to or 36105
greater than its total taxes charged and payable for current 36106
expenses, the department shall, in addition to the payment 36107
required under division (B) of this section, pay the district the 36108
amount of its actual local share of special education, 36109
transportation, and vocational education funding. 36110

(2) If a district's charge-off amount is less than its total 36111
taxes charged and payable for current expenses, the department 36112
shall pay the district any amount by which its actual local share 36113
of special education, transportation, and vocational education 36114
funding exceeds its total taxes charged and payable for current 36115
expenses minus its charge-off amount. 36116

(D) If a school district that received a payment under 36117
division (B) or (C) of this section in the prior fiscal year is 36118
ineligible for payment under those divisions in the current fiscal 36119
year, the department shall determine if the ineligibility is the 36120
result of a property tax or income tax levy approved by the 36121
district's voters to take effect in tax year 2005 or thereafter. 36122
If the department determines that is the case, and calculates that 36123
the levy causing the ineligibility exceeded by at least one mill 36124
the equivalent millage of the prior year's payment under divisions 36125
(B) and (C) of this section, the department shall make a payment 36126

to the district for the first three years that the district loses 36127
eligibility for payment under divisions (B) and (C) of this 36128
section, as follows: 36129

(1) In the first year of ineligibility, the department shall 36130
pay the district seventy-five per cent of the amount it last paid 36131
the district under divisions (B) and (C) of this section. 36132

(2) In the second year of ineligibility, the department shall 36133
pay the district fifty per cent of the amount it last paid the 36134
district under those divisions. 36135

(3) In the third year of ineligibility, the department shall 36136
pay the district twenty-five per cent of the amount it last paid 36137
the district under those divisions. 36138

(E) A district that receives payment under division (D) of 36139
this section and subsequently qualifies for payment under division 36140
(B) or (C) of this section is ineligible for future payments under 36141
division (D) of this section. 36142

(F) To enable the department of education to make the 36143
determinations and to calculate payments under division (D) of 36144
this section, on March 30, 2006, and on or before the first day of 36145
March of each year thereafter, the department shall send to the 36146
tax commissioner a list of school districts receiving payments 36147
under division (B) or (C) of this section for the current fiscal 36148
year. On or before the first day of the following June, the tax 36149
commissioner shall certify to the department of education for 36150
those school districts the information required by division (A)(8) 36151
of section 3317.021 of the Revised Code. 36152

Sec. 3317.03. ~~Notwithstanding divisions (A)(1), (B)(1), and 36153
(C) of this section, except as provided in division (A)(2)(h) of 36154
this section, any student enrolled in kindergarten more than half 36155
time shall be reported as one-half student under this section. The 36156~~

information certified and verified under this section shall be 36157
used to calculate payments under this chapter and Chapter 3306. of 36158
the Revised Code. 36159

(A) The superintendent of each city, local, and exempted 36160
village school district ~~and of each educational service center~~ 36161
shall, for the schools under the superintendent's supervision, 36162
certify to the state board of education on or before the fifteenth 36163
day of October in each year for the first full school week in 36164
October the average daily membership of students receiving 36165
services from schools under the superintendent's supervision, and 36166
the numbers of other students entitled to attend school in the 36167
district under section 3313.64 or 3313.65 of the Revised Code the 36168
superintendent is required to report under this section, so that 36169
the department of education can calculate the district's formula 36170
ADM. ~~Beginning in fiscal year 2007, each superintendent also shall~~ 36171
~~certify to the state board, for the schools under the~~ 36172
~~superintendent's supervision, the formula ADM for the first full~~ 36173
~~week in February.~~ If a school under the superintendent's 36174
supervision is closed for one or more days during that week due to 36175
hazardous weather conditions or other circumstances described in 36176
the first paragraph of division (A)(2) of section 3306.01 and the 36177
first paragraph of division (B) of section 3317.01 of the Revised 36178
Code, the superintendent may apply to the superintendent of public 36179
instruction for a waiver, under which the superintendent of public 36180
instruction may exempt the district superintendent from certifying 36181
the ~~formula ADM~~ average daily membership for that school for that 36182
week and specify an alternate week for certifying the ~~formula ADM~~ 36183
average daily membership of that school. 36184

The ~~formula ADM shall consist of the~~ average daily membership 36186
during such week shall consist of the sum of the following: 36187

(1) On an FTE basis, the number of students in grades 36188

kindergarten through twelve receiving any educational services 36189
from the district, except that the following categories of 36190
students shall not be included in the determination: 36191

(a) Students enrolled in adult education classes; 36192

~~(b) Adjacent or other district students enrolled in the 36193
district under an open enrollment policy pursuant to section 36194
3313.98 of the Revised Code; 36195~~

~~(e)~~ Students receiving services in the district pursuant to a 36196
compact, cooperative education agreement, or a contract, but who 36197
are entitled to attend school in another district pursuant to 36198
section 3313.64 or 3313.65 of the Revised Code; 36199

~~(d)~~(c) Students for whom tuition is payable pursuant to 36200
sections 3317.081 and 3323.141 of the Revised Code; 36201

~~(e)~~(d) Students receiving services in the district through a 36202
scholarship awarded under section 3310.41 of the Revised Code. 36203

(2) On an FTE basis, ~~except as provided in division (A)(2)(h)~~ 36204
~~of this section~~, the number of students entitled to attend school 36205
in the district pursuant to section 3313.64 or 3313.65 of the 36206
Revised Code, but receiving educational services in grades 36207
kindergarten through twelve from one or more of the following 36208
entities: 36209

(a) ~~A community school pursuant to Chapter 3314. of the 36210
Revised Code, including any participation in a college pursuant to 36211
Chapter 3365. of the Revised Code while enrolled in such community 36212
school; 36213~~

~~(b)~~ An alternative school pursuant to sections 3313.974 to 36214
3313.979 of the Revised Code as described in division (I)(2)(a) or 36215
(b) of this section; 36216

~~(e)~~(b) A college pursuant to Chapter 3365. of the Revised 36217
Code, except when the student is enrolled in the college while 36218

also enrolled in a ~~community school pursuant to Chapter 3314.~~ or a 36219
science, technology, engineering, and mathematics school 36220
~~established under Chapter 3326.~~ that is governed as provided in 36221
section 3326.51 of the Revised Code; 36222

~~(d) An adjacent or other school district under an open 36223
enrollment policy adopted pursuant to section 3313.98 of the 36224
Revised Code;~~ 36225

~~(e)~~(c) An educational service center or cooperative education 36226
district; 36227

~~(f)~~(d) Another school district under a cooperative education 36228
agreement, compact, or contract; 36229

~~(g)~~(e) A chartered nonpublic school with a scholarship paid 36230
under section 3310.08 of the Revised Code; 36231

~~(h)~~(f) An alternative public provider or a registered private 36232
provider with a scholarship awarded under section 3310.41 of the 36233
Revised Code. ~~Each such scholarship student who is enrolled in 36234
kindergarten shall be counted as one full-time equivalent student.~~ 36235
36236

As used in this section, "alternative public provider" and 36237
"registered private provider" have the same meanings as in section 36238
3310.41 of the Revised Code. 36239

~~(i)~~(g) A science, technology, engineering, and mathematics 36240
school ~~established under Chapter 3326.~~ that is governed as 36241
provided in section 3326.51 of the Revised Code, including any 36242
participation in a college pursuant to Chapter 3365. of the 36243
Revised Code while enrolled in the school. 36244

(3) ~~Twenty per cent of the~~ The number of students enrolled in 36245
a joint vocational school district ~~or under a vocational education 36246
compact,~~ excluding any students entitled to attend school in the 36247
district under section 3313.64 or 3313.65 of the Revised Code who 36248

are enrolled in another school district through an open enrollment 36249
policy ~~as reported under division (A)(2)(d) of this section~~ and 36250
then enroll in a joint vocational school district or under a 36251
vocational education compact; 36252

(4) The number of children with disabilities, other than 36253
preschool children with disabilities, entitled to attend school in 36254
the district pursuant to section 3313.64 or 3313.65 of the Revised 36255
Code who are placed by the district with a county MR/DD board, 36256
minus the number of such children placed with a county MR/DD board 36257
in fiscal year 1998. If this calculation produces a negative 36258
number, the number reported under division (A)(4) of this section 36259
shall be zero. 36260

~~(5) Beginning in fiscal year 2007, in the case of the report 36261
submitted for the first full week in February, or the alternative 36262
week if specified by the superintendent of public instruction, the 36263
number of students reported under division (A)(1) or (2) of this 36264
section for the first full week of the preceding October but who 36265
since that week have received high school diplomas. 36266~~

(B) To enable the department of education to obtain the data 36267
needed to complete the calculation of payments pursuant to this 36268
chapter and Chapter 3306. of the Revised Code, in addition to the 36269
~~formula ADM~~ average daily membership, each superintendent shall 36270
report separately the following student counts for the same week 36271
for which ~~formula ADM~~ average daily membership is certified: 36272

(1) The total average daily membership in regular learning 36273
day classes included in the report under division (A)(1) or (2) of 36274
this section for each of the individual grades kindergarten, ~~and~~ 36275
~~each of grades one~~ through twelve in schools under the 36276
superintendent's supervision; 36277

(2) The number of all preschool children with disabilities 36278
enrolled as of the first day of December in classes in the 36279

district that are eligible for approval under division (B) of 36280
section 3317.05 of the Revised Code and the number of those 36281
classes, which shall be reported not later than the fifteenth day 36282
of December, in accordance with rules adopted under that section; 36283

(3) The number of children entitled to attend school in the 36284
district pursuant to section 3313.64 or 3313.65 of the Revised 36285
Code who are: 36286

(a) Participating in a pilot project scholarship program 36287
established under sections 3313.974 to 3313.979 of the Revised 36288
Code as described in division (I)(2)(a) or (b) of this section; 36289

(b) Enrolled in a college under Chapter 3365. of the Revised 36290
Code, except when the student is enrolled in the college while 36291
also enrolled in a ~~community school pursuant to Chapter 3314. or a~~ 36292
science, technology, engineering, and mathematics school 36293
~~established under Chapter 3326. that is governed as provided in~~ 36294
section 3326.51 of the Revised Code; 36295

(c) Enrolled in an adjacent or other school district under 36296
section 3313.98 of the Revised Code; 36297

(d) Enrolled in a community school established under Chapter 36298
3314. of the Revised Code that is not an internet- or 36299
computer-based community school as defined in section 3314.02 of 36300
the Revised Code, including any participation in a college 36301
pursuant to Chapter 3365. of the Revised Code while enrolled in 36302
such community school; 36303

(e) Enrolled in an internet- or computer-based community 36304
school, as defined in section 3314.02 of the Revised Code, 36305
including any participation in a college pursuant to Chapter 3365. 36306
of the Revised Code while enrolled in the school; 36307

(f) Enrolled in a chartered nonpublic school with a 36308
scholarship paid under section 3310.08 of the Revised Code; 36309

(g) Enrolled in kindergarten through grade twelve in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code; 36310
36311
36312

(h) Enrolled as a preschool child with a disability in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code; 36313
36314
36315

(i) Participating in a program operated by a county MR/DD board or a state institution; 36316
36317

(j) Enrolled in a science, technology, engineering, and mathematics school ~~established under Chapter 3326. that is~~ governed as provided in section 3326.51 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school. 36318
36319
36320
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36322

(4) The number of pupils enrolled in joint vocational schools; 36323
36324

(5) The average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category one disability described in division ~~(A)(C)(1)~~ of section ~~3317.013~~ 3306.02 of the Revised Code; 36325
36326
36327
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36329

(6) The average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category two disabilities described in division ~~(B)(C)(2)~~ of section ~~3317.013~~ 3306.02 of the Revised Code; 36330
36331
36332
36333
36334

(7) The average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category three disabilities described in division (C)(3) of section ~~3317.013~~ 3306.02 of the Revised Code; 36335
36336
36337
36338
36339

(8) The average daily membership of children with 36340
disabilities reported under division (A)(1) or (2) of this section 36341
receiving special education services for category four 36342
disabilities described in division ~~(D)~~(C)(4) of section ~~3317.013~~ 36343
3306.02 of the Revised Code; 36344

(9) The average daily membership of children with 36345
disabilities reported under division (A)(1) or (2) of this section 36346
receiving special education services for the category five 36347
disabilities described in division ~~(E)~~(C)(5) of section ~~3317.013~~ 36348
3306.02 of the Revised Code; 36349

(10) The combined average daily membership of children with 36350
disabilities reported under division (A)(1) or (2) and under 36351
division (B)(3)(h) of this section receiving special education 36352
services for category six disabilities described in division 36353
~~(F)~~(C)(6) of section ~~3317.013~~ 3306.02 of the Revised Code, 36354
including children attending a special education program operated 36355
by an alternative public provider or a registered private provider 36356
with a scholarship awarded under section 3310.41 of the Revised 36357
Code; 36358

(11) The average daily membership of pupils reported under 36359
division (A)(1) or (2) of this section enrolled in category one 36360
vocational education programs or classes, described in division 36361
(A) of section 3317.014 of the Revised Code, operated by the 36362
school district or by another district, other than a joint 36363
vocational school district, or by an educational service center, 36364
excluding any student reported under division (B)(3)(e) of this 36365
section as enrolled in an internet- or computer-based community 36366
school, notwithstanding division (C) of section 3317.02 of the 36367
Revised Code and division (C)(3) of this section; 36368

(12) The average daily membership of pupils reported under 36369
division (A)(1) or (2) of this section enrolled in category two 36370
vocational education programs or services, described in division 36371

(B) of section 3317.014 of the Revised Code, operated by the school district or another school district, other than a joint vocational school district, or by an educational service center, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section;

Beginning with fiscal year 2010, vocational education ADM shall not be used to calculate a district's funding but shall be reported under divisions (B)(11) and (12) of this section for statistical purposes.

(13) The average number of children transported by the school district on board-owned or contractor-owned and -operated buses, reported in accordance with rules adopted by the department of education;

(14)(a) The number of children, other than preschool children with disabilities, the district placed with a county MR/DD board in fiscal year 1998;

(b) The number of children with disabilities, other than preschool children with disabilities, placed with a county MR/DD board in the current fiscal year to receive special education services for the category one disability described in division ~~(A)(C)(1)~~ of section ~~3317.013~~ 3306.02 of the Revised Code;

(c) The number of children with disabilities, other than preschool children with disabilities, placed with a county MR/DD board in the current fiscal year to receive special education services for category two disabilities described in division ~~(B)(C)(2)~~ of section ~~3317.013~~ 3306.02 of the Revised Code;

(d) The number of children with disabilities, other than preschool children with disabilities, placed with a county MR/DD board in the current fiscal year to receive special education

services for category three disabilities described in division 36403
(C)(3) of section ~~3317.013~~ 3306.02 of the Revised Code; 36404

(e) The number of children with disabilities, other than 36405
preschool children with disabilities, placed with a county MR/DD 36406
board in the current fiscal year to receive special education 36407
services for category four disabilities described in division 36408
~~(D)~~(C)(4) of section ~~3317.013~~ 3306.02 of the Revised Code; 36409

(f) The number of children with disabilities, other than 36410
preschool children with disabilities, placed with a county MR/DD 36411
board in the current fiscal year to receive special education 36412
services for the category five disabilities described in division 36413
~~(E)~~(C)(5) of section ~~3317.013~~ 3306.02 of the Revised Code; 36414

(g) The number of children with disabilities, other than 36415
preschool children with disabilities, placed with a county MR/DD 36416
board in the current fiscal year to receive special education 36417
services for category six disabilities described in division 36418
~~(F)~~(C)(6) of section ~~3317.013~~ 3306.02 of the Revised Code. 36419

(15) For the students reported under division (A)(1) of this 36420
section, the identity of the school district in which the student 36421
is entitled to attend school under section 3313.64 or 3313.65 of 36422
the Revised Code, by name of district or by a district identifying 36423
code or both, as required by the department for purposes of this 36424
division. 36425

(C)(1) ~~Except as otherwise provided in this section for 36426
kindergarten students, the~~ The average daily membership in 36427
divisions (B)(1) to (12) of this section shall be based upon the 36428
number of full-time equivalent students. The state board of 36429
education shall adopt rules defining full-time equivalent students 36430
and for determining the average daily membership therefrom for the 36431
purposes of divisions (A), (B), and (D) of this section. Each 36432
student enrolled in kindergarten shall be counted as one full-time 36433

equivalent student regardless of whether the student is enrolled 36434
in a part-day or all-day kindergarten class. 36435

(2) A student enrolled in a ~~community school established~~ 36436
~~under Chapter 3314. or~~ a science, technology, engineering, and 36437
mathematics school ~~established under Chapter 3326. that is~~ 36438
governed as provided in section 3326.51 of the Revised Code shall 36439
be counted in the formula ADM and, if applicable, the category 36440
one, two, three, four, five, or six special education ADM of the 36441
school district in which the student is entitled to attend school 36442
under section 3313.64 or 3313.65 of the Revised Code for the same 36443
proportion of the school year that the student is counted in the 36444
enrollment of ~~the community school or~~ the science, technology, 36445
engineering, and mathematics school for purposes of section 36446
~~3314.08 or~~ 3326.33 of the Revised Code. Notwithstanding the number 36447
of students reported pursuant to division (B)(3)~~(d), (e), or~~ (j) 36448
of this section, the department may adjust the formula ADM of a 36449
school district to account for students entitled to attend school 36450
in the district under section 3313.64 or 3313.65 of the Revised 36451
Code who are enrolled in a ~~community school or~~ such a science, 36452
technology, engineering, and mathematics school for only a portion 36453
of the school year. 36454

(3) No child shall be counted as more than a total of one 36456
child in the sum of the average daily memberships of a school 36457
district under division (A), divisions (B)(1) to (12), or division 36458
(D) of this section, except as follows: 36459

(a) A child with a disability described in division (C) of 36460
section ~~3317.013~~ 3306.02 of the Revised Code may be counted both 36461
in formula ADM and in category one, two, three, four, five, or six 36462
special education ADM and, if applicable, in category one or two 36463
vocational education ADM. As provided in division (C) of section 36464
3317.02 of the Revised Code, such a child shall be counted in 36465

category one, two, three, four, five, or six special education ADM 36466
in the same proportion that the child is counted in formula ADM. 36467

36468

(b) A child enrolled in vocational education programs or 36469
classes described in section 3317.014 of the Revised Code may be 36470
counted both in formula ADM and category one or two vocational 36471
education ADM and, if applicable, in category one, two, three, 36472
four, five, or six special education ADM. Such a child shall be 36473
counted in category one or two vocational education ADM in the 36474
same proportion as the percentage of time that the child spends in 36475
the vocational education programs or classes. 36476

(4) Based on the information reported under this section, the 36477
department of education shall determine the total student count, 36478
as defined in section 3301.011 of the Revised Code, for each 36479
school district. 36480

(D)(1) The superintendent of each joint vocational school 36481
district shall certify to the superintendent of public instruction 36482
on or before the fifteenth day of October in each year for the 36483
first full school week in October the formula ADM, for purposes of 36484
section 3318.42 of the Revised Code and for any other purpose 36485
prescribed by law for which "formula ADM" of the joint vocational 36486
district is a factor. Beginning in fiseal year 2007, each 36487
~~superintendent also shall certify to the state superintendent the~~ 36488
~~formula ADM for the first full week in February.~~ If a school 36489
operated by the joint vocational school district is closed for one 36490
or more days during that week due to hazardous weather conditions 36491
or other circumstances described in the first paragraph of 36492
division (A)(2) of section 3306.01 or the first paragraph of 36493
division (B) of section 3317.01 of the Revised Code, the 36494
superintendent may apply to the superintendent of public 36495
instruction for a waiver, under which the superintendent of public 36496
instruction may exempt the district superintendent from certifying 36497

the formula ADM for that school for that week and specify an 36498
alternate week for certifying the formula ADM of that school. 36499

36500

The formula ADM, except as otherwise provided in this 36501
division, shall consist of the average daily membership during 36502
such week, on an FTE basis, of the number of students receiving 36503
any educational services from the district, including students 36504
enrolled in a community school established under Chapter 3314. or 36505
a science, technology, engineering, and mathematics school 36506
established under Chapter 3326. of the Revised Code who are 36507
attending the joint vocational district under an agreement between 36508
the district board of education and the governing authority of the 36509
community school or the governing body of the science, technology, 36510
engineering, and mathematics school and are entitled to attend 36511
school in a city, local, or exempted village school district whose 36512
territory is part of the territory of the joint vocational 36513
district. ~~Beginning in fiscal year 2007, in the case of the report~~ 36514
~~submitted for the first week in February, or the alternative week~~ 36515
~~if specified by the superintendent of public instruction, the~~ 36516
~~superintendent of the joint vocational school district may include~~ 36517
~~the number of students reported under division (D)(1) of this~~ 36518
~~section for the first full week of the preceding October but who~~ 36519
~~since that week have received high school diplomas.~~ 36520

36521

The following categories of students shall not be included in 36522
the determination made under division (D)(1) of this section: 36523

(a) Students enrolled in adult education classes; 36524

(b) ~~Adjacent or other district joint vocational students~~ 36525
~~enrolled in the district under an open enrollment policy pursuant~~ 36526
~~to section 3313.98 of the Revised Code;~~ 36527

(c) Students receiving services in the district pursuant to a 36528

compact, cooperative education agreement, or a contract, but who 36529
are entitled to attend school in a city, local, or exempted 36530
village school district whose territory is not part of the 36531
territory of the joint vocational district; 36532

~~(d)~~(c) Students for whom tuition is payable pursuant to 36533
sections 3317.081 and 3323.141 of the Revised Code. 36534

~~(2) To enable the department of education to obtain the data 36535
needed to complete the calculation of payments pursuant to this 36536
chapter, in~~ In addition to the formula ADM, each superintendent 36537
shall report separately the average daily membership included in 36538
the report under division (D)(1) of this section for each of the 36539
following categories of students for the same week for which 36540
formula ADM is certified: 36541

(a) Students enrolled in each individual grade included in 36542
the joint vocational district schools; 36543

(b) Children with disabilities receiving special education 36544
services for the category one disability described in division 36545
~~(A)~~(C)(1) of section ~~3317.013~~ 3306.02 of the Revised Code; 36546

(c) Children with disabilities receiving special education 36547
services for the category two disabilities described in division 36548
~~(B)~~(C)(2) of section ~~3317.013~~ 3306.02 of the Revised Code; 36549

(d) Children with disabilities receiving special education 36550
services for category three disabilities described in division 36551
(C)(3) of section ~~3317.013~~ 3306.02 of the Revised Code; 36552

(e) Children with disabilities receiving special education 36553
services for category four disabilities described in division 36554
~~(D)~~(C)(4) of section ~~3317.013~~ 3306.02 of the Revised Code; 36555

(f) Children with disabilities receiving special education 36556
services for the category five disabilities described in division 36557
~~(E)~~(C)(5) of section ~~3317.013~~ 3306.02 of the Revised Code; 36558

(g) Children with disabilities receiving special education services for category six disabilities described in division ~~(F)(C)(6)~~ of section ~~3317.013~~ 3306.02 of the Revised Code;

(h) Students receiving category one vocational education services, described in division (A) of section 3317.014 of the Revised Code;

(i) Students receiving category two vocational education services, described in division (B) of section 3317.014 of the Revised Code.

The superintendent of each joint vocational school district shall also indicate the city, local, or exempted village school district in which each joint vocational district pupil is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(E) In each school of each city, local, exempted village, joint vocational, and cooperative education school district there shall be maintained a record of school membership, which record shall accurately show, for each day the school is in session, the actual membership enrolled in regular day classes. For the purpose of determining average daily membership, the membership figure of any school shall not include any pupils except those pupils described by division (A) of this section. The record of membership for each school shall be maintained in such manner that no pupil shall be counted as in membership prior to the actual date of entry in the school and also in such manner that where for any cause a pupil permanently withdraws from the school that pupil shall not be counted as in membership from and after the date of such withdrawal. There shall not be included in the membership of any school any of the following:

(1) Any pupil who has graduated from the twelfth grade of a public or nonpublic high school;

(2) Any pupil who is not a resident of the state; 36590

(3) Any pupil who was enrolled in the schools of the district 36591
during the previous school year when ~~tests~~ assessments were 36592
administered under section 3301.0711 of the Revised Code but did 36593
not take one or more of the ~~tests~~ assessments required by that 36594
section and was not excused pursuant to division (C)(1) or (3) of 36595
that section; 36596

(4) Any pupil who has attained the age of twenty-two years, 36597
except for veterans of the armed services whose attendance was 36598
interrupted before completing the recognized twelve-year course of 36599
the public schools by reason of induction or enlistment in the 36600
armed forces and who apply for reenrollment in the public school 36601
system of their residence not later than four years after 36602
termination of war or their honorable discharge. 36603

If, however, any veteran described by division (E)(4) of this 36604
section elects to enroll in special courses organized for veterans 36605
for whom tuition is paid under the provisions of federal laws, or 36606
otherwise, that veteran shall not be included in average daily 36607
membership. 36608

Notwithstanding division (E)(3) of this section, the 36609
membership of any school may include a pupil who did not take a 36610
~~test~~ an assessment required by section 3301.0711 of the Revised 36611
Code if the superintendent of public instruction grants a waiver 36612
from the requirement to take the ~~test~~ assessment to the specific 36613
pupil and a parent is not paying tuition for the pupil pursuant to 36614
section 3313.6410 of the Revised Code. The superintendent may 36615
grant such a waiver only for good cause in accordance with rules 36616
adopted by the state board of education. 36617

Except as provided in divisions (B)(2) and (F) of this 36618
section, the average daily membership figure of any local, city, 36619
exempted village, or joint vocational school district shall be 36620

determined by dividing the figure representing the sum of the 36621
number of pupils enrolled during each day the school of attendance 36622
is actually open for instruction during the week for which the 36623
~~formula ADM~~ average daily membership is being certified by the 36624
total number of days the school was actually open for instruction 36625
during that week. For purposes of state funding, "enrolled" 36626
persons are only those pupils who are attending school, those who 36627
have attended school during the current school year and are absent 36628
for authorized reasons, and those children with disabilities 36629
currently receiving home instruction. 36630

The average daily membership figure of any cooperative 36631
education school district shall be determined in accordance with 36632
rules adopted by the state board of education. 36633

(F)(1) If the formula ADM for the first full school week in 36634
February is at least three per cent greater than that certified 36635
for the first full school week in the preceding October, the 36636
superintendent of schools of any city, exempted village, or joint 36637
vocational school district or educational service center shall 36638
certify such increase to the superintendent of public instruction. 36639
Such certification shall be submitted no later than the fifteenth 36640
day of February. For the balance of the fiscal year, beginning 36641
with the February payments, the superintendent of public 36642
instruction shall use the increased formula ADM in calculating or 36643
recalculating the amounts to be allocated in accordance with 36644
section 3317.022 or 3317.16 of the Revised Code. In no event shall 36645
the superintendent use an increased membership certified to the 36646
superintendent after the fifteenth day of February. Division 36647
(F)(1) of this section does not apply after fiscal year 2006. 36648

(2) If on the first school day of April the total number of 36650
classes or units for preschool children with disabilities that are 36651
eligible for approval under division (B) of section 3317.05 of the 36652

Revised Code exceeds the number of units that have been approved 36653
for the year under that division, the superintendent of schools of 36654
any city, exempted village, or cooperative education school 36655
district or educational service center shall make the 36656
certifications required by this section for that day. If the 36657
department determines additional units can be approved for the 36658
fiscal year within any limitations set forth in the acts 36659
appropriating moneys for the funding of such units, the department 36660
shall approve additional units for the fiscal year on the basis of 36661
such average daily membership. For each unit so approved, the 36662
department shall pay an amount computed in the manner prescribed 36663
in section 3317.052 or 3317.19 and section 3317.053 of the Revised 36664
Code. 36665

(3) If a student attending ~~a community school under Chapter~~ 36666
~~3314.~~ or a science, technology, engineering, and mathematics 36667
~~school established under Chapter 3326.~~ that is governed as 36668
provided in section 3326.51 of the Revised Code is not included in 36669
the formula ADM certified for the school district in which the 36670
student is entitled to attend school under section 3313.64 or 36671
3313.65 of the Revised Code, the department of education shall 36672
adjust the formula ADM of that school district to include the 36673
student in accordance with division (C)(2) of this section, and 36674
shall recalculate the school district's payments under this 36675
chapter and Chapter 3306. of the Revised Code for the entire 36676
fiscal year on the basis of that adjusted formula ADM. This 36677
requirement applies regardless of whether the student was 36678
enrolled, as defined in division (E) of this section, in ~~the~~ 36679
~~community school~~ or the science, technology, engineering, and 36680
mathematics school during the week for which the formula ADM is 36681
being certified. 36682

(4) If a student awarded an educational choice scholarship is 36683
not included in the formula ADM of the school district from which 36684

the department deducts funds for the scholarship under section 36685
3310.08 of the Revised Code, the department shall adjust the 36686
formula ADM of that school district to include the student to the 36687
extent necessary to account for the deduction, and shall 36688
recalculate the school district's payments under this chapter and 36689
Chapter 3306. of the Revised Code for the entire fiscal year on 36690
the basis of that adjusted formula ADM. This requirement applies 36691
regardless of whether the student was enrolled, as defined in 36692
division (E) of this section, in the chartered nonpublic school, 36693
the school district, or a community school during the week for 36694
which the formula ADM is being certified. 36695

(G)(1)(a) The superintendent of an institution operating a 36696
special education program pursuant to section 3323.091 of the 36697
Revised Code shall, for the programs under such superintendent's 36698
supervision, certify to the state board of education, in the 36699
manner prescribed by the superintendent of public instruction, 36700
both of the following: 36701

(i) The average daily membership of all children with 36702
disabilities other than preschool children with disabilities 36703
receiving services at the institution for each category of 36704
disability described in divisions ~~(A) to (F)~~ (C)(1) to (6) of 36705
section ~~3317.013~~ 3306.02 of the Revised Code; 36706

(ii) The average daily membership of all preschool children 36707
with disabilities in classes or programs approved annually by the 36708
department of education for unit funding under section 3317.05 of 36709
the Revised Code. 36710

(b) The superintendent of an institution with vocational 36711
education units approved under division (A) of section 3317.05 of 36712
the Revised Code shall, for the units under the superintendent's 36713
supervision, certify to the state board of education the average 36714
daily membership in those units, in the manner prescribed by the 36715
superintendent of public instruction. 36716

(2) The superintendent of each county MR/DD board that maintains special education classes under section 3317.20 of the Revised Code or units approved pursuant to section 3317.05 of the Revised Code shall do both of the following:

(a) Certify to the state board, in the manner prescribed by the board, the average daily membership in classes under section 3317.20 of the Revised Code for each school district that has placed children in the classes;

(b) Certify to the state board, in the manner prescribed by the board, the number of all preschool children with disabilities enrolled as of the first day of December in classes eligible for approval under division (B) of section 3317.05 of the Revised Code, and the number of those classes.

(3)(a) If on the first school day of April the number of classes or units maintained for preschool children with disabilities by the county MR/DD board that are eligible for approval under division (B) of section 3317.05 of the Revised Code is greater than the number of units approved for the year under that division, the superintendent shall make the certification required by this section for that day.

(b) If the department determines that additional classes or units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of the classes and units described in division (G)(3)(a) of this section, the department shall approve and fund additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department shall pay an amount computed in the manner prescribed in sections 3317.052 and 3317.053 of the Revised Code.

(H) Except as provided in division (I) of this section, when any city, local, or exempted village school district provides

instruction for a nonresident pupil whose attendance is 36748
unauthorized attendance as defined in section 3327.06 of the 36749
Revised Code, that pupil's membership shall not be included in 36750
that district's membership figure used in the calculation of that 36751
district's formula ADM or included in the determination of any 36752
unit approved for the district under section 3317.05 of the 36753
Revised Code. The reporting official shall report separately the 36754
average daily membership of all pupils whose attendance in the 36755
district is unauthorized attendance, and the membership of each 36756
such pupil shall be credited to the school district in which the 36757
pupil is entitled to attend school under division (B) of section 36758
3313.64 or section 3313.65 of the Revised Code as determined by 36759
the department of education. 36760

(I)(1) A city, local, exempted village, or joint vocational 36761
school district admitting a scholarship student of a pilot project 36762
district pursuant to division (C) of section 3313.976 of the 36763
Revised Code may count such student in its average daily 36764
membership. 36765

(2) In any year for which funds are appropriated for pilot 36766
project scholarship programs, a school district implementing a 36767
state-sponsored pilot project scholarship program that year 36768
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 36769
count in average daily membership: 36770

(a) All children residing in the district and utilizing a 36771
scholarship to attend kindergarten in any alternative school, as 36772
defined in section 3313.974 of the Revised Code; 36773

(b) All children who were enrolled in the district in the 36774
preceding year who are utilizing a scholarship to attend any such 36775
alternative school. 36776

(J) The superintendent of each cooperative education school 36777
district shall certify to the superintendent of public 36778

instruction, in a manner prescribed by the state board of 36779
education, the applicable average daily memberships for all 36780
students in the cooperative education district, also indicating 36781
the city, local, or exempted village district where each pupil is 36782
entitled to attend school under section 3313.64 or 3313.65 of the 36783
Revised Code. 36784

(K) If the superintendent of public instruction determines 36785
that a component of the ~~formula~~ ADM average daily membership 36786
certified or reported by a district superintendent, or other 36787
reporting entity, is not correct, the superintendent of public 36788
instruction may order that the formula ADM used for the purposes 36789
of payments under any section of Title XXXIII of the Revised Code 36790
be adjusted in the amount of the error. 36791

Sec. 3317.031. A membership record shall be kept by grade 36792
level in each city, local, exempted village, joint vocational, and 36793
cooperative education school district and such a record shall be 36794
kept by grade level in each educational service center that 36795
provides academic instruction to pupils, classes for pupils with 36796
disabilities, or any other direct instructional services to 36797
pupils. Such membership record shall show the following 36798
information for each pupil enrolled: Name, date of birth, name of 36799
parent, date entered school, date withdrawn from school, days 36800
present, days absent, and the number of days school was open for 36801
instruction while the pupil was enrolled. At the end of the school 36802
year this membership record shall show the total days present, the 36803
total days absent, and the total days due for all pupils in each 36804
grade. Such membership record shall show the pupils that are 36805
transported to and from school and it shall also show the pupils 36806
that are transported living within one mile of the school 36807
attended. This membership record shall also show any other 36808
information prescribed by the state board of education. 36809

This membership record shall be kept intact for at least five 36810
years and shall be made available to the state board of education 36811
or its representative in making an audit of the average daily 36812
membership or the transportation of the district or educational 36813
service center. The membership records of local school districts 36814
shall be filed at the close of each school year in the office of 36815
the educational service center superintendent. 36816

The state board of education may withhold any money due any 36817
school district or educational service center under ~~sections~~ 36818
~~3317.022 to 3317.0211, 3317.11, 3317.16, 3317.17, or 3317.19~~ this 36819
chapter and Chapter 3306. of the Revised Code until it has 36820
satisfactory evidence that the board of education or educational 36821
service center governing board has fully complied with all of the 36822
provisions of this section. 36823

Nothing in this section shall require any person to release, 36824
or to permit access to, public school records in violation of 36825
section 3319.321 of the Revised Code. 36826

Sec. 3317.04. The amount paid to school districts in each 36827
fiscal year under ~~Chapter~~ Chapters 3306. and 3317. of the Revised 36828
Code shall not be less than the following: 36829

(A) In the case of a district created under section 3311.26 36830
or 3311.37 of the Revised Code, the amount paid shall not be less, 36831
in any of the three succeeding fiscal years following the 36832
creation, than the sum of the amounts allocated under ~~Chapter~~ 36833
Chapters 3306. and 3317. of the Revised Code to the districts 36834
separately in the year of the creation. 36835

(B) In the case of a school district which is transferred to 36836
another school district or districts, pursuant to section 3311.22, 36837
3311.231, or 3311.38 of the Revised Code, the amount paid to the 36838
district accepting the transferred territory shall not be less, in 36839
any of the three succeeding fiscal years following the transfer, 36840

than the sum of the amounts allocated under ~~Chapter~~ Chapters 3306. 36841
and 3317. of the Revised Code to the districts separately in the 36842
year of the consummation of the transfer. 36843

Notwithstanding sections 3311.22, 3311.231, 3311.26, 3311.37, 36844
and 3311.38 of the Revised Code, the minimum guarantees prescribed 36845
by divisions (A) and (B) of this section shall not affect the 36846
amount of aid received by a school district for more than three 36847
consecutive years. 36848

Sec. 3317.05. (A) For the purpose of calculating payments 36849
under sections 3317.052 and 3317.053 of the Revised Code, the 36850
department of education shall determine for each institution, by 36851
the last day of January of each year and based on information 36852
certified under section 3317.03 of the Revised Code, the number of 36853
vocational education units or fractions of units approved by the 36854
department on the basis of standards and rules adopted by the 36855
state board of education. As used in this division, "institution" 36856
means an institution operated by a department specified in section 36857
3323.091 of the Revised Code and that provides vocational 36858
education programs under the supervision of the division of 36859
vocational education of the department that meet the standards and 36860
rules for these programs, including licensure of professional 36861
staff involved in the programs, as established by the state board. 36862
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(B) For the purpose of calculating payments under sections 36864
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 36865
department shall determine, based on information certified under 36866
section 3317.03 of the Revised Code, the following by the last day 36867
of January of each year for each educational service center, for 36868
each school district, including each cooperative education school 36869
district, for each institution eligible for payment under section 36870
3323.091 of the Revised Code, and for each county MR/DD board: the 36871

number of classes operated by the school district, service center, 36872
institution, or county MR/DD board for preschool children with 36873
disabilities, or fraction thereof, including in the case of a 36874
district or service center that is a funding agent, classes taught 36875
by a licensed teacher employed by that district or service center 36876
under section 3313.841 of the Revised Code, approved annually by 36877
the department on the basis of standards and rules adopted by the 36878
state board. 36879

(C) For the purpose of calculating payments under sections 36880
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 36881
department shall determine, based on information certified under 36882
section 3317.03 of the Revised Code, the following by the last day 36883
of January of each year for each school district, including each 36884
cooperative education school district, for each institution 36885
eligible for payment under section 3323.091 of the Revised Code, 36886
and for each county MR/DD board: the number of units for related 36887
services, as defined in section 3323.01 of the Revised Code, for 36888
preschool children with disabilities approved annually by the 36889
department on the basis of standards and rules adopted by the 36890
state board. 36891

(D) All of the arithmetical calculations made under this 36892
section shall be carried to the second decimal place. The total 36893
number of units for school districts, service centers, and 36894
institutions approved annually under this section shall not exceed 36895
the number of units included in the estimate of cost for these 36896
units and appropriations made for them by the general assembly. 36897

In the case of units for preschool children with disabilities 36898
described in division (B) of this section, the department shall 36899
approve only preschool units for children who are under age six on 36900
the thirtieth day of September of the academic year, or on the 36901
first day of August of the academic year if the school district in 36902
which the child is enrolled has adopted a resolution under 36903

division (A)(3) of section 3321.01 of the Revised Code, but not
less than age three on the first day of December of the academic
year, except that such a unit may include one or more children who
are under age three or are age six or over on the applicable date,
as reported under division (B)(2) or (G)(2)(b) of section 3317.03
of the Revised Code, if such children have been admitted to the
unit pursuant to rules of the state board. The number of units for
county MR/DD boards and institutions eligible for payment under
section 3323.091 of the Revised Code approved under this section
shall not exceed the number that can be funded with appropriations
made for such purposes by the general assembly.

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No unit shall be approved under divisions (B) and (C) of this
section unless a plan has been submitted and approved under
Chapter 3323. of the Revised Code.

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~~(E) The department shall approve units or fractions thereof
for gifted children on the basis of standards and rules adopted by
the state board.~~

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Sec. 3317.051. (A)(1) Notwithstanding sections 3317.05 and
3317.11 of the Revised Code, a unit funded pursuant to ~~division~~
~~(L) of section 3317.024 or~~ division (A)(2) of section 3317.052 of
the Revised Code shall not be approved for state funding in one
school district, including any cooperative education school
district or any educational service center, to the extent that
such unit provides programs in or services to another district
which receives payment pursuant to section 3317.04 of the Revised
Code.

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(2) Any city, local, exempted village, or cooperative
education school district or any educational service center may
combine partial unit eligibility for programs for preschool
children with disabilities pursuant to section 3317.05 of the

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Revised Code, and such combined partial units may be approved for 36935
state funding in one school district or service center. 36936

(B) After units have been initially approved for any fiscal 36937
year under section 3317.05 of the Revised Code, no unit shall be 36938
subsequently transferred from a school district or educational 36939
service center to another city, exempted village, local, or 36940
cooperative education school district or educational service 36941
center or to an institution or county MR/DD board solely for the 36942
purpose of reducing the financial obligations of the school 36943
district in a fiscal year it receives payment pursuant to section 36944
3317.04 of the Revised Code. 36945

Sec. 3317.053. (A) As used in this section: 36946

(1) ~~"State share percentage" has the same meaning as in~~ 36947
~~section 3317.022 of the Revised Code.~~ 36948

~~(2)~~ "Dollar amount" means the amount shown in the following 36949
table for the corresponding type of unit: 36950

TYPE OF UNIT	DOLLAR AMOUNT	
Division (B) of section 3317.05		36951
of the Revised Code	\$8,334	36952
Division (C) of that section	\$3,234	36953
Division (E) of that section	\$5,550	36954

~~(3)~~(2) "Average unit amount" means the amount shown in the 36955
following table for the corresponding type of unit: 36956

TYPE OF UNIT	AVERAGE UNIT AMOUNT	
Division (B) of section 3317.05		36957
of the Revised Code	\$7,799	36958
Division (C) of that section	\$2,966	36959
Division (E) of that section	\$5,251	36960

(B) In the case of each unit described in division (B) or 36961
(C) ~~or (E)~~ of section 3317.05 of the Revised Code and allocated 36962

to a city, local, or exempted village school district, the 36965
department of education, in addition to the amounts specified in 36966
~~division (L) of section 3317.024 and~~ sections 3317.052 and 3317.19 36967
of the Revised Code, shall pay a supplemental unit allowance equal 36968
to the sum of the following amounts: 36969

(1) An amount equal to 50% of the average unit amount for the 36970
unit; 36971

(2) An amount equal to the percentage of the dollar amount 36972
for the unit that equals the district's state share percentage. 36973

If, prior to the fifteenth day of May of a fiscal year, a 36974
school district's aid ~~computed under section 3317.022 of the~~ 36975
~~Revised Code~~ is recomputed pursuant to section 3317.027 or 36976
3317.028 of the Revised Code, the department shall also recompute 36977
the district's entitlement to payment under this section utilizing 36978
a new state share percentage. Such new state share percentage 36979
shall be determined using the district's recomputed basic aid 36980
amount pursuant to section 3317.027 or 3317.028 of the Revised 36981
Code. During the last six months of the fiscal year, the 36982
department shall pay the district a sum equal to one-half of the 36983
recomputed payment in lieu of one-half the payment otherwise 36984
calculated under this section. 36985

(C)(1) In the case of each unit allocated to an institution 36986
pursuant to division (A) of section 3317.05 of the Revised Code, 36987
the department, in addition to the amount specified in section 36988
3317.052 of the Revised Code, shall pay a supplemental unit 36989
allowance of \$7,227. 36990

(2) In the case of each unit described in division (B) of 36991
section 3317.05 of the Revised Code that is allocated to any 36992
entity other than a city, exempted village, or local school 36993
district, the department, in addition to the amount specified in 36994
section 3317.052 of the Revised Code, shall pay a supplemental 36995

unit allowance of \$7,799. 36996

(3) In the case of each unit described in division (C) of 36997
section 3317.05 of the Revised Code and allocated to any entity 36998
other than a city, exempted village, or local school district, the 36999
department, in addition to the amounts specified in section 37000
3317.052 of the Revised Code, shall pay a supplemental unit 37001
allowance of \$2,966. 37002

~~(4) In the case of each unit described in division (E) of 37003
section 3317.05 of the Revised Code and allocated to an 37004
educational service center, the department, in addition to the 37005
amounts specified in division (L) of section 3317.024 of the 37006
Revised Code, shall pay a supplemental unit allowance of \$5,251. 37007~~

Sec. 3317.061. The superintendent of each school district, 37008
including each cooperative education and joint vocational school 37009
district and the superintendent of each educational service 37010
center, shall, on forms prescribed and furnished by the state 37011
board of education, certify to the state board of education, on or 37012
before the fifteenth day of October of each year, the name of each 37013
licensed employee employed, on an annual salary, in each school 37014
under such superintendent's supervision during the first full 37015
school week of said month of October, the number of years of 37016
recognized college training such licensed employee has completed, 37017
the college degrees from a recognized college earned by such 37018
licensed employee, the type of teaching license held by such 37019
licensed employee, the number of months such licensed employee is 37020
employed in the school district, the annual salary of such 37021
licensed employee, and such other information as the state board 37022
of education may request. For the purposes of ~~Chapter~~ Chapters 37023
3306. and 3317. of the Revised Code, a licensed employee is any 37024
employee in a position that requires a license issued pursuant to 37025
sections 3319.22 to 3319.31 of the Revised Code. 37026

Pursuant to standards adopted by the state board of 37027
education, experience of vocational teachers in trade and industry 37028
shall be recognized by such board for the purpose of complying 37029
with the requirements of recognized college training provided by 37030
~~Chapter~~ Chapters 3306. and 3317. of the Revised Code. 37031

Sec. 3317.08. A board of education may admit to its schools a 37032
child it is not required by section 3313.64 or 3313.65 of the 37033
Revised Code to admit, if tuition is paid for the child. 37034

Unless otherwise provided by law, tuition shall be computed 37035
in accordance with this section. A district's tuition charge for a 37036
school year shall be one of the following: 37037

(A) For any child, except a preschool child with a disability 37038
described in division (B) of this section, the quotient obtained 37039
by dividing the sum of the amounts described in divisions (A)(1) 37040
and (2) of this section by the district's formula ADM. 37041

(1) The district's total taxes charged and payable for 37043
current expenses for the tax year preceding the tax year in which 37044
the school year begins as certified under division (A)(3) of 37045
section 3317.021 of the Revised Code. 37046

(2) The district's total taxes collected for current expenses 37047
under a school district income tax adopted pursuant to section 37048
5748.03 or 5748.08 of the Revised Code that are disbursed to the 37049
district during the fiscal year, excluding any income tax receipts 37050
allocated for the project cost, debt service, or maintenance 37051
set-aside associated with a state-assisted classroom facilities 37052
project as authorized by section 3318.052 of the Revised Code. On 37053
or before the first day of June of each year, the tax commissioner 37054
shall certify the amount to be used in the calculation under this 37055
division for the next fiscal year to the department of education 37056
and the office of budget and management for each city, local, and 37057

exempted village school district that levies a school district
income tax. 37058
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(B) For any preschool child with a disability not included in 37060
a unit approved under division (B) of section 3317.05 of the 37061
Revised Code, an amount computed for the school year as follows: 37062

(1) For each type of special education service provided to 37063
the child for whom tuition is being calculated, determine the 37064
amount of the district's operating expenses in providing that type 37065
of service to all preschool children with disabilities not 37066
included in units approved under division (B) of section 3317.05 37067
of the Revised Code; 37068

(2) For each type of special education service for which 37069
operating expenses are determined under division (B)(1) of this 37070
section, determine the amount of such operating expenses that was 37071
paid from any state funds received under this chapter; 37072

(3) For each type of special education service for which 37073
operating expenses are determined under division (B)(1) of this 37074
section, divide the difference between the amount determined under 37075
division (B)(1) of this section and the amount determined under 37076
division (B)(2) of this section by the total number of preschool 37077
children with disabilities not included in units approved under 37078
division (B) of section 3317.05 of the Revised Code who received 37079
that type of service; 37080

(4) Determine the sum of the quotients obtained under 37081
division (B)(3) of this section for all types of special education 37082
services provided to the child for whom tuition is being 37083
calculated. 37084

The state board of education shall adopt rules defining the 37085
types of special education services and specifying the operating 37086
expenses to be used in the computation under this section. 37087

If any child for whom a tuition charge is computed under this 37088

section for any school year is enrolled in a district for only 37089
part of that school year, the amount of the district's tuition 37090
charge for the child for the school year shall be computed in 37091
proportion to the number of school days the child is enrolled in 37092
the district during the school year. 37093

Except as otherwise provided in division (J) of section 37094
3313.64 of the Revised Code, whenever a district admits a child to 37095
its schools for whom tuition computed in accordance with this 37096
section is an obligation of another school district, the amount of 37097
the tuition shall be certified by the treasurer of the board of 37098
education of the district of attendance, to the board of education 37099
of the district required to pay tuition for its approval and 37100
payment. If agreement as to the amount payable or the district 37101
required to pay the tuition cannot be reached, or the board of 37102
education of the district required to pay the tuition refuses to 37103
pay that amount, the board of education of the district of 37104
attendance shall notify the superintendent of public instruction. 37105
The superintendent shall determine the correct amount and the 37106
district required to pay the tuition and shall deduct that amount, 37107
if any, under division (G) of section 3317.023 of the Revised 37108
Code, from the district required to pay the tuition and add that 37109
amount to the amount allocated to the district attended under such 37110
division. The superintendent of public instruction shall send to 37111
the district required to pay the tuition an itemized statement 37112
showing such deductions at the time of such deduction. 37113

When a political subdivision owns and operates an airport, 37114
welfare, or correctional institution or other project or facility 37115
outside its corporate limits, the territory within which the 37116
facility is located is exempt from taxation by the school district 37117
within which such territory is located, and there are school age 37118
children residing within such territory, the political subdivision 37119
owning such tax exempt territory shall pay tuition to the district 37120

in which such children attend school. The tuition for these 37121
children shall be computed as provided for in this section. 37122

Sec. 3317.081. (A) Tuition shall be computed in accordance 37123
with this section if: 37124

(1) The tuition is required by division (C)(3)(b) of section 37125
3313.64 of the Revised Code; or 37126

(2) Neither the child nor the child's parent resides in this 37127
state and tuition is required by section 3327.06 of the Revised 37128
Code. 37129

(B) Tuition computed in accordance with this section shall 37130
equal the attendance district's tuition rate computed under 37131
section 3317.08 of the Revised Code plus the amount that district 37132
would have received for the child pursuant to Chapter 3306. and 37133
sections ~~3317.022~~, 3317.023, and 3317.025 to 3317.0211 of the 37134
Revised Code during the school year had the attendance district 37135
been authorized to count the child in its formula ADM for that 37136
school year under section 3317.03 of the Revised Code. 37137

Sec. 3317.082. As used in this section, "institution" means a 37138
residential facility that receives and cares for children 37139
maintained by the department of youth services and that operates a 37140
school chartered by the state board of education under section 37141
3301.16 of the Revised Code. 37142

(A) On or before the thirty-first day of each January and 37143
July, the superintendent of each institution that during the 37144
six-month period immediately preceding each January or July 37145
provided an elementary or secondary education for any child, other 37146
than a child receiving special education under section 3323.091 of 37147
the Revised Code, shall prepare and submit to the department of 37148
education, a statement for each such child indicating the child's 37149
name, any school district responsible to pay tuition for the child 37150

as determined by the superintendent in accordance with division 37151
(C)(2) or (3) of section 3313.64 of the Revised Code, and the 37152
period of time during that six-month period that the child 37153
received an elementary or secondary education. If any school 37154
district is responsible to pay tuition for any such child, the 37155
department of education, no later than the immediately succeeding 37156
last day of February or August, as applicable, shall calculate the 37157
amount of the tuition of the district under section 3317.08 of the 37158
Revised Code for the period of time indicated on the statement and 37159
do one of the following: 37160

(1) If the tuition amount is equal to or less than the amount 37161
of state basic aid funds payable to the district under ~~sections~~ 37162
~~3317.022 and Chapter 3306. and section~~ 3317.023 of the Revised 37163
Code, pay to the institution submitting the statement an amount 37164
equal to the tuition amount, as provided under division (M) of 37165
section 3317.024 of the Revised Code, and deduct the tuition 37166
amount from the state basic aid funds payable to the district, as 37167
provided under division (F)(2) of section 3317.023 of the Revised 37168
Code; 37169

(2) If the tuition amount is greater than the amount of state 37170
basic aid funds payable to the district under ~~sections 3317.022~~ 37171
~~and Chapter 3306. and section~~ 3317.023 of the Revised Code, 37172
require the district to pay to the institution submitting the 37173
statement an amount equal to the tuition amount. 37174

(B) In the case of any disagreement about the school district 37175
responsible to pay tuition for a child pursuant to this section, 37176
the superintendent of public instruction shall make the 37177
determination in any such case in accordance with division (C)(2) 37178
or (3) of section 3313.64 of the Revised Code. 37179

Sec. 3317.12. Any board of education participating in funds 37180
distributed under ~~Chapter~~ Chapters 3306. and 3317. of the Revised 37181

Code shall annually adopt a salary schedule for nonteaching school 37182
employees based upon training, experience, and qualifications with 37183
initial salaries no less than the salaries in effect on October 37184
13, 1967. Each board of education shall prepare and may amend from 37185
time to time, specifications descriptive of duties, 37186
responsibilities, requirements, and desirable qualifications of 37187
the classifications of employees required to perform the duties 37188
specified in the salary schedule. All nonteaching school employees 37189
are to be notified of the position classification to which they 37190
are assigned and the salary for the classification. The 37191
compensation of all employees working for a particular school 37192
board shall be uniform for like positions except as compensation 37193
would be affected by salary increments based upon length of 37194
service. 37195

On the fifteenth day of October each year the salary schedule 37196
and the list of job classifications and salaries in effect on that 37197
date shall be filed by each board of education with the 37198
superintendent of public instruction. If such salary schedule and 37199
classification plan is not filed the superintendent of public 37200
instruction shall order the board to file such schedules 37201
forthwith. If this condition is not corrected within ten days 37202
after receipt of the order from the superintendent of public 37203
instruction, no money shall be distributed to the district under 37204
~~Chapter~~ Chapters 3306. and 3317. of the Revised Code until the 37205
superintendent has satisfactory evidence of the board of 37206
education's full compliance with such order. 37207

Sec. 3317.16. (A) As used in this section: 37208

(1) ~~"State share percentage" means the percentage calculated~~ 37209
~~for a joint vocational school district as follows:~~ 37210

~~(a) Calculate the state base cost funding amount for the~~ 37211
~~district under division (B) of this section. If the district would~~ 37212

~~not receive any base cost funding for that year under that~~ 37213
~~division, the district's state share percentage is zero.~~ 37214

~~(b) If the district would receive base cost funding under~~ 37215
~~that division, divide that base cost amount by an amount equal to~~ 37216
~~the following:~~ 37217

~~the formula amount X~~ 37218

~~formula ADM~~ 37219

~~The resultant number is the district's state share~~ 37220
~~percentage.~~ 37221

~~(2)~~ The "total special education weight" for a joint 37222
vocational school district shall be calculated in the same manner 37223
as prescribed in ~~division (B)(1) of~~ section 3317.022 of the 37224
Revised Code. 37225

~~(3)~~(2) The "total vocational education weight" for a joint 37226
vocational school district shall be calculated in the same manner 37227
as prescribed in ~~division (B)(4) of~~ section 3317.022 of the 37228
Revised Code. 37229

~~(4)~~(3) The "total recognized valuation" of a joint vocational 37230
school district shall be determined by adding the recognized 37231
valuations of all its constituent school districts that were 37232
subject to the joint vocational school district's tax levies for 37233
both the current and preceding tax years. 37234

~~(5)~~(4) "Resident district" means the city, local, or exempted 37235
village school district in which a student is entitled to attend 37236
school under section 3313.64 or 3313.65 of the Revised Code. 37237

~~(6)~~(5) "Community school" means a community school 37238
established under Chapter 3314. of the Revised Code. 37239

(B) The department of education shall compute and distribute 37240
state base cost funding to each joint vocational school district 37241
for the fiscal year in accordance with the following formula: 37242

(formula amount X formula ADM) - 37243
(.0005 X total recognized valuation) 37244

If the difference obtained under this division is a negative 37245
number, the district's computation shall be zero. 37246

(C)(1) The department shall compute and distribute state 37247
vocational education additional weighted costs funds to each joint 37248
vocational school district in accordance with the following 37249
formula: 37250

state share percentage X formula amount X 37251
total vocational education weight 37252

In each fiscal year, a joint vocational school district 37253
receiving funds under division (C)(1) of this section shall spend 37254
those funds only for the purposes the department designates as 37255
approved for vocational education expenses. Vocational educational 37256
expenses approved by the department shall include only expenses 37257
connected to the delivery of career-technical programming to 37258
career-technical students. The department shall require the joint 37259
vocational school district to report data annually so that the 37260
department may monitor the district's compliance with the 37261
requirements regarding the manner in which funding received under 37262
division (C)(1) of this section may be spent. 37263

(2) The department shall compute for each joint vocational 37264
school district state funds for vocational education associated 37265
services costs in accordance with the following formula: 37266

state share percentage X .05 X 37267
the formula amount X the sum of 37268
categories one and two vocational 37269
education ADM 37270

In any fiscal year, a joint vocational school district 37271
receiving funds under division (C)(2) of this section, or through 37272
a transfer of funds pursuant to division (L) of section 3317.023 37273
of the Revised Code, shall spend those funds only for the purposes 37274

that the department designates as approved for vocational 37275
education associated services expenses, which may include such 37276
purposes as apprenticeship coordinators, coordinators for other 37277
vocational education services, vocational evaluation, and other 37278
purposes designated by the department. The department may deny 37279
payment under division (C)(2) of this section to any district that 37280
the department determines is not operating those services or is 37281
using funds paid under division (C)(2) of this section, or through 37282
a transfer of funds pursuant to division (L) of section 3317.023 37283
of the Revised Code, for other purposes. 37284

(D)(1) The department shall compute and distribute state 37285
special education and related services additional weighted costs 37286
funds to each joint vocational school district in accordance with 37287
the following formula: 37288

state share percentage X formula amount X 37289
total special education weight 37290

(2)(a) As used in this division, the "personnel allowance" 37291
means thirty thousand dollars in fiscal years 2008 and 2009. 37292

(b) For the provision of speech language pathology services 37293
to students, including students who do not have individualized 37294
education programs prepared for them under Chapter 3323. of the 37295
Revised Code, and for no other purpose, the department shall pay 37296
each joint vocational school district an amount calculated under 37297
the following formula: 37298

(formula ADM divided by 2000) X the personnel 37299
allowance X state share percentage 37300

(3) In any fiscal year, a joint vocational school district 37301
shall spend for purposes that the department designates as 37302
approved for special education and related services expenses at 37303
least the amount calculated as follows: 37304

(formula amount X 37305

the sum of categories one through 37306
six special education ADM) + 37307
(total special education weight X 37308
formula amount) 37309

The purposes approved by the department for special education 37310
expenses shall include, but shall not be limited to, compliance 37311
with state rules governing the education of children with 37312
disabilities, providing services identified in a student's 37313
individualized education program as defined in section 3323.01 of 37314
the Revised Code, provision of speech language pathology services, 37315
and the portion of the district's overall administrative and 37316
overhead costs that are attributable to the district's special 37317
education student population. 37318

The department shall require joint vocational school 37319
districts to report data annually to allow for monitoring 37320
compliance with division (D)(3) of this section. The department 37321
shall annually report to the governor and the general assembly the 37322
amount of money spent by each joint vocational school district for 37323
special education and related services. 37324

(4) In any fiscal year, a joint vocational school district 37325
shall spend for the provision of speech language pathology 37326
services not less than the sum of the amount calculated under 37327
division (D)(1) of this section for the students in the district's 37328
category one special education ADM and the amount calculated under 37329
division (D)(2) of this section. 37330

(E)(1) If a joint vocational school district's costs for a 37331
fiscal year for a student in its categories two through six 37332
special education ADM exceed the threshold catastrophic cost for 37333
serving the student, as specified in division (C)(3)(b) of section 37334
3317.022 of the Revised Code, the district may submit to the 37335
superintendent of public instruction documentation, as prescribed 37336
by the superintendent, of all of its costs for that student. Upon 37337

submission of documentation for a student of the type and in the 37338
manner prescribed, the department shall pay to the district an 37339
amount equal to the sum of the following: 37340

(a) One-half of the district's costs for the student in 37341
excess of the threshold catastrophic cost; 37342

(b) The product of one-half of the district's costs for the 37343
student in excess of the threshold catastrophic cost multiplied by 37344
the district's state share percentage. 37345

(2) The district shall only report under division (E)(1) of 37346
this section, and the department shall only pay for, the costs of 37347
educational expenses and the related services provided to the 37348
student in accordance with the student's individualized education 37349
program. Any legal fees, court costs, or other costs associated 37350
with any cause of action relating to the student may not be 37351
included in the amount. 37352

(F) Each fiscal year, the department shall pay each joint 37353
vocational school district an amount for adult technical and 37354
vocational education and specialized consultants. 37355

(G)(1) A joint vocational school district's local share of 37356
special education and related services additional weighted costs 37357
equals: 37358

(1 - state share percentage) X 37359
Total special education weight X 37360
the formula amount 37361

(2) For each student with a disability receiving special 37362
education and related services under an individualized education 37363
program, as defined in section 3323.01 of the Revised Code, at a 37364
joint vocational district, the resident district or, if the 37365
student is enrolled in a community school, the community school 37366
shall be responsible for the amount of any costs of providing 37367
those special education and related services to that student that 37368

exceed the sum of the amount calculated for those services 37369
attributable to that student under divisions (B), (D), (E), and 37370
(G)(1) of this section. 37371

Those excess costs shall be calculated by subtracting the sum 37372
of the following from the actual cost to provide special education 37373
and related services to the student: 37374

(a) The formula amount; 37375

(b) The product of the formula amount times the applicable 37376
multiple specified in section ~~3317.013~~ 3306.11 of the Revised 37377
Code; 37378

(c) Any funds paid under division (E) of this section for the 37379
student; 37380

(d) Any other funds received by the joint vocational school 37381
district under this chapter to provide special education and 37382
related services to the student, not including the amount 37383
calculated under division (G)(2) of this section. 37384

(3) The board of education of the joint vocational school 37385
district may report the excess costs calculated under division 37386
(G)(2) of this section to the department of education. 37387

(4) If the board of education of the joint vocational school 37388
district reports excess costs under division (G)(3) of this 37389
section, the department shall pay the amount of excess cost 37390
calculated under division (G)(2) of this section to the joint 37391
vocational school district and shall deduct that amount as 37392
provided in division (G)(4)(a) or (b) of this section, as 37393
applicable: 37394

(a) If the student is not enrolled in a community school, the 37395
department shall deduct the amount from the account of the 37396
student's resident district pursuant to division (M) of section 37397
3317.023 of the Revised Code. 37398

(b) If the student is enrolled in a community school, the department shall deduct the amount from the account of the community school pursuant to section 3314.083 of the Revised Code.

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Sec. 3317.18. (A) As used in this section, the terms "Chapter 133. securities," "credit enhancement facilities," "debt charges," "general obligation," "legislation," "public obligations," and "securities" have the same meanings as in section 133.01 of the Revised Code.

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(B) The board of education of any school district authorizing the issuance of securities under section 133.10, 133.301, or 3313.372 of the Revised Code or general obligation Chapter 133. securities may adopt legislation requesting the state department of education to approve, and enter into an agreement with the school district and the primary paying agent or fiscal agent for such securities providing for, the withholding and deposit of funds, otherwise due the district under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code, for the payment of debt service charges on such securities.

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The board of education shall deliver to the state department a copy of such resolution and any additional pertinent information the state department may require.

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The department of education and the office of budget and management shall evaluate each request received from a school district under this section and the department, with the advice and consent of the director of budget and management, shall approve or deny each request based on all of the following:

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(1) Whether approval of the request will enhance the marketability of the securities for which the request is made;

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(2) Any other pertinent factors or limitations established in

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rules made under division (I) of this section, including: 37429

(a) Current and projected obligations of funds due to the 37430
requesting school district under ~~Chapter~~ Chapters 3306. and 3317. 37431
of the Revised Code including obligations of those funds to public 37432
obligations or relevant credit enhancement facilities under this 37433
section, Chapter 133. and section 3313.483 of the Revised Code, 37434
and under any other similar provisions of law; 37435

(b) Whether the department of education or the office of 37436
budget and management has any reason to believe the requesting 37437
school district will be unable to pay when due the debt charges on 37438
the securities for which the request is made. 37439

The department may require a school district to establish 37440
schedules for the payment of all debt charges that take into 37441
account the amount and timing of anticipated distributions of 37442
funds to the district under Chapter 3317. of the Revised Code. 37443

(C) If the department approves the request of a school 37444
district to withhold and deposit funds pursuant to this section, 37445
the department shall enter into a written agreement with the 37446
district and the primary paying agent or fiscal agent for the 37447
securities which shall provide for the withholding of funds 37448
pursuant to this section for the payment of debt charges on those 37449
securities, and may include both of the following: 37450

(1) Provisions for certification by the district to the 37451
department, at a time prior to any date for the payment of 37452
applicable debt charges, whether the district is able to pay those 37453
debt charges when due; 37454

(2) Requirements that the district deposit amounts for the 37455
payment of debt charges on the securities with the primary paying 37456
agent or fiscal agent for the securities prior to the date on 37457
which those debt charge payments are due to the owners or holders 37458
of the securities. 37459

(D) Whenever a district notifies the department of education 37460
that it will be unable to pay debt charges when they are due, 37461
subject to the withholding provisions of this section, or whenever 37462
the applicable paying agent or fiscal agent notifies the 37463
department that it has not timely received from a school district 37464
the full amount needed for the payment when due of those debt 37465
charges to the holders or owners of such securities, the 37466
department shall immediately contact the school district and the 37467
paying agent or fiscal agent to confirm or determine whether the 37468
district is unable to make the required payment by the date on 37469
which it is due. 37470

Upon demand of the treasurer of state while holding a school 37471
district obligation purchased under division (G)(1) of section 37472
135.143 of the Revised Code, the state department of education, 37473
without a request of the school district, shall withhold and 37474
deposit funds pursuant to this section for payment of debt service 37475
charges on that obligation. 37476

If the department confirms or determines that the district 37477
will be unable to make such payment and payment will not be made 37478
pursuant to a credit enhancement facility, the department shall 37479
promptly pay to the applicable primary paying agent or fiscal 37480
agent the lesser of the amount due for debt charges or the amount 37481
due the district for the remainder of the fiscal year under 37482
Chapter 3317. of the Revised Code. If this amount is insufficient 37483
to pay the total amount then due the agent for the payment of debt 37484
charges, the department shall pay to the agent each fiscal year 37485
thereafter, and until the full amount due the agent for unpaid 37486
debt charges is paid in full, the lesser of the remaining amount 37487
due the agent for debt charges or the amount due the district for 37488
the fiscal year under Chapter 3317. of the Revised Code. 37489

(E) The state department may make any payments under this 37490
division by direct deposit of funds by electronic transfer. 37491

Any amount received by a paying agent or fiscal agent under 37492
this section shall be applied only to the payment of debt charges 37493
on the securities of the school district subject to this section 37494
or to the reimbursement to the provider of a credit enhancement 37495
facility that has paid such debt charges. 37496

(F) To the extent a school district whose securities are 37497
subject to this section is unable to pay applicable debt charges 37498
because of the failure to collect property taxes levied for the 37499
payment of those debt charges, the district may transfer to or 37500
deposit into any fund that would have received payments under 37501
~~Chapter 3306.~~ or 3317. of the Revised Code that were withheld 37502
under this section any such delinquent property taxes when later 37503
collected, provided that transfer or deposit shall be limited to 37504
the amounts withheld from that fund under this section. 37505

(G) The department may make payments under this section to 37506
paying agents or fiscal agents only from and to the extent that 37507
money is appropriated by the general assembly for Chapter 3317. of 37508
the Revised Code or for the purposes of this section. No 37509
securities of a school district to which this section is made 37510
applicable constitute an obligation or a debt or a pledge of the 37511
faith, credit, or taxing power of the state, and the holders or 37512
owners of such securities have no right to have taxes levied or 37513
appropriations made by the general assembly for the payment of 37514
debt charges on those securities, and those securities, if the 37515
department requires, shall contain a statement to that effect. The 37516
agreement for or the actual withholding and payment of moneys 37517
under this section does not constitute the assumption by the state 37518
of any debt of a school district. 37519

(H) In the case of securities subject to the withholding 37520
provisions of this section, the issuing board of education shall 37521
appoint a paying agent or fiscal agent who is not an officer or 37522
employee of the school district. 37523

(I) The department of education, with the advice of the office of budget and management, may adopt reasonable rules not inconsistent with this section for the implementation of this section and division (B) of section 133.25 of the Revised Code as it relates to the withholding and depositing of payments under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code to secure payment of debt charges on school district securities. Those rules shall include criteria for the evaluation and approval or denial of school district requests for withholding under this section and limits on the obligation for the purpose of paying debt charges or reimbursing credit enhancement facilities of funds otherwise to be paid to school districts under Chapter 3317. of the Revised Code.

(J) The authority granted by this section is in addition to and not a limitation on any other authorizations granted by or pursuant to law for the same or similar purposes.

Sec. 3317.20. This section does not apply to preschool children with disabilities.

(A) As used in this section:

(1) "Applicable weight" means the multiple specified in section ~~3317.013~~ 3306.11 of the Revised Code for a disability described in that section.

(2) "Child's school district" means the school district in which a child is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

~~(3) "State share percentage" means the state share percentage of the child's school district as defined in section 3317.022 of the Revised Code.~~

(B) Except as provided in division (C) of this section, the department shall annually pay each county MR/DD board for each child with a disability, other than a preschool child with a

disability, for whom the county MR/DD board provides special 37554
education and related services an amount equal to the formula 37555
amount + (state share percentage X formula amount X the applicable 37556
weight). 37557

(C) If any school district places with a county MR/DD board 37558
more children with disabilities than it had placed with a county 37559
MR/DD board in fiscal year 1998, the department shall not make a 37560
payment under division (B) of this section for the number of 37561
children exceeding the number placed in fiscal year 1998. The 37562
department instead shall deduct from the district's payments under 37563
this chapter and Chapter 3306. of the Revised Code, and pay to the 37564
county MR/DD board, an amount calculated in accordance with the 37565
formula prescribed in division (B) of this section for each child 37566
over the number of children placed in fiscal year 1998. 37567

(D) The department shall calculate for each county MR/DD 37568
board receiving payments under divisions (B) and (C) of this 37569
section the following amounts: 37570
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(1) The amount received by the county MR/DD board for 37572
approved special education and related services units, other than 37573
units for preschool children with disabilities, in fiscal year 37574
1998, divided by the total number of children served in the units 37575
that year; 37576

(2) The product of the quotient calculated under division 37577
(D)(1) of this section times the number of children for whom 37578
payments are made under divisions (B) and (C) of this section. 37579

If the amount calculated under division (D)(2) of this 37580
section is greater than the total amount calculated under 37581
divisions (B) and (C) of this section, the department shall pay 37582
the county MR/DD board one hundred per cent of the difference in 37583
addition to the payments under divisions (B) and (C) of this 37584

section. 37585

(E) Each county MR/DD board shall report to the department, 37586
in the manner specified by the department, the name of each child 37587
for whom the county MR/DD board provides special education and 37588
related services and the child's school district. 37589

(F)(1) For the purpose of verifying the accuracy of the 37590
payments under this section, the department may request from 37591
either of the following entities the data verification code 37592
assigned under division (D)(2) of section 3301.0714 of the Revised 37593
Code to any child who is placed with a county MR/DD board: 37594

(a) The child's school district; 37595

(b) The independent contractor engaged to create and maintain 37596
data verification codes. 37597

(2) Upon a request by the department under division (F)(1) of 37598
this section for the data verification code of a child, the 37599
child's school district shall submit that code to the department 37600
in the manner specified by the department. If the child has not 37601
been assigned a code, the district shall assign a code to that 37602
child and submit the code to the department by a date specified by 37603
the department. If the district does not assign a code to the 37604
child by the specified date, the department shall assign a code to 37605
the child. 37606

The department annually shall submit to each school district 37607
the name and data verification code of each child residing in the 37608
district for whom the department has assigned a code under this 37609
division. 37610

(3) The department shall not release any data verification 37611
code that it receives under division (F) of this section to any 37612
person except as provided by law. 37613

(G) Any document relative to special education and related 37614

services provided by a county MR/DD board that the department 37615
holds in its files that contains both a student's name or other 37616
personally identifiable information and the student's data 37617
verification code shall not be a public record under section 37618
149.43 of the Revised Code. 37619

Sec. 3317.201. This section does not apply to preschool 37620
children with disabilities. 37621

(A) As used in this section, the "total special education 37622
weight" for an institution means the sum of the following amounts: 37623

(1) The number of children reported by the institution under 37624
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 37625
receiving services for a disability described in division 37626
~~(A)(C)(1)~~ of section ~~3317.013~~ 3306.02 of the Revised Code 37627
multiplied by the multiple specified in that division; 37628

(2) The number of children reported by the institution under 37629
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 37630
receiving services for a disability described in division 37631
~~(B)(C)(2)~~ of section ~~3317.013~~ 3306.02 of the Revised Code 37632
multiplied by the multiple specified in that division; 37633

(3) The number of children reported by the institution under 37634
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 37635
receiving services for a disability described in division (C)(3) 37636
of section ~~3317.013~~ 3306.02 of the Revised Code multiplied by the 37637
multiple specified in that division; 37638

(4) The number of children reported by the institution under 37639
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 37640
receiving services for a disability described in division 37641
~~(D)(C)(4)~~ of section ~~3317.013~~ 3306.02 of the Revised Code 37642
multiplied by the multiple specified in that division; 37643

(5) The number of children reported by the institution under 37644

division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 37645
receiving services for a disability described in division 37646
~~(E)(C)(5)~~ of section ~~3317.013~~ 3306.02 of the Revised Code 37647
multiplied by the multiple specified in that division; 37648

(6) The number of children reported by the institution under 37649
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 37650
receiving services for a disability described in division 37651
~~(F)(C)(6)~~ of section ~~3317.013~~ 3306.02 of the Revised Code 37652
multiplied by the multiple specified in that division. 37653

(B) For each fiscal year, the department of education shall 37654
pay each state institution required to provide special education 37655
services under division (A) of section 3323.091 of the Revised 37656
Code an amount equal to the greater of: 37657

(1) The formula amount times the institution's total special 37658
education weight; 37659

(2) The aggregate amount of special education and related 37660
services unit funding the institution received for all children 37661
with disabilities other than preschool children with disabilities 37662
in fiscal year 2005 under sections 3317.052 and 3317.053 of the 37663
Revised Code, as those sections existed prior to June 30, 2005. 37664

Sec. 3318.011. For purposes of providing assistance under 37665
sections 3318.01 to 3318.20 of the Revised Code, the department of 37666
education shall annually do all of the following: 37667

(A) Calculate the adjusted valuation per pupil of each city, 37668
local, and exempted village school district according to the 37669
following formula: 37670

The district's valuation per pupil - 37671

[\$30,000 X (1 - the district's income factor)]. 37672

For purposes of this calculation: 37673

(1)(a) ~~Except for a district with an open enrollment net gain~~ 37674

~~that is ten per cent or more of its formula ADM as provided in~~ 37675
~~division (A)(1)(b) of this section, "valuation per pupil" for a~~ 37676
district means its average taxable value, divided by its formula 37677
ADM for the previous fiscal year. ~~"Valuation per pupil,"~~ 37678

(b) For calculations in which the formula ADM reported for 37679
fiscal year 2009 or earlier is a factor, for a district with an 37680
open enrollment net gain that is ten per cent or more of its 37681
formula ADM, "valuation per pupil" means its average taxable 37682
value, divided by the sum of its formula ADM for the previous 37683
fiscal year plus its open enrollment net gain for the previous 37684
fiscal year. 37685

Consideration of net open enrollment gain is not added to the 37686
calculation of valuation per pupil for calculations in which the 37687
formula ADM is reported for a fiscal year after fiscal year 2009, 37688
to account for the fact that beginning with the report of formula 37689
ADM in October 2009 open enrollment students are counted in the 37690
formula ADM of the school districts in which they are enrolled. 37691

(2) "Average taxable value" means the average of the amounts 37692
certified for a district in the second, third, and fourth 37693
preceding fiscal years under divisions (A)(1) and (2) of section 37694
3317.021 of the Revised Code. 37695

(3) "Entitled to attend school" means entitled to attend 37696
school in a city, local, or exempted village school district under 37697
section 3313.64 or 3313.65 of the Revised Code. 37698

(4) "Formula ADM" and "income factor" have the same meanings 37699
as in section 3317.02 of the Revised Code. 37700

(5) "Native student" has the same meaning as in section 37701
3313.98 of the Revised Code. 37702

(6) "Open enrollment net gain" for a district means (a) the 37703
number of the students entitled to attend school in another 37704
district but who are enrolled in the schools of the district under 37705

its open enrollment policy minus (b) the number of the district's native students who are enrolled in the schools of another district under the other district's open enrollment policy, both numbers as certified to the department under section 3313.981 of the Revised Code. If the difference is a negative number, the district's "open enrollment net gain" is zero.

(7) "Open enrollment policy" means an interdistrict open enrollment policy adopted under section 3313.98 of the Revised Code.

(B) Calculate for each district the three-year average of the adjusted valuations per pupil calculated for the district for the current and two preceding fiscal years;

(C) Rank all such districts in order of adjusted valuation per pupil from the district with the lowest three-year average adjusted valuation per pupil to the district with the highest three-year average adjusted valuation per pupil;

(D) Divide such ranking into percentiles with the first percentile containing the one per cent of school districts having the lowest three-year average adjusted valuations per pupil and the one-hundredth percentile containing the one per cent of school districts having the highest three-year average adjusted valuations per pupil;

(E) Determine the school districts that have three-year average adjusted valuations per pupil that are greater than the median three-year average adjusted valuation per pupil for all school districts in the state;

(F) On or before the first day of September, certify the information described in divisions (A) to (E) of this section to the Ohio school facilities commission.

Sec. 3318.051. (A) Any city, exempted village, or local

school district that commences a project under sections 3318.01 to 37736
3318.20, 3318.36, 3318.37, or 3318.38 of the Revised Code on or 37737
after ~~the effective date of this section~~ September 5, 2006, need 37738
not levy the tax otherwise required under division (B) of section 37739
3318.05 of the Revised Code, if the district board of education 37740
adopts a resolution petitioning the Ohio school facilities 37741
commission to approve the transfer of money in accordance with 37742
this section and the commission approves that transfer. If so 37743
approved, the commission and the district board shall enter into 37744
an agreement under which the board, in each of twenty-three 37745
consecutive years beginning in the year in which the board and the 37746
commission enter into the project agreement under section 3318.08 37747
of the Revised Code, shall transfer into the maintenance fund 37748
required by division (D) of section 3318.05 of the Revised Code 37749
not less than an amount equal to one-half mill for each dollar of 37750
the district's valuation unless and until the agreement to make 37751
those transfers is rescinded by the district board pursuant to 37752
division (F) of this section. 37753

(B) On the first day of July each year, or on an alternative 37754
date prescribed by the commission, the district treasurer shall 37755
certify to the commission and the auditor of state that the amount 37756
required for the year has been transferred. The auditor of state 37757
shall include verification of the transfer as part of any audit of 37758
the district under section 117.11 of the Revised Code. If the 37759
auditor of state finds that less than the required amount has been 37760
deposited into a district's maintenance fund, the auditor of state 37761
shall notify the district board of education in writing of that 37762
fact and require the board to deposit into the fund, within ninety 37763
days after the date of the notice, the amount by which the fund is 37764
deficient for the year. If the district board fails to demonstrate 37765
to the auditor of state's satisfaction that the board has made the 37766
deposit required in the notice, the auditor of state shall notify 37767
the department of education. At that time, the department shall 37768

withhold an amount equal to ten per cent of the district's funds 37769
calculated for the current fiscal year under ~~Chapter~~ Chapters 37770
3306. and 3317. of the Revised Code until the auditor of state 37771
notifies the department that the auditor of state is satisfied 37772
that the board has made the required transfer. 37773

(C) Money transferred to the maintenance fund shall be used 37774
for the maintenance of the facilities acquired under the 37775
district's project. 37776

(D) The transfers to the maintenance fund under this section 37777
does not affect a district's obligation to establish and maintain 37778
a capital and maintenance fund under section 3315.18 of the 37779
Revised Code. 37780

(E) Any decision by the commission to approve or not approve 37781
the transfer of money under this section is final and not subject 37782
to appeal. The commission shall not be responsible for errors or 37783
miscalculations made in deciding whether to approve a petition to 37784
make transfers under this section. 37785

(F) If the district board determines that it no longer can 37786
continue making the transfers agreed to under this section, the 37787
board may rescind the agreement only so long as the electors of 37788
the district have approved, in accordance with section 3318.063 of 37789
the Revised Code, the levy of a tax for the maintenance of the 37790
classroom facilities acquired under the district's project and 37791
that levy continues to be collected as approved by the electors. 37792
That levy shall be for a number of years that is equal to the 37793
difference between twenty-three years and the number of years that 37794
the district made transfers under this section and shall be at the 37795
rate of not less than one-half mill for each dollar of the 37796
district's valuation. The district board shall continue to make 37797
the transfers agreed to under this section until that levy has 37798
been approved by the electors. 37799

Sec. 3318.061. This section applies only to school districts 37800
eligible to receive additional assistance under division (B)(2) of 37801
section 3318.04 of the Revised Code ~~and to big eight districts~~ 37802
~~segmenting projects under section 3318.38 of the Revised Code.~~ 37803

The board of education of a school district in which a tax 37804
described by division (B) of section 3318.05 and levied under 37805
section 3318.06 of the Revised Code is in effect, may adopt a 37806
resolution by vote of a majority of its members to extend the term 37807
of that tax beyond the expiration of that tax as originally 37808
approved under that section. The school district board may include 37809
in the resolution a proposal to extend the term of that tax at the 37810
rate of not less than one-half mill for each dollar of valuation 37811
for a period of twenty-three years from the year in which the 37812
school district board and the Ohio school facilities commission 37813
enter into an agreement under division (B)(2) of section 3318.04 37814
of the Revised Code or in the following year, as specified in the 37815
resolution ~~or, as applicable in the case of a district segmenting~~ 37816
~~a project under section 3318.38 of the Revised Code, from the year~~ 37817
~~in which the last segment is undertaken.~~ Such a resolution may be 37818
adopted at any time before such an agreement is entered into and 37819
before the tax levied pursuant to section 3318.06 of the Revised 37820
Code expires. If the resolution is combined with a resolution to 37821
issue bonds to pay the school district's portion of the basic 37822
project cost, it shall conform with the requirements of divisions 37823
(A)(1), (2), and (3) of section 3318.06 of the Revised Code, 37824
except that the resolution also shall state that the tax levy 37825
proposed in the resolution is an extension of an existing tax 37826
levied under that section. A resolution proposing an extension 37827
adopted under this section does not take effect until it is 37828
approved by a majority of electors voting in favor of the 37829
resolution at a general, primary, or special election as provided 37830
in this section. 37831

A tax levy extended under this section is subject to the same terms and limitations to which the original tax levied under section 3318.06 of the Revised Code is subject under that section, except the term of the extension shall be as specified in this section.

The school district board shall certify a copy of the resolution adopted under this section to the proper county board of elections not later than seventy-five days before the date set in the resolution as the date of the election at which the question will be submitted to electors. The notice of the election shall conform with the requirements of division (A)(3) of section 3318.06 of the Revised Code, except that the notice also shall state that the maintenance tax levy is an extension of an existing tax levy.

The form of the ballot shall be as follows:

"Shall the existing tax levied to pay the cost of maintaining classroom facilities constructed with the proceeds of the previously issued bonds at the rate of (here insert the number of mills, which shall not be less than one-half mill) mills per dollar of tax valuation, be extended until (here insert the year that is twenty-three years after the year in which the district and commission will enter into an agreement under division (B)(2) of section 3318.04 of the Revised Code or the following year)?

	FOR EXTENDING THE EXISTING TAX LEVY
	AGAINST EXTENDING THE EXISTING TAX LEVY

37856
37857
" 37858

Section 3318.07 of the Revised Code applies to ballot questions under this section.

37859
37860
37861

Sec. 3318.08. Except in the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the requisite favorable vote on the election is obtained, or if the school district board has resolved to apply the proceeds of a property tax levy or the proceeds of an income tax, or a combination of proceeds from such taxes, as authorized in section 3318.052 of the Revised Code, the Ohio school facilities commission, upon certification to it of either the results of the election or the resolution under section 3318.052 of the Revised Code, shall enter into a written agreement with the school district board for the construction and sale of the project. In the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the school district board of education and the school district electors have satisfied the conditions prescribed in division (D)(1) of section 3318.41 of the Revised Code, the commission shall enter into an agreement with the school district board for the construction and sale of the project. In either case, the agreement shall include, but need not be limited to, the following provisions:

(A) The sale and issuance of bonds or notes in anticipation thereof, as soon as practicable after the execution of the agreement, in an amount equal to the school district's portion of the basic project cost, including any securities authorized under division (J) of section 133.06 of the Revised Code and dedicated by the school district board to payment of the district's portion of the basic project cost of the project; provided, that if at that time the county treasurer of each county in which the school district is located has not commenced the collection of taxes on the general duplicate of real and public utility property for the year in which the controlling board approved the project, the school district board shall authorize the issuance of a first

installment of bond anticipation notes in an amount specified by 37894
the agreement, which amount shall not exceed an amount necessary 37895
to raise the net bonded indebtedness of the school district as of 37896
the date of the controlling board's approval to within five 37897
thousand dollars of the required level of indebtedness for the 37898
preceding year. In the event that a first installment of bond 37899
anticipation notes is issued, the school district board shall, as 37900
soon as practicable after the county treasurer of each county in 37901
which the school district is located has commenced the collection 37902
of taxes on the general duplicate of real and public utility 37903
property for the year in which the controlling board approved the 37904
project, authorize the issuance of a second and final installment 37905
of bond anticipation notes or a first and final issue of bonds. 37906

The combined value of the first and second installment of 37907
bond anticipation notes or the value of the first and final issue 37908
of bonds shall be equal to the school district's portion of the 37909
basic project cost. The proceeds of any such bonds shall be used 37910
first to retire any bond anticipation notes. Otherwise, the 37911
proceeds of such bonds and of any bond anticipation notes, except 37912
the premium and accrued interest thereon, shall be deposited in 37913
the school district's project construction fund. In determining 37914
the amount of net bonded indebtedness for the purpose of fixing 37915
the amount of an issue of either bonds or bond anticipation notes, 37916
gross indebtedness shall be reduced by moneys in the bond 37917
retirement fund only to the extent of the moneys therein on the 37918
first day of the year preceding the year in which the controlling 37919
board approved the project. Should there be a decrease in the tax 37920
valuation of the school district so that the amount of 37921
indebtedness that can be incurred on the tax duplicates for the 37922
year in which the controlling board approved the project is less 37923
than the amount of the first installment of bond anticipation 37924
notes, there shall be paid from the school district's project 37925
construction fund to the school district's bond retirement fund to 37926

be applied against such notes an amount sufficient to cause the 37927
net bonded indebtedness of the school district, as of the first 37928
day of the year following the year in which the controlling board 37929
approved the project, to be within five thousand dollars of the 37930
required level of indebtedness for the year in which the 37931
controlling board approved the project. The maximum amount of 37932
indebtedness to be incurred by any school district board as its 37933
share of the cost of the project is either an amount that will 37934
cause its net bonded indebtedness, as of the first day of the year 37935
following the year in which the controlling board approved the 37936
project, to be within five thousand dollars of the required level 37937
of indebtedness, or an amount equal to the required percentage of 37938
the basic project costs, whichever is greater. All bonds and bond 37939
anticipation notes shall be issued in accordance with Chapter 133. 37940
of the Revised Code, and notes may be renewed as provided in 37941
section 133.22 of the Revised Code. 37942

(B) The transfer of such funds of the school district board 37943
available for the project, together with the proceeds of the sale 37944
of the bonds or notes, except premium, accrued interest, and 37945
interest included in the amount of the issue, to the school 37946
district's project construction fund; 37947

(C) For all school districts except joint vocational school 37948
districts that receive assistance under sections 3318.40 to 37949
3318.45 of the Revised Code, the following provisions as 37950
applicable: 37951

(1) If section 3318.052 of the Revised Code applies, the 37952
earmarking of the proceeds of a tax levied under section 5705.21 37953
of the Revised Code for general permanent improvements or under 37954
section 5705.218 of the Revised Code for the purpose of permanent 37955
improvements, or the proceeds of a school district income tax 37956
levied under Chapter 5748. of the Revised Code, or the proceeds 37957
from a combination of those two taxes, in an amount to pay all or 37958

part of the service charges on bonds issued to pay the school 37959
district portion of the project and an amount equivalent to all or 37960
part of the tax required under division (B) of section 3318.05 of 37961
the Revised Code; 37962

(2) If section 3318.052 of the Revised Code does not apply, 37963
one of the following: 37964

(a) The levy of the tax authorized at the election for the 37965
payment of maintenance costs, as specified in division (B) of 37966
section 3318.05 of the Revised Code; 37967

(b) If the school district electors have approved a 37968
continuing tax for general permanent improvements under section 37969
5705.21 of the Revised Code and that tax can be used for 37970
maintenance, the earmarking of an amount of the proceeds from such 37971
tax for maintenance of classroom facilities as specified in 37972
division (B) of section 3318.05 of the Revised Code; 37973

(c) If, in lieu of the tax otherwise required under division 37974
(B) of section 3318.05 of the Revised Code, the commission has 37975
approved the transfer of money to the maintenance fund in 37976
accordance with section 3318.051 of the Revised Code, a 37977
requirement that the district board comply with the provisions 37978
prescribed under that section. The district board may rescind the 37979
provision prescribed under division (C)(2)(c) of this section only 37980
so long as the electors of the district have approved, in 37981
accordance with section 3318.063 of the Revised Code, the levy of 37982
a tax for the maintenance of the classroom facilities acquired 37983
under the district's project and that levy continues to be 37984
collected as approved by the electors. 37985

(D) For joint vocational school districts that receive 37986
assistance under sections 3318.40 to 3318.45 of the Revised Code, 37987
provision for deposit of school district moneys dedicated to 37988
maintenance of the classroom facilities acquired under those 37989

sections as prescribed in section 3318.43 of the Revised Code; 37990

(E) Dedication of any local donated contribution as provided 37991
for under section 3318.084 of the Revised Code, including a 37992
schedule for depositing such moneys applied as an offset of the 37993
district's obligation to levy the tax described in division (B) of 37994
section 3318.05 of the Revised Code as required under division 37995
(D)(2) of section 3318.084 of the Revised Code; 37996

(F) Ownership of or interest in the project during the period 37997
of construction, which shall be divided between the commission and 37998
the school district board in proportion to their respective 37999
contributions to the school district's project construction fund; 38000

(G) Maintenance of the state's interest in the project until 38001
any obligations issued for the project under section 3318.26 of 38002
the Revised Code are no longer outstanding; 38003

(H) The insurance of the project by the school district from 38004
the time there is an insurable interest therein and so long as the 38005
state retains any ownership or interest in the project pursuant to 38006
division (F) of this section, in such amounts and against such 38007
risks as the commission shall require; provided, that the cost of 38008
any required insurance until the project is completed shall be a 38009
part of the basic project cost; 38010

(I) The certification by the director of budget and 38011
management that funds are available and have been set aside to 38012
meet the state's share of the basic project cost as approved by 38013
the controlling board pursuant to either section 3318.04 or 38014
division (B)(1) of section 3318.41 of the Revised Code; 38015

(J) Authorization of the school district board to advertise 38016
for and receive construction bids for the project, for and on 38017
behalf of the commission, and to award contracts in the name of 38018
the state subject to approval by the commission; 38019

(K) Provisions for the disbursement of moneys from the school 38020

district's project account upon issuance by the commission or the 38021
commission's designated representative of vouchers for work done 38022
to be certified to the commission by the treasurer of the school 38023
district board; 38024

(L) Disposal of any balance left in the school district's 38025
project construction fund upon completion of the project; 38026

(M) Limitations upon use of the project or any part of it so 38027
long as any obligations issued to finance the project under 38028
section 3318.26 of the Revised Code are outstanding; 38029

(N) Provision for vesting the state's interest in the project 38030
to the school district board when the obligations issued to 38031
finance the project under section 3318.26 of the Revised Code are 38032
outstanding; 38033

(O) Provision for deposit of an executed copy of the 38034
agreement in the office of the commission; 38035

(P) Provision for termination of the contract and release of 38036
the funds encumbered at the time of the conditional approval, if 38037
the proceeds of the sale of the bonds of the school district board 38038
are not paid into the school district's project construction fund 38039
and if bids for the construction of the project have not been 38040
taken within such period after the execution of the agreement as 38041
may be fixed by the commission; 38042

(Q) Provision for the school district to maintain the project 38043
in accordance with a plan approved by the commission; 38044

(R)(1) For all school districts except a district undertaking 38045
a project under section 3318.38 of the Revised Code or a joint 38046
vocational school district undertaking a project under sections 38047
3318.40 to 3318.45 of the Revised Code, provision that all state 38048
funds reserved and encumbered to pay the state share of the cost 38049
of the project pursuant to section 3318.03 of the Revised Code be 38050
spent on the construction or acquisition of the project prior to 38051

the expenditure of any funds provided by the school district to 38052
pay for its share of the project cost, unless the school district 38053
certifies to the commission that expenditure by the school 38054
district is necessary to maintain the tax-exempt status of notes 38055
or bonds issued by the school district to pay for its share of the 38056
project cost or to comply with applicable temporary investment 38057
periods or spending exceptions to rebate as provided for under 38058
federal law in regard to those notes or bonds, in which cases, the 38059
school district may commit to spend, or spend, a portion of the 38060
funds it provides; 38061

(2) For a school district undertaking a project under section 38062
3318.38 of the Revised Code or a joint vocational school district 38063
undertaking a project under sections 3318.40 to 3318.45 of the 38064
Revised Code, provision that the state funds reserved and 38065
encumbered and the funds provided by the school district to pay 38066
the basic project cost of any segment of the project, or of the 38067
entire project if it is not divided into segments, be spent on the 38068
construction and acquisition of the project simultaneously in 38069
proportion to the state's and the school district's respective 38070
shares of that basic project cost as determined under section 38071
3318.032 of the Revised Code or, if the district is a joint 38072
vocational school district, under section 3318.42 of the Revised 38073
Code. 38074

(S) A provision stipulating that the commission may prohibit 38075
the district from proceeding with any project if the commission 38076
determines that the site is not suitable for construction 38077
purposes. The commission may perform soil tests in its 38078
determination of whether a site is appropriate for construction 38079
purposes. 38080

(T) A provision stipulating that, unless otherwise authorized 38081
by the commission, any contingency reserve portion of the 38082
construction budget prescribed by the commission shall be used 38083

only to pay costs resulting from unforeseen job conditions, to 38084
comply with rulings regarding building and other codes, to pay 38085
costs related to design clarifications or corrections to contract 38086
documents, and to pay the costs of settlements or judgments 38087
related to the project as provided under section 3318.086 of the 38088
Revised Code; 38089

~~(U) Provision stipulating that for continued release of 38090
project funds the school district board shall comply with section 38091
3313.41 of the Revised Code throughout the project and shall 38092
notify the department of education and the Ohio community school 38093
association when the board plans to dispose of facilities by sale 38094
under that section; 38095~~

~~(V) Provision that the commission shall not approve a 38096
contract for demolition of a facility until the school district 38097
board has complied with section 3313.41 of the Revised Code 38098
relative to that facility, unless demolition of that facility is 38099
to clear a site for construction of a replacement facility 38100
included in the district's project. 38101~~

Sec. 3318.38. (A) As used in this section, "big-eight school 38102
district" has the same meaning as in section 3314.02 of the 38103
Revised Code. 38104

(B) There is hereby established the accelerated urban school 38105
building assistance program. Under the program, notwithstanding 38106
section 3318.02 of the Revised Code, any big-eight school district 38107
that has not been approved to receive assistance under sections 38108
3318.01 to 3318.20 of the Revised Code by July 1, 2002, may 38109
beginning on that date apply for approval of and be approved for 38110
such assistance. Except as otherwise provided in this section, any 38111
project approved and undertaken pursuant to this section shall 38112
comply with all provisions of sections 3318.01 to 3318.20 of the 38113
Revised Code. 38114

The Ohio school facilities commission shall provide 38115
assistance to any big-eight school district eligible for 38116
assistance under this section in the following manner: 38117

(1) Notwithstanding section 3318.02 of the Revised Code: 38118

(a) Not later than June 30, 2002, the commission shall 38119
conduct an on-site visit and shall assess the classroom facilities 38120
needs of each big-eight school district eligible for assistance 38121
under this section; 38122

(b) Beginning July 1, 2002, any big-eight school district 38123
eligible for assistance under this section may apply to the 38124
commission for conditional approval of its project as determined 38125
by the assessment conducted under division (B)(1)(a) of this 38126
section. The commission may conditionally approve that project and 38127
submit it to the controlling board for approval pursuant to 38128
section 3318.04 of the Revised Code. 38129

(2) If the controlling board approves the project of a 38130
big-eight school district eligible for assistance under this 38131
section, the commission and the school district shall enter into 38132
an agreement as prescribed in section 3318.08 of the Revised Code. 38133
Any agreement executed pursuant to this division shall include any 38134
applicable segmentation provisions as approved by the commission 38135
under division (B)(3) of this section. 38136

(3) Notwithstanding any provision to the contrary in sections 38137
3318.05, 3318.06, and 3318.08 of the Revised Code, a big-eight 38138
school district eligible for assistance under this section may 38139
with the approval of the commission opt to divide the project as 38140
approved under division (B)(1)(b) of this section into discrete 38141
segments to be completed sequentially. Any project divided into 38142
segments shall comply with all other provisions of sections 38143
3318.05, 3318.06, and 3318.08 of the Revised Code except as 38144
otherwise specified in this division. 38145

If a project is divided into segments under this division: 38146

(a) The school district need raise only the amount equal to 38147
its proportionate share, as determined under section 3318.032 of 38148
the Revised Code, of each segment at any one time and may seek 38149
voter approval of each segment separately; 38150

(b) The state's proportionate share, as determined under 38151
section 3318.032 of the Revised Code, of only the segment which 38152
has been approved by the school district electors or for which the 38153
district has applied a local donated contribution under section 38154
3318.084 of the Revised Code shall be encumbered in accordance 38155
with section 3318.11 of the Revised Code. Encumbrance of 38156
additional amounts to cover the state's proportionate share of 38157
later segments shall be approved separately as they are approved 38158
by the school district electors or as the district applies a local 38159
donated contribution to the segments under section 3318.084 of the 38160
Revised Code. 38161

~~(c) If it is necessary to levy the additional tax for 38162
maintenance under division (B) of section 3318.05 of the Revised 38163
Code with respect to any segment of the project, the district may 38164
utilize the provisions of section 3318.061 of the Revised Code to 38165
ensure that the maintenance tax extends for twenty three years 38166
after the last segment of the project is undertaken The school 38167
district's maintenance levy requirement, as defined in section 38168
3318.18 of the Revised Code, shall run for twenty-three years from 38169
the date the first segment is undertaken. 38170~~

(4) For any project under this section, the state funds 38171
reserved and encumbered and the funds provided by the school 38172
district to pay the basic project cost of any segment of the 38173
project, or of the entire project if it is not divided into 38174
segments, shall be spent on the construction and acquisition of 38175
the project simultaneously in proportion to the state's and the 38176
school district's respective shares of that basic project cost as 38177

determined under section 3318.032 of the Revised Code. 38178

Sec. 3319.073. (A) The board of education of each city and 38179
exempted village school district and the governing board of each 38180
educational service center shall adopt or adapt the curriculum 38181
developed by the department of education for, or shall develop, in 38182
consultation with public or private agencies or persons involved 38183
in child abuse prevention or intervention programs, a program of 38184
in-service training ~~for persons employed by any school district or~~ 38185
~~service center to work in an elementary school as a nurse,~~ 38186
~~teacher, counselor, school psychologist, or administrator in the~~ 38187
prevention of child abuse, violence, and substance abuse and the 38188
promotion of positive youth development. Each person employed by 38189
any school district or service center to work in ~~an elementary a~~ 38190
school as a nurse, teacher, counselor, school psychologist, or 38191
administrator shall complete at least four hours of the in-service 38192
training ~~in the prevention of child abuse, violence, and substance~~ 38193
~~abuse and the promotion of positive youth development~~ within two 38194
years of commencing employment with the district or center, and 38195
every five years thereafter. A person who is employed by any 38196
school district or service center to work in an elementary school 38197
as a nurse, teacher, counselor, school psychologist, or 38198
administrator ~~on the effective date of this amendment~~ March 30, 38199
2007, shall complete at least four hours of the in-service 38200
training ~~required by this section within two years of the~~ 38201
~~effective date of this amendment~~ not later than March 30, 2009, 38202
and every five years thereafter. A person who is employed by any 38203
school district or service center to work in a middle or high 38204
school as a nurse, teacher, counselor, school psychologist, or 38205
administrator on the effective date of this amendment shall 38206
complete at least four hours of the in-service training not later 38207
than two years after the effective date of this amendment and 38208
every five years thereafter. 38209

(B) Each board shall incorporate training in school safety and violence prevention into the in-service training required by division (A) of this section. For this purpose, the board shall adopt or adapt the curriculum developed by the department or shall develop its own curriculum in consultation with public or private agencies or persons involved in school safety and violence prevention programs.

Sec. 3319.08. (A) The board of education of each city, exempted village, local, and joint vocational school district and the governing board of each educational service center shall enter into written contracts for the employment and reemployment of all teachers. Contracts for the employment of teachers shall be of two types, limited contracts and continuing contracts. The board of each ~~such~~ school district or service center that authorizes compensation in addition to the base salary stated in the teachers' salary schedule for the performance of duties by a teacher that are in addition to the teacher's regular teaching duties, shall enter into a supplemental written contract with each teacher who is to perform additional duties. Such supplemental written contracts shall be limited contracts. Such written contracts and supplemental written contracts shall set forth the teacher's duties and shall specify the salaries and compensation to be paid for regular teaching duties and additional teaching duties, respectively, either or both of which may be increased but not diminished during the term for which the contract is made, except as provided in section 3319.12 of the Revised Code.

If a board adopts a motion or resolution to employ a teacher under a limited or continuing contract and the teacher accepts such employment, the failure of such parties to execute a written contract shall not void such employment contract.

(B) Teachers must be paid for all time lost when the schools

in which they are employed are closed due to an epidemic or other 38241
public calamity, and for time lost due to illness or otherwise for 38242
not less than five days annually as authorized by regulations 38243
which each board shall adopt. 38244

~~Contracts for the employment of teachers shall be of two 38245
types, limited contracts and continuing contracts. 38246~~

~~(A)~~(C) A limited contract is: 38247

(1) For a superintendent, a contract for such term as 38248
authorized by section 3319.01 of the Revised Code; 38249

(2) For an assistant superintendent, principal, assistant 38250
principal, or other administrator, a contract for such term as 38251
authorized by section 3319.02 of the Revised Code; 38252

(3) For all other teachers, a contract for a term not to 38253
exceed five years. 38254

~~(B)~~(D) A continuing contract is a contract that remains in 38255
effect until the teacher resigns, elects to retire, or is retired 38256
pursuant to former section 3307.37 of the Revised Code, or until 38257
it is terminated or suspended and shall be granted only to the 38258
following: 38259

(1) Any teacher holding a professional, permanent, or life 38260
teacher's certificate; 38261

(2) Any teacher ~~holding a professional educator license~~ who 38262
meets the following conditions: 38263

(a) The teacher was initially issued a teacher's certificate 38264
or educator license prior to January 1, 2011. 38265

(b) The teacher holds a professional educator license issued 38266
under section 3319.22 or 3319.222 or former section 3319.22 of the 38267
Revised Code or a senior professional educator license or lead 38268
professional educator license issued under section 3319.22 of the 38269
Revised Code. 38270

(c) The teacher has completed the applicable one of the 38271
following: 38272

~~(a)~~(i) If the teacher did not hold a ~~masters~~ master's degree 38273
at the time of initially receiving a teacher's certificate under 38274
former law or an educator license, thirty semester hours of 38275
coursework in the area of licensure or in an area related to the 38276
teaching field since the initial issuance of such certificate or 38277
license, as specified in rules which the state board of education 38278
shall adopt; 38279

~~(b)~~(ii) If the teacher held a ~~masters~~ master's degree at the 38280
time of initially receiving a teacher's certificate under former 38281
law or an educator license, six semester hours of graduate 38282
coursework in the area of licensure or in an area related to the 38283
teaching field since the initial issuance of such certificate or 38284
license, as specified in rules which the state board ~~of education~~ 38285
shall adopt. 38286

~~This~~ (3) Any teacher who meets the following conditions: 38287

(a) The teacher never held a teacher's certificate and was 38288
initially issued an educator license on or after January 1, 2011. 38289

(b) The teacher holds a professional educator license, senior 38290
professional educator license, or lead professional educator 38291
license issued under section 3319.22 of the Revised Code. 38292

(c) The teacher has held an educator license for at least 38293
nine years. 38294

(d) The teacher has completed the applicable one of the 38295
following: 38296

(i) If the teacher did not hold a master's degree at the time 38297
of initially receiving an educator license, thirty semester hours 38298
of coursework in the area of licensure or in an area related to 38299
the teaching field since the initial issuance of that license, as 38300

specified in rules which the state board shall adopt; 38301

(ii) If the teacher held a master's degree at the time of 38302
initially receiving an educator license, six semester hours of 38303
graduate coursework in the area of licensure or in an area related 38304
to the teaching field since the initial issuance of that license, 38305
as specified in rules which the state board shall adopt. 38306

(E) Division (D) of this section applies only to continuing 38307
contracts entered into on or after August 18, 1969 the effective 38308
date of this amendment. Nothing in that division shall be 38309
construed to void or otherwise affect a continuing contract 38310
entered into prior to that date. 38311

Notwithstanding any provision to the contrary in Chapter 38312
4117. of the Revised Code, the requirements of division (D)(3) of 38313
this section prevail over any conflicting provisions of a 38314
collective bargaining agreement entered into on or after the 38315
effective date of this amendment. 38316

(F) Wherever the term "educator license" is used in this 38317
section without reference to a specific type of educator license, 38318
the term does not include an educator license for substitute 38319
teaching issued under section 3319.226 of the Revised Code. 38320

Sec. 3319.081. Except as otherwise provided in division (G) 38321
of this section, in all school districts wherein the provisions of 38322
Chapter 124. of the Revised Code do not apply, the following 38323
employment contract system shall control for employees whose 38324
contracts of employment are not otherwise provided by law: 38325

(A) Newly hired regular nonteaching school employees, 38326
including regular hourly rate and per diem employees, shall enter 38327
into written contracts for their employment which shall be for a 38328
period of not more than one year. If such employees are rehired, 38329
their subsequent contract shall be for a period of two years. 38330

(B) After the termination of the two-year contract provided 38331
in division (A) of this section, if the contract of a nonteaching 38332
employee is renewed, the employee shall be continued in 38333
employment, and the salary provided in the contract may be 38334
increased but not reduced unless such reduction is a part of a 38335
uniform plan affecting the nonteaching employees of the entire 38336
district. 38337

(C) The contracts as provided for in this section may be 38338
terminated by a majority vote of the board of education. Except as 38339
provided in ~~sections 3319.0810 and section~~ 3319.172 of the Revised 38340
Code, the contracts may be terminated only for violation of 38341
written rules and regulations as set forth by the board of 38342
education or for incompetency, inefficiency, dishonesty, 38343
drunkenness, immoral conduct, insubordination, discourteous 38344
treatment of the public, neglect of duty, or any other acts of 38345
misfeasance, malfeasance, or nonfeasance. In addition to the right 38346
of the board of education to terminate the contract of an 38347
employee, the board may suspend an employee for a definite period 38348
of time or demote the employee for the reasons set forth in this 38349
division. The action of the board of education terminating the 38350
contract of an employee or suspending or demoting the employee 38351
shall be served upon the employee by certified mail. Within ten 38352
days following the receipt of such notice by the employee, the 38353
employee may file an appeal, in writing, with the court of common 38354
pleas of the county in which such school board is situated. After 38355
hearing the appeal the common pleas court may affirm, disaffirm, 38356
or modify the action of the school board. 38357

A violation of division (A)(7) of section 2907.03 of the 38358
Revised Code is grounds for termination of employment of a 38359
nonteaching employee under this division. 38360

(D) All employees who have been employed by a school district 38361
where the provisions of Chapter 124. of the Revised Code do not 38362

apply, for a period of at least three years on November 24, 1967, 38363
shall hold continuing contracts of employment pursuant to this 38364
section. 38365

(E) Any nonteaching school employee may terminate the 38366
nonteaching school employee's contract of employment thirty days 38367
subsequent to the filing of a written notice of such termination 38368
with the treasurer of the board. 38369

(F) A person hired exclusively for the purpose of replacing a 38370
nonteaching school employee while such employee is on leave of 38371
absence granted under section 3319.13 of the Revised Code is not a 38372
regular nonteaching school employee under this section. 38373

(G) All nonteaching employees employed pursuant to this 38374
section and Chapter 124. of the Revised Code shall be paid for all 38375
time lost when the schools in which they are employed are closed 38376
owing to an epidemic or other public calamity. Nothing in this 38377
division shall be construed as requiring payment in excess of an 38378
employee's regular wage rate or salary for any time worked while 38379
the school in which the employee is employed is officially closed 38380
for the reasons set forth in this division. 38381

Sec. 3319.088. As used in this section, "educational 38382
assistant" means any nonteaching employee in a school district who 38383
directly assists a teacher as defined in section 3319.09 of the 38384
Revised Code, by performing duties for which a license issued 38385
pursuant to sections 3319.22 to 3319.30 of the Revised Code is not 38386
required. 38387

(A) The state board of education shall issue educational aide 38388
permits and educational paraprofessional licenses for educational 38389
assistants and shall adopt rules for the issuance and renewal of 38390
such permits and licenses which shall be consistent with the 38391
provisions of this section. Educational aide permits and 38392
educational paraprofessional licenses may be of several types and 38393

the rules shall prescribe the minimum qualifications of education, 38394
health, and character for the service to be authorized under each 38395
type. The prescribed minimum qualifications may require special 38396
training or educational courses designed to qualify a person to 38397
perform effectively the duties authorized under an educational 38398
aide permit or educational paraprofessional license. 38399

(B)(1) Any application for a permit or license, or a renewal 38400
or duplicate of a permit or license, under this section shall be 38401
accompanied by the payment of a fee in the amount established 38402
under division (A) of section 3319.51 of the Revised Code. Any 38403
fees received under this division shall be paid into the state 38404
treasury to the credit of the state board of education licensure 38405
fund established under division (B) of section 3319.51 of the 38406
Revised Code. 38407

(2) Any person applying for or holding a permit or license 38408
pursuant to this section is subject to sections 3123.41 to 3123.50 38409
of the Revised Code and any applicable rules adopted under section 38410
3123.63 of the Revised Code and sections 3319.31 and 3319.311 of 38411
the Revised Code. 38412

(C) Educational assistants shall at all times while in the 38413
performance of their duties be under the supervision and direction 38414
of a teacher as defined in section 3319.09 of the Revised Code. 38415
Educational assistants may assist a teacher to whom assigned in 38416
the supervision of pupils, in assisting with instructional tasks, 38417
and in the performance of duties which, in the judgment of the 38418
teacher to whom the assistant is assigned, may be performed by a 38419
person not licensed pursuant to sections 3319.22 to 3319.30 of the 38420
Revised Code and for which a teaching license, issued pursuant to 38421
sections 3319.22 to 3319.30 of the Revised Code is not required. 38422
The duties of an educational assistant shall not include the 38423
assignment of grades to pupils. The duties of an educational 38424
~~assistants~~ assistant need not be performed in the physical 38425

presence of the teacher to whom assigned, but the activity of an 38426
educational assistant shall at all times be under the direction of 38427
the teacher to whom assigned. The assignment of an educational 38428
assistant need not be limited to assisting a single teacher. In 38429
the event an educational assistant is assigned to assist more than 38430
one teacher the assignments shall be clearly delineated and so 38431
arranged that the educational assistant shall never be subject to 38432
simultaneous supervision or direction by more than one teacher. 38433

Educational assistants assigned to supervise children shall, 38434
when the teacher to whom assigned is not physically present, 38435
maintain the degree of control and discipline ~~which~~ that would be 38436
maintained by the teacher, ~~but an educational assistant may not~~ 38437
~~render corporal punishment.~~ 38438

~~Except when expressly permitted solely for the purposes of~~ 38439
~~section 3317.029 of the Revised Code, educational~~ Educational 38440
assistants may not be used in place of classroom teachers or other 38441
employees and any payment of compensation by boards of education 38442
to educational assistants for such services is prohibited. The 38443
ratio between the number of licensed teachers and the pupils in a 38444
school district may not be decreased by utilization of educational 38445
assistants and no grouping, or other organization of pupils, for 38446
utilization of educational assistants shall be established which 38447
is inconsistent with sound educational practices and procedures. A 38448
school district may employ up to one full time equivalent 38449
educational assistant for each six full time equivalent licensed 38450
employees of the district. Educational assistants shall not be 38451
counted as licensed employees for purposes of state support in the 38452
school foundation program and no grouping or regrouping of pupils 38453
with educational assistants may be counted as a class or unit for 38454
school foundation program purposes. Neither special courses 38455
required by the regulations of the state board of education, 38456
prescribing minimum qualifications of education for an educational 38457

assistant, nor years of service as an educational assistant shall 38458
be counted in any way toward qualifying for a teacher license, for 38459
a teacher contract of any type, or for determining placement on a 38460
salary schedule in a school district as a teacher. 38461

38462

(D) Educational assistants employed by a board of education 38463
shall have all rights, benefits, and legal protection available to 38464
other nonteaching employees in the school district, except that 38465
provisions of Chapter 124. of the Revised Code shall not apply to 38466
any person employed as an educational assistant, and shall be 38467
members of the school employees retirement system. Educational 38468
assistants shall be compensated according to a salary plan adopted 38469
annually by the board. 38470

Except as provided in this section nonteaching employees 38471
shall not serve as educational assistants without first obtaining 38472
an appropriate educational aide permit or educational 38473
paraprofessional license from the state board of education. A 38474
nonteaching employee who is the holder of a valid educational aide 38475
permit or educational paraprofessional license shall neither 38476
render nor be required to render services inconsistent with the 38477
type of services authorized by the permit or license held. No 38478
person shall receive compensation from a board of education for 38479
services rendered as an educational assistant in violation of this 38480
provision. 38481

Nonteaching employees whose functions are solely 38482
secretarial-clerical and who do not perform any other duties as 38483
educational assistants, even though they assist a teacher and work 38484
under the direction of a teacher shall not be required to hold a 38485
permit or license issued pursuant to this section. Students 38486
preparing to become licensed teachers or educational assistants 38487
shall not be required to hold an educational aide permit or 38488
paraprofessional license for such periods of time as such students 38489

are assigned, as part of their training program, to work with a 38490
teacher in a school district. Such students shall not be 38491
compensated for such services. 38492

Following the determination of the assignment and general job 38493
description of an educational assistant and subject to supervision 38494
by the teacher's immediate administrative officer, a teacher to 38495
whom an educational assistant is assigned shall make all final 38496
determinations of the duties to be assigned to such assistant. 38497
Teachers shall not be required to hold a license designated for 38498
being a supervisor or administrator in order to perform the 38499
necessary supervision of educational assistants. 38500

(E) No person who is, or who has been employed as an 38501
educational assistant shall divulge, except to the teacher to whom 38502
assigned, or the administrator of the school in the absence of the 38503
teacher to whom assigned, or when required to testify in a court 38504
or proceedings, any personal information concerning any pupil in 38505
the school district which was obtained or obtainable by the 38506
educational assistant while so employed. Violation of this 38507
provision is grounds for disciplinary action or dismissal, or 38508
both. 38509

Sec. 3319.11. (A) As used in this section: 38510

(1) "Evaluation procedures" means the procedures adopted 38511
pursuant to division (B) of section 3319.111 of the Revised Code. 38512

(2) "Limited contract" means a limited contract, as described 38513
in section 3319.08 of the Revised Code, that a school district 38514
board of education or governing board of an educational service 38515
center enters into with a teacher who is not eligible for 38516
continuing service status. 38517

(3) "Extended limited contract" means a limited contract, as 38518
described in section 3319.08 of the Revised Code, that a board of 38519

education or governing board enters into with a teacher who is 38520
eligible for continuing service status. 38521

(B) Teachers eligible for continuing service status in any 38522
city, exempted village, local, or joint vocational school district 38523
or educational service center shall be those teachers qualified as 38524
described in division ~~(B)(1) or (2)~~(D) of section 3319.08 of the 38525
Revised Code, who within the last five years have taught for at 38526
least three years in the district or center, and those teachers 38527
who, having attained continuing contract status elsewhere, have 38528
served two years in the district or center, but the board, upon 38529
the recommendation of the superintendent, may at the time of 38530
employment or at any time within such two-year period, declare any 38531
of the latter teachers eligible. 38532

(1) Upon the recommendation of the superintendent that a 38533
teacher eligible for continuing service status be reemployed, a 38534
continuing contract shall be entered into between the board and 38535
the teacher unless the board by a three-fourths vote of its full 38536
membership rejects the recommendation of the superintendent. If 38537
the board rejects by a three-fourths vote of its full membership 38538
the recommendation of the superintendent that a teacher eligible 38539
for continuing service status be reemployed and the superintendent 38540
makes no recommendation to the board pursuant to division (C) of 38541
this section, the board may declare its intention not to reemploy 38542
the teacher by giving the teacher written notice on or before the 38543
thirtieth day of April of its intention not to reemploy the 38544
teacher. If evaluation procedures have not been complied with 38545
pursuant to division (A) of section 3319.111 of the Revised Code 38546
or the board does not give the teacher written notice on or before 38547
the thirtieth day of April of its intention not to reemploy the 38548
teacher, the teacher is deemed reemployed under an extended 38549
limited contract for a term not to exceed one year at the same 38550
salary plus any increment provided by the salary schedule. The 38551

teacher is presumed to have accepted employment under the extended 38552
limited contract for a term not to exceed one year unless such 38553
teacher notifies the board in writing to the contrary on or before 38554
the first day of June, and an extended limited contract for a term 38555
not to exceed one year shall be executed accordingly. Upon any 38556
subsequent reemployment of the teacher only a continuing contract 38557
may be entered into. 38558

(2) If the superintendent recommends that a teacher eligible 38559
for continuing service status not be reemployed, the board may 38560
declare its intention not to reemploy the teacher by giving the 38561
teacher written notice on or before the thirtieth day of April of 38562
its intention not to reemploy the teacher. If evaluation 38563
procedures have not been complied with pursuant to division (A) of 38564
section 3319.111 of the Revised Code or the board does not give 38565
the teacher written notice on or before the thirtieth day of April 38566
of its intention not to reemploy the teacher, the teacher is 38567
deemed reemployed under an extended limited contract for a term 38568
not to exceed one year at the same salary plus any increment 38569
provided by the salary schedule. The teacher is presumed to have 38570
accepted employment under the extended limited contract for a term 38571
not to exceed one year unless such teacher notifies the board in 38572
writing to the contrary on or before the first day of June, and an 38573
extended limited contract for a term not to exceed one year shall 38574
be executed accordingly. Upon any subsequent reemployment of a 38575
teacher only a continuing contract may be entered into. 38576

(3) Any teacher receiving written notice of the intention of 38577
a board not to reemploy such teacher pursuant to this division is 38578
entitled to the hearing provisions of division (G) of this 38579
section. 38580

(C)(1) If a board rejects the recommendation of the 38581
superintendent for reemployment of a teacher pursuant to division 38582
(B)(1) of this section, the superintendent may recommend 38583

reemployment of the teacher, if continuing service status has not 38584
previously been attained elsewhere, under an extended limited 38585
contract for a term not to exceed two years, provided that written 38586
notice of the superintendent's intention to make such 38587
recommendation has been given to the teacher with reasons directed 38588
at the professional improvement of the teacher on or before the 38589
thirtieth day of April. Upon subsequent reemployment of the 38590
teacher only a continuing contract may be entered into. 38591

(2) If a board of education takes affirmative action on a 38592
superintendent's recommendation, made pursuant to division (C)(1) 38593
of this section, of an extended limited contract for a term not to 38594
exceed two years but the board does not give the teacher written 38595
notice of its affirmative action on the superintendent's 38596
recommendation of an extended limited contract on or before the 38597
thirtieth day of April, the teacher is deemed reemployed under a 38598
continuing contract at the same salary plus any increment provided 38599
by the salary schedule. The teacher is presumed to have accepted 38600
employment under such continuing contract unless such teacher 38601
notifies the board in writing to the contrary on or before the 38602
first day of June, and a continuing contract shall be executed 38603
accordingly. 38604

(3) A board shall not reject a superintendent's 38605
recommendation, made pursuant to division (C)(1) of this section, 38606
of an extended limited contract for a term not to exceed two years 38607
except by a three-fourths vote of its full membership. If a board 38608
rejects by a three-fourths vote of its full membership the 38609
recommendation of the superintendent of an extended limited 38610
contract for a term not to exceed two years, the board may declare 38611
its intention not to reemploy the teacher by giving the teacher 38612
written notice on or before the thirtieth day of April of its 38613
intention not to reemploy the teacher. If evaluation procedures 38614
have not been complied with pursuant to division (A) of section 38615

3319.111 of the Revised Code or if the board does not give the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher, the teacher is deemed reemployed under an extended limited contract for a term not to exceed one year at the same salary plus any increment provided by the salary schedule. The teacher is presumed to have accepted employment under the extended limited contract for a term not to exceed one year unless such teacher notifies the board in writing to the contrary on or before the first day of June, and an extended limited contract for a term not to exceed one year shall be executed accordingly. Upon any subsequent reemployment of the teacher only a continuing contract may be entered into.

Any teacher receiving written notice of the intention of a board not to reemploy such teacher pursuant to this division is entitled to the hearing provisions of division (G) of this section.

(D) A teacher eligible for continuing contract status employed under an extended limited contract pursuant to division (B) or (C) of this section, is, at the expiration of such extended limited contract, deemed reemployed under a continuing contract at the same salary plus any increment granted by the salary schedule, unless evaluation procedures have been complied with pursuant to division (A) of section 3319.111 of the Revised Code and the employing board, acting on the superintendent's recommendation that the teacher not be reemployed, gives the teacher written notice on or before the thirtieth day of April of its intention not to reemploy such teacher. A teacher who does not have evaluation procedures applied in compliance with division (A) of section 3319.111 of the Revised Code or who does not receive notice on or before the thirtieth day of April of the intention of the board not to reemploy such teacher is presumed to have accepted employment under a continuing contract unless such

teacher notifies the board in writing to the contrary on or before 38648
the first day of June, and a continuing contract shall be executed 38649
accordingly. 38650

Any teacher receiving a written notice of the intention of a 38651
board not to reemploy such teacher pursuant to this division is 38652
entitled to the hearing provisions of division (G) of this 38653
section. 38654

(E) A limited contract may be entered into by each board with 38655
each teacher who has not been in the employ of the board for at 38656
least three years and shall be entered into, regardless of length 38657
of previous employment, with each teacher employed by the board 38658
who ~~holds a provisional, temporary, or associate license, or who~~ 38659
~~holds a professional license and~~ is not eligible to be considered 38660
for a continuing contract. 38661

Any teacher employed under a limited contract, and not 38662
eligible to be considered for a continuing contract, is, at the 38663
expiration of such limited contract, considered reemployed under 38664
the provisions of this division at the same salary plus any 38665
increment provided by the salary schedule unless evaluation 38666
procedures have been complied with pursuant to division (A) of 38667
section 3319.111 of the Revised Code and the employing board, 38668
acting upon the superintendent's written recommendation that the 38669
teacher not be reemployed, gives such teacher written notice of 38670
its intention not to reemploy such teacher on or before the 38671
thirtieth day of April. A teacher who does not have evaluation 38672
procedures applied in compliance with division (A) of section 38673
3319.111 of the Revised Code or who does not receive notice of the 38674
intention of the board not to reemploy such teacher on or before 38675
the thirtieth day of April is presumed to have accepted such 38676
employment unless such teacher notifies the board in writing to 38677
the contrary on or before the first day of June, and a written 38678
contract for the succeeding school year shall be executed 38679

accordingly. 38680

Any teacher receiving a written notice of the intention of a 38681
board not to reemploy such teacher pursuant to this division is 38682
entitled to the hearing provisions of division (G) of this 38683
section. 38684

(F) The failure of a superintendent to make a recommendation 38685
to the board under any of the conditions set forth in divisions 38686
(B) to (E) of this section, or the failure of the board to give 38687
such teacher a written notice pursuant to divisions (C) to (E) of 38688
this section shall not prejudice or prevent a teacher from being 38689
deemed reemployed under either a limited or continuing contract as 38690
the case may be under the provisions of this section. A failure of 38691
the parties to execute a written contract shall not void any 38692
automatic reemployment provisions of this section. 38693

(G)(1) Any teacher receiving written notice of the intention 38694
of a board of education not to reemploy such teacher pursuant to 38695
division (B), (C)(3), (D), or (E) of this section may, within ten 38696
days of the date of receipt of the notice, file with the treasurer 38697
of the board a written demand for a written statement describing 38698
the circumstances that led to the board's intention not to 38699
reemploy the teacher. 38700

(2) The treasurer of a board, on behalf of the board, shall, 38701
within ten days of the date of receipt of a written demand for a 38702
written statement pursuant to division (G)(1) of this section, 38703
provide to the teacher a written statement describing the 38704
circumstances that led to the board's intention not to reemploy 38705
the teacher. 38706

(3) Any teacher receiving a written statement describing the 38707
circumstances that led to the board's intention not to reemploy 38708
the teacher pursuant to division (G)(2) of this section may, 38709
within five days of the date of receipt of the statement, file 38710

with the treasurer of the board a written demand for a hearing 38711
before the board pursuant to divisions (G)(4) to (6) of this 38712
section. 38713

(4) The treasurer of a board, on behalf of the board, shall, 38714
within ten days of the date of receipt of a written demand for a 38715
hearing pursuant to division (G)(3) of this section, provide to 38716
the teacher a written notice setting forth the time, date, and 38717
place of the hearing. The board shall schedule and conclude the 38718
hearing within forty days of the date on which the treasurer of 38719
the board receives a written demand for a hearing pursuant to 38720
division (G)(3) of this section. 38721

(5) Any hearing conducted pursuant to this division shall be 38722
conducted by a majority of the members of the board. The hearing 38723
shall be held in executive session of the board unless the board 38724
and the teacher agree to hold the hearing in public. The 38725
superintendent, assistant superintendent, the teacher, and any 38726
person designated by either party to take a record of the hearing 38727
may be present at the hearing. The board may be represented by 38728
counsel and the teacher may be represented by counsel or a 38729
designee. A record of the hearing may be taken by either party at 38730
the expense of the party taking the record. 38731

(6) Within ten days of the conclusion of a hearing conducted 38732
pursuant to this division, the board shall issue to the teacher a 38733
written decision containing an order affirming the intention of 38734
the board not to reemploy the teacher reported in the notice given 38735
to the teacher pursuant to division (B), (C)(3), (D), or (E) of 38736
this section or an order vacating the intention not to reemploy 38737
and expunging any record of the intention, notice of the 38738
intention, and the hearing conducted pursuant to this division. 38739

(7) A teacher may appeal an order affirming the intention of 38740
the board not to reemploy the teacher to the court of common pleas 38741
of the county in which the largest portion of the territory of the 38742

school district or service center is located, within thirty days 38743
of the date on which the teacher receives the written decision, on 38744
the grounds that the board has not complied with this section 38745
~~3319.11~~ or section 3319.111 of the Revised Code. 38746

Notwithstanding section 2506.04 of the Revised Code, the 38747
court in an appeal under this division is limited to the 38748
determination of procedural errors and to ordering the correction 38749
of procedural errors and shall have no jurisdiction to order a 38750
board to reemploy a teacher, except that the court may order a 38751
board to reemploy a teacher in compliance with the requirements of 38752
division (B), (C)(3), (D), or (E) of this section when the court 38753
determines that evaluation procedures have not been complied with 38754
pursuant to division (A) of section 3319.111 of the Revised Code 38755
or the board has not given the teacher written notice on or before 38756
the thirtieth day of April of its intention not to reemploy the 38757
teacher pursuant to division (B), (C)(3), (D), or (E) of this 38758
section. Otherwise, the determination whether to reemploy or not 38759
reemploy a teacher is solely a board's determination and not a 38760
proper subject of judicial review and, except as provided in this 38761
division, no decision of a board whether to reemploy or not 38762
reemploy a teacher shall be invalidated by the court on any basis, 38763
including that the decision was not warranted by the results of 38764
any evaluation or was not warranted by any statement given 38765
pursuant to division (G)(2) of this section. 38766

No appeal of an order of a board may be made except as 38767
specified in this division. 38768

(H)(1) In giving a teacher any notice required by division 38769
(B), (C), (D), or (E) of this section, the board or the 38770
superintendent shall do either of the following: 38771

(a) Deliver the notice by personal service upon the teacher; 38772

(b) Deliver the notice by certified mail, return receipt 38773

requested, addressed to the teacher at the teacher's place of 38774
employment and deliver a copy of the notice by certified mail, 38775
return receipt requested, addressed to the teacher at the 38776
teacher's place of residence. 38777

(2) In giving a board any notice required by division (B), 38778
(C), (D), or (E) of this section, the teacher shall do either of 38779
the following: 38780

(a) Deliver the notice by personal delivery to the office of 38781
the superintendent during regular business hours; 38782

(b) Deliver the notice by certified mail, return receipt 38783
requested, addressed to the office of the superintendent and 38784
deliver a copy of the notice by certified mail, return receipt 38785
requested, addressed to the president of the board at the 38786
president's place of residence. 38787

(3) When any notice and copy of the notice are mailed 38788
pursuant to division (H)(1)(b) or (2)(b) of this section, the 38789
notice or copy of the notice with the earlier date of receipt 38790
shall constitute the notice for the purposes of division (B), (C), 38791
(D), or (E) of this section. 38792

(I) The provisions of this section shall not apply to any 38793
supplemental written contracts entered into pursuant to section 38794
3319.08 of the Revised Code. 38795

Sec. 3319.151. (A) No person shall reveal to any student any 38796
specific question that the person knows is part of ~~a test~~ an 38797
assessment to be administered under section 3301.0711 of the 38798
Revised Code or in any other way assist a pupil to cheat on such a 38799
~~test~~ an assessment. 38800

(B) On a finding by the state board of education, after 38801
investigation, that a school employee who holds a license issued 38802
under sections 3319.22 to 3319.31 of the Revised Code has violated 38803

division (A) of this section, the license of such teacher shall be 38804
suspended for one year. Prior to commencing an investigation, the 38805
board shall give the teacher notice of the allegation and an 38806
opportunity to respond and present a defense. 38807

(C)(1) Violation of division (A) of this section is grounds 38808
for termination of employment of a nonteaching employee under 38809
division (C) of section 3319.081 or section 124.34 of the Revised 38810
Code. 38811

(2) Violation of division (A) of this section is grounds for 38812
termination of a teacher contract under section 3319.16 of the 38813
Revised Code. 38814

Sec. 3319.16. The contract of any teacher employed by the 38815
board of education of any city, exempted village, local, county, 38816
or joint vocational school district may not be terminated except 38817
~~for gross inefficiency or immorality; for willful and persistent~~ 38818
~~violations of reasonable regulations of the board of education; or~~ 38819
for ~~other~~ good and just cause. Before Notwithstanding any 38820
provision to the contrary in Chapter 4117. of the Revised Code, 38821
the provisions of this section relating to the grounds for 38822
termination of the contract of a teacher prevail over any 38823
conflicting provisions of a collective bargaining agreement 38824
entered into after the effective date of this amendment. 38825

Before terminating any contract, the employing board shall 38826
furnish the teacher a written notice signed by its treasurer of 38827
its intention to consider the termination of ~~his~~ the teacher's 38828
contract with full specification of the grounds for such 38829
consideration. The board shall not proceed with formal action to 38830
terminate the contract until after the tenth day after receipt of 38831
the notice by the teacher. Within ten days after receipt of the 38832
notice from the treasurer of the board, the teacher may file with 38833
the treasurer a written demand for a hearing before the board or 38834

before a referee, and the board shall set a time for the hearing 38835
which shall be within thirty days from the date of receipt of the 38836
written demand, and the treasurer shall give the teacher at least 38837
twenty days' notice in writing of the time and place of the 38838
hearing. If a referee is demanded by either the teacher or board, 38839
the treasurer also shall give twenty days' notice to the 38840
superintendent of public instruction. No hearing shall be held 38841
during the summer vacation without the teacher's consent. The 38842
hearing shall be private unless the teacher requests a public 38843
hearing. The hearing shall be conducted by a referee appointed 38844
pursuant to section 3319.161 of the Revised Code, if demanded; 38845
otherwise, it shall be conducted by a majority of the members of 38846
the board and shall be confined to the grounds given for the 38847
termination. The board shall provide for a complete stenographic 38848
record of the proceedings, a copy of the record to be furnished to 38849
the teacher. The board may suspend a teacher pending final action 38850
to terminate ~~his~~ the teacher's contract if, in its judgment, the 38851
character of the charges warrants such action. 38852

Both parties may be present at such hearing, be represented 38853
by counsel, require witnesses to be under oath, cross-examine 38854
witnesses, take a record of the proceedings, and require the 38855
presence of witnesses in their behalf upon subpoena to be issued 38856
by the treasurer of the board. In case of the failure of any 38857
person to comply with a subpoena, a judge of the court of common 38858
pleas of the county in which the person resides, upon application 38859
of any interested party, shall compel attendance of the person by 38860
attachment proceedings as for contempt. Any member of the board or 38861
the referee may administer oaths to witnesses. After a hearing by 38862
a referee, the referee shall file ~~his~~ a report within ten days 38863
after the termination of the hearing. After consideration of the 38864
referee's report, the board, by a majority vote, may accept or 38865
reject the referee's recommendation on the termination of the 38866
teacher's contract. After a hearing by the board, the board, by 38867

majority vote, may enter its determination upon its minutes. Any 38868
order of termination of a contract shall state the grounds for 38869
termination. If the decision, after hearing, is against 38870
termination of the contract, the charges and the record of the 38871
hearing shall be physically expunged from the minutes, and, if the 38872
teacher has suffered any loss of salary by reason of being 38873
suspended, ~~he~~ the teacher shall be paid ~~his~~ the teacher's full 38874
salary for the period of such suspension. 38875

Any teacher affected by an order of termination of contract 38876
may appeal to the court of common pleas of the county in which the 38877
school is located within thirty days after receipt of notice of 38878
the entry of such order. The appeal shall be an original action in 38879
the court and shall be commenced by the filing of a complaint 38880
against the board, in which complaint the facts shall be alleged 38881
upon which the teacher relies for a reversal or modification of 38882
such order of termination of contract. Upon service or waiver of 38883
summons in that appeal, the board immediately shall transmit to 38884
the clerk of the court for filing a transcript of the original 38885
papers filed with the board, a certified copy of the minutes of 38886
the board into which the termination finding was entered, and a 38887
certified transcript of all evidence adduced at the hearing or 38888
hearings before the board or a certified transcript of all 38889
evidence adduced at the hearing or hearings before the referee, 38890
whereupon the cause shall be at issue without further pleading and 38891
shall be advanced and heard without delay. The court shall examine 38892
the transcript and record of the hearing and shall hold such 38893
additional hearings as it considers advisable, at which it may 38894
consider other evidence in addition to the transcript and record. 38895

Upon final hearing, the court shall grant or deny the relief 38896
prayed for in the complaint as may be proper in accordance with 38897
the evidence adduced in the hearing. Such an action is a special 38898
proceeding, and either the teacher or the board may appeal from 38899

the decision of the court of common pleas pursuant to the Rules of 38900
Appellate Procedure and, to the extent not in conflict with those 38901
rules, Chapter 2505. of the Revised Code. 38902

In any court action, the board may utilize the services of 38903
the prosecuting attorney, village solicitor, city director of law, 38904
or other chief legal officer of a municipal corporation as 38905
authorized by section 3313.35 of the Revised Code, or may employ 38906
other legal counsel. 38907

A violation of division (A)(7) of section 2907.03 of the 38908
Revised Code is grounds for termination of a teacher contract 38909
under this section. 38910

Sec. 3319.17. (A) As used in this section, "interdistrict 38911
contract" means any contract or agreement entered into by an 38912
educational service center governing board and another board or 38913
other public entity pursuant to section 3313.17, 3313.841, 38914
3313.842, 3313.843, 3313.844, 3313.845, 3313.91, or 3323.08 of the 38915
Revised Code, including any such contract or agreement for the 38916
provision of services funded under division (I) of section 38917
3317.024 of the Revised Code or provided in any unit approved 38918
under section 3317.05 of the Revised Code. 38919

(B) When, for any of the following reasons that apply to any 38920
city, exempted village, local, or joint vocational school district 38921
or any educational service center, the board decides that it will 38922
be necessary to reduce the number of teachers it employs, it may 38923
make a reasonable reduction: 38924

(1) In the case of any district or service center, return to 38925
duty of regular teachers after leaves of absence including leaves 38926
provided pursuant to division (B) of section 3314.10 of the 38927
Revised Code, suspension of schools, or territorial changes 38928
affecting the district or center, ~~or financial reasons;~~ 38929

(2) In the case of any city, exempted village, local, or joint vocational school district, decreased enrollment of pupils in the district;

(3) In the case of any governing board of a service center providing any particular service directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total number of pupils the governing board is required to provide with the service under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts;

(4) In the case of any governing board providing any particular service that it does not provide directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total level of the service the governing board is required to provide under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts.

(C) In making any such reduction, any city, exempted village, local, or joint vocational school board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of schools who shall, within each teaching field affected, give preference first to teachers on continuing contracts and then to teachers who have greater seniority. In making any such reduction, any governing board of a service center shall proceed to suspend contracts in accordance with the recommendation of the superintendent who shall, within each teaching field or service area affected, give preference first to teachers on continuing contracts and then to teachers who have greater seniority.

On a case-by-case basis, in lieu of suspending a contract in whole, a board may suspend a contract in part, so that an individual is required to work a percentage of the time the

employee otherwise is required to work under the contract and 38962
receives a commensurate percentage of the full compensation the 38963
employee otherwise would receive under the contract. 38964

The teachers whose continuing contracts are suspended by any 38965
board pursuant to this section shall have the right of restoration 38966
to continuing service status by that board in the order of 38967
seniority of service in the district or service center if and when 38968
teaching positions become vacant or are created for which any of 38969
such teachers are or become qualified. No teacher whose continuing 38970
contract has been suspended pursuant to this section shall lose 38971
that right of restoration to continuing service status by reason 38972
of having declined recall to a position that is less than 38973
full-time or, if the teacher was not employed full-time just prior 38974
to suspension of the teacher's continuing contract, to a position 38975
requiring a lesser percentage of full-time employment than the 38976
position the teacher last held while employed in the district or 38977
service center. 38978

~~(D) Notwithstanding any provision to the contrary in Chapter 38979
4117. of the Revised Code, the requirements of this section 38980
prevail over any conflicting provisions of agreements between 38981
employee organizations and public employers entered into after 38982
September 29, 2005. 38983~~

Sec. 3319.172. The board of education of each school district 38984
wherein the provisions of Chapter 124. of the Revised Code do not 38985
apply and the governing board of each educational service center 38986
may adopt a resolution ordering reasonable reductions in the 38987
number of nonteaching employees for any of the reasons for which 38988
the board of education or governing board may make reductions in 38989
teaching employees, as set forth in division (B) of section 38990
3319.17 of the Revised Code. 38991

In making any reduction under this section, the board of 38992

education or governing board shall proceed to suspend contracts in 38993
accordance with the recommendation of the superintendent of the 38994
district or service center who shall, within each pay 38995
classification affected, give preference first to employees under 38996
continuing contracts and then to employees on the basis of 38997
seniority. On a case-by-case basis, in lieu of suspending a 38998
contract in whole, a board may suspend a contract in part, so that 38999
an individual is required to work a percentage of the time the 39000
employee otherwise is required to work under the contract and 39001
receives a commensurate percentage of the full compensation the 39002
employee otherwise would receive under the contract. 39003

Any nonteaching employee whose continuing contract is 39004
suspended under this section shall have the right of restoration 39005
to continuing service status by the board of education or 39006
governing board that suspended that contract in order of seniority 39007
of service in the district or service center, if and when a 39008
nonteaching position for which the employee is qualified becomes 39009
vacant or is created. No nonteaching employee whose continuing 39010
contract has been suspended under this section shall lose that 39011
right of restoration to continuing service status by reason of 39012
having declined recall to a position requiring fewer regularly 39013
scheduled hours of work than required by the position the employee 39014
last held while employed in the district or service center. 39015

~~Notwithstanding any provision to the contrary in Chapter 39016
4117. of the Revised Code, the requirements of this section 39017
prevail over any conflicting provisions of agreements between 39018
employee organizations and public employers entered into after the 39019
effective date of this section. 39020~~

Sec. 3319.22. (A)(1) The state board of education shall ~~adopt~~ 39021
~~rules establishing the standards and requirements for obtaining~~ 39022
~~temporary, associate, provisional, and professional~~ issue the 39023

<u>following educator licenses:</u>	39024
<u>(a) A resident educator license, which shall be valid for</u>	39025
<u>four years and shall not be renewable;</u>	39026
<u>(b) A professional educator license, which shall be valid for</u>	39027
<u>five years and shall be renewable;</u>	39028
<u>(c) A senior professional educator license, which shall be</u>	39029
<u>valid for five years and shall be renewable;</u>	39030
<u>(d) A lead professional educator license, which shall be</u>	39031
<u>valid for five years and shall be renewable.</u>	39032
<u>(2) The state board may issue any additional educator</u>	39033
<u>licenses of any categories, types, and levels the board elects to</u>	39034
<u>provide. However, no educator license shall be required for</u>	39035
<u>teaching children two years old or younger.</u>	39036
<u>(2)(3) The state board shall adopt rules establishing the</u>	39037
<u>standards and requirements for obtaining each educator license</u>	39038
<u>issued under this section.</u>	39039
<u>(B) The rules adopted under this section shall require at</u>	39040
<u>least the following standards and qualifications for the educator</u>	39041
<u>licenses described in division (A)(1) of this section:</u>	39042
<u>(1) An applicant for a resident educator license shall hold</u>	39043
<u>at least a bachelor's degree from an accredited teacher</u>	39044
<u>preparation program.</u>	39045
<u>(2) An applicant for a professional educator license shall:</u>	39046
<u>(a) Hold at least a bachelor's degree from an accredited</u>	39047
<u>institution of higher education;</u>	39048
<u>(b) Have successfully completed the Ohio teacher residency</u>	39049
<u>program established under section 3319.223 of the Revised Code, if</u>	39050
<u>the applicant's current or most recently issued license is a</u>	39051
<u>resident educator license issued under this section or an</u>	39052
<u>alternative resident educator license issued under section 3319.26</u>	39053

<u>of the Revised Code;</u>	39054
<u>(c) Demonstrate that students in the applicant's classroom</u>	39055
<u>have achieved a value-added measure designated by the</u>	39056
<u>superintendent of public instruction.</u>	39057
<u>(3) An applicant for a senior professional educator license</u>	39058
<u>shall:</u>	39059
<u>(a) Hold at least a master's degree from an accredited</u>	39060
<u>institution of higher education;</u>	39061
<u>(b) Have previously held a professional educator license</u>	39062
<u>issued under this section or section 3319.222 or under former</u>	39063
<u>section 3319.22 of the Revised Code;</u>	39064
<u>(c) Meet the criteria for the accomplished or distinguished</u>	39065
<u>level of performance, as described in the standards for teachers</u>	39066
<u>adopted by the state board under section 3319.61 of the Revised</u>	39067
<u>Code;</u>	39068
<u>(d) Demonstrate that students in the applicant's classroom</u>	39069
<u>have achieved a value-added measure designated by the</u>	39070
<u>superintendent of public instruction.</u>	39071
<u>(4) An applicant for a lead professional educator license</u>	39072
<u>shall:</u>	39073
<u>(a) Hold at least a master's degree from an accredited</u>	39074
<u>institution of higher education;</u>	39075
<u>(b) Have previously held a professional educator license or a</u>	39076
<u>senior professional educator license issued under this section or</u>	39077
<u>a professional educator license issued under section 3319.222 or</u>	39078
<u>former section 3319.22 of the Revised Code;</u>	39079
<u>(c) Meet the criteria for the distinguished level of</u>	39080
<u>performance, as described in the standards for teachers adopted by</u>	39081
<u>the state board under section 3319.61 of the Revised Code;</u>	39082
<u>(d) Either hold a valid certificate issued by the national</u>	39083

board for professional teaching standards or meet the criteria for 39084
a lead teacher adopted by the educator standards board under 39085
section 3319.61 of the Revised Code; 39086

(e) Demonstrate that students in the applicant's classroom 39087
have achieved a value-added measure designated by the 39088
superintendent of public instruction. 39089

(C) The state board shall align the standards and 39090
qualifications for obtaining a principal license with the 39091
standards for principals adopted by the state board under section 39092
3319.61 of the Revised Code. The rules adopted under this section 39093
for obtaining a principal license shall require that an applicant, 39094
as a condition of qualifying for the license, demonstrate that 39095
students in the applicant's classroom have achieved a value-added 39096
measure designated by the superintendent of public instruction, if 39097
the applicant is a classroom teacher seeking issuance of a new 39098
principal license, or that students in the applicant's building 39099
have achieved a value-added measure designated by the 39100
superintendent of public instruction, if the applicant is a 39101
principal seeking renewal of a principal license. 39102

(D) If the state board requires any examinations for educator 39103
licensure, the department of education shall provide the results 39104
of such examinations received by the department to the chancellor 39105
of the Ohio board of regents, in the manner and to the extent 39106
permitted by state and federal law. 39107

~~(B)~~(E) Any rules the state board of education adopts, amends, 39108
or rescinds for educator licenses under this section, division (D) 39109
of section 3301.07 of the Revised Code, or any other law shall be 39110
adopted, amended, or rescinded under Chapter 119. of the Revised 39111
Code except as follows: 39112

(1) Notwithstanding division (D) of section 119.03 and 39113
division (A)(1) of section 119.04 of the Revised Code, in the case 39114

of the adoption of any rule or the amendment or rescission of any 39115
rule that necessitates institutions' offering ~~teacher~~ preparation 39116
programs for educators and other school personnel that are 39117
approved by the ~~state board of education~~ chancellor of the Ohio 39118
board of regents under section ~~3319.23~~ 3333.048 of the Revised 39119
Code to revise the curriculum of those programs, the effective 39120
date shall not be as prescribed in division (D) of section 119.03 39121
and division (A)(1) of section 119.04 of the Revised Code. 39122
Instead, the effective date of such rules, or the amendment or 39123
rescission of such rules, shall be the date prescribed by section 39124
~~3319.23~~ 3333.048 of the Revised Code. 39125

(2) Notwithstanding the authority to adopt, amend, or rescind 39126
emergency rules in division (F) of section 119.03 of the Revised 39127
Code, this authority shall not apply to the state board of 39128
education with regard to rules for educator licenses. 39129

~~(C)~~(F)(1) The rules adopted under this section establishing 39130
standards requiring additional coursework for the renewal of any 39131
educator license shall require a school district and a chartered 39132
nonpublic school to establish local professional development 39133
committees. In a nonpublic school, the chief administrative 39134
officer shall establish the committees in any manner acceptable to 39135
such officer. The committees established under this division shall 39136
determine whether coursework that a district or chartered 39137
nonpublic school teacher proposes to complete meets the 39138
requirement of the rules. The department of education shall 39139
provide technical assistance and support to committees as the 39140
committees incorporate the professional development standards 39141
adopted by the state board of education pursuant to section 39142
3319.61 of the Revised Code into their review of coursework that 39143
is appropriate for license renewal. The rules shall establish a 39144
procedure by which a teacher may appeal the decision of a local 39145
professional development committee. 39146

(2) In any school district in which there is no exclusive 39147
representative established under Chapter 4117. of the Revised 39148
Code, the professional development committees shall be established 39149
as described in division ~~(C)~~(F)(2) of this section. 39150

Not later than the effective date of the rules adopted under 39151
this section, the board of education of each school district shall 39152
establish the structure for one or more local professional 39153
development committees to be operated by such school district. The 39154
committee structure so established by a district board shall 39155
remain in effect unless within thirty days prior to an anniversary 39156
of the date upon which the current committee structure was 39157
established, the board provides notice to all affected district 39158
employees that the committee structure is to be modified. 39159
Professional development committees may have a district-level or 39160
building-level scope of operations, and may be established with 39161
regard to particular grade or age levels for which an educator 39162
license is designated. 39163

Each professional development committee shall consist of at 39164
least three classroom teachers employed by the district, one 39165
principal employed by the district, and one other employee of the 39166
district appointed by the district superintendent. For committees 39167
with a building-level scope, the teacher and principal members 39168
shall be assigned to that building, and the teacher members shall 39169
be elected by majority vote of the classroom teachers assigned to 39170
that building. For committees with a district-level scope, the 39171
teacher members shall be elected by majority vote of the classroom 39172
teachers of the district, and the principal member shall be 39173
elected by a majority vote of the principals of the district, 39174
unless there are two or fewer principals employed by the district, 39175
in which case the one or two principals employed shall serve on 39176
the committee. If a committee has a particular grade or age level 39177
scope, the teacher members shall be licensed to teach such grade 39178

or age levels, and shall be elected by majority vote of the 39179
classroom teachers holding such a license and the principal shall 39180
be elected by all principals serving in buildings where any such 39181
teachers serve. The district superintendent shall appoint a 39182
replacement to fill any vacancy that occurs on a professional 39183
development committee, except in the case of vacancies among the 39184
elected classroom teacher members, which shall be filled by vote 39185
of the remaining members of the committee so selected. 39186

Terms of office on professional development committees shall 39187
be prescribed by the district board establishing the committees. 39188
The conduct of elections for members of professional development 39189
committees shall be prescribed by the district board establishing 39190
the committees. A professional development committee may include 39191
additional members, except that the majority of members on each 39192
such committee shall be classroom teachers employed by the 39193
district. Any member appointed to fill a vacancy occurring prior 39194
to the expiration date of the term for which a predecessor was 39195
appointed shall hold office as a member for the remainder of that 39196
term. 39197

The initial meeting of any professional development 39198
committee, upon election and appointment of all committee members, 39199
shall be called by a member designated by the district 39200
superintendent. At this initial meeting, the committee shall 39201
select a chairperson and such other officers the committee deems 39202
necessary, and shall adopt rules for the conduct of its meetings. 39203
Thereafter, the committee shall meet at the call of the 39204
chairperson or upon the filing of a petition with the district 39205
superintendent signed by a majority of the committee members 39206
calling for the committee to meet. 39207

(3) In the case of a school district in which an exclusive 39208
representative has been established pursuant to Chapter 4117. of 39209
the Revised Code, professional development committees shall be 39210

established in accordance with any collective bargaining agreement 39211
in effect in the district that includes provisions for such 39212
committees. 39213

If the collective bargaining agreement does not specify a 39214
different method for the selection of teacher members of the 39215
committees, the exclusive representative of the district's 39216
teachers shall select the teacher members. 39217

If the collective bargaining agreement does not specify a 39218
different structure for the committees, the board of education of 39219
the school district shall establish the structure, including the 39220
number of committees and the number of teacher and administrative 39221
members on each committee; the specific administrative members to 39222
be part of each committee; whether the scope of the committees 39223
will be district levels, building levels, or by type of grade or 39224
age levels for which educator licenses are designated; the lengths 39225
of terms for members; the manner of filling vacancies on the 39226
committees; and the frequency and time and place of meetings. 39227
However, in all cases, except as provided in division ~~(C)~~(F)(4) of 39228
this section, there shall be a majority of teacher members of any 39229
professional development committee, there shall be at least five 39230
total members of any professional development committee, and the 39231
exclusive representative shall designate replacement members in 39232
the case of vacancies among teacher members, unless the collective 39233
bargaining agreement specifies a different method of selecting 39234
such replacements. 39235

(4) Whenever an administrator's coursework plan is being 39236
discussed or voted upon, the local professional development 39237
committee shall, at the request of one of its administrative 39238
members, cause a majority of the committee to consist of 39239
administrative members by reducing the number of teacher members 39240
voting on the plan. 39241

~~(D)~~(G)(1) The department of education, educational service 39242

centers, county boards of mental retardation and developmental 39243
disabilities, regional professional development centers, special 39244
education regional resource centers, college and university 39245
departments of education, head start programs, the eTech Ohio 39246
commission, and the Ohio education computer network may establish 39247
local professional development committees to determine whether the 39248
coursework proposed by their employees who are licensed or 39249
certificated under this section or section 3319.222 of the Revised 39250
Code, or under the former version of either section as it existed 39251
prior to the effective date of this amendment, meet the 39252
requirements of the rules adopted under this section. They may 39253
establish local professional development committees on their own 39254
or in collaboration with a school district or other agency having 39255
authority to establish them. 39256

Local professional development committees established by 39257
county boards of mental retardation and developmental disabilities 39258
shall be structured in a manner comparable to the structures 39259
prescribed for school districts in divisions ~~(C)~~(F)(2) and (3) of 39260
this section, as shall the committees established by any other 39261
entity specified in division ~~(D)~~(G)(1) of this section that 39262
provides educational services by employing or contracting for 39263
services of classroom teachers licensed or certificated under this 39264
section or section 3319.222 of the Revised Code, or under the 39265
former version of either section as it existed prior to the 39266
effective date of this amendment. All other entities specified in 39267
division ~~(D)~~(G)(1) of this section shall structure their 39268
committees in accordance with guidelines which shall be issued by 39269
the state board. 39270

(2) Any public agency that is not specified in division 39271
~~(D)~~(G)(1) of this section but provides educational services and 39272
employs or contracts for services of classroom teachers licensed 39273
or certificated under this section or section 3319.222 of the 39274

Revised Code, or under the former version of either section as it 39275
existed prior to the effective date of this amendment, may 39276
establish a local professional development committee, subject to 39277
the approval of the department of education. The committee shall 39278
be structured in accordance with guidelines issued by the state 39279
board. 39280

Sec. 3319.221. (A) The state board of education shall adopt 39281
rules establishing the standards and requirements for obtaining a 39282
school nurse license and a school nurse wellness coordinator 39283
license. At a minimum, the rules shall require that an applicant 39284
for a school nurse license be licensed as a registered nurse under 39285
Chapter 4723. of the Revised Code and that an applicant for a 39286
school nurse wellness coordinator license be licensed as a 39287
licensed practical nurse under that chapter. 39288

(B) If the state board requires any examinations for 39289
licensure under this section, the department of education shall 39290
provide the examination results received by the department to the 39291
chancellor of the Ohio board of regents, in the manner and to the 39292
extent permitted by state and federal law. 39293

(C) Any rules for licenses described in this section that the 39294
state board adopts, amends, or rescinds under this section, 39295
division (D) of section 3301.07 of the Revised Code, or any other 39296
law shall be adopted, amended, or rescinded under Chapter 119. of 39297
the Revised Code, except that the authority to adopt, amend, or 39298
rescind emergency rules under division (F) of section 119.03 of 39299
the Revised Code shall not apply to the state board with respect 39300
to rules for licenses described in this section. 39301

(D) Any registered nurse employed by a school district in the 39302
capacity of school nurse on January 1, 1973, or any registered 39303
nurse employed by a city or general health district on January 1, 39304
1973, to serve full-time in the capacity of school nurse in one or 39305

more school districts, shall be considered to have fulfilled the 39306
requirements for the issuance of a school nurse license under this 39307
section ~~3319.22 of the Revised Code.~~ 39308

Sec. 3319.222. (A) Notwithstanding the amendments to and 39309
repeal of statutes by the act that enacted this section, the state 39310
board of education shall accept applications for new, and renewal 39311
and upgrade of, temporary, associate, provisional, and 39312
professional educator licenses, alternative educator licenses, 39313
one-year conditional teaching permits, and school nurse licenses 39314
through December 31, 2010, and issue them on the basis of the 39315
applications received by that date in accordance with the former 39316
statutes in effect immediately prior to amendment or repeal by the 39317
act that enacted this section. 39318

(B) A permanent teacher's certificate issued under former 39319
sections 3319.22 to 3319.31 of the Revised Code prior to October 39320
29, 1996, or under former section 3319.222 of the Revised Code as 39321
it existed prior to the effective date of this section, shall be 39322
valid for teaching in the subject areas and grades for which the 39323
certificate was issued, except as the certificate is limited, 39324
suspended, or revoked under section 3319.31 of the Revised Code. 39325

(C) The following certificates, permits, or licenses shall be 39326
valid until the certificate, permit, or license expires for 39327
teaching in the subject areas and grades for which the 39328
certificate, permit, or license was issued, except as the 39329
certificate, permit, or license is limited, suspended, or revoked 39330
under section 3319.31 of the Revised Code: 39331

(1) Any professional teacher's certificate issued under 39332
former section 3319.222 of the Revised Code, as it existed prior 39333
to the effective date of this section; 39334

(2) Any temporary, associate, provisional, or professional 39335
educator license issued under former section 3319.22 of the 39336

Revised Code, as it existed prior to the effective date of this section, or under division (A) of this section; 39337
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(3) Any alternative educator license issued under former section 3319.26 of the Revised Code, as it existed prior to the effective date of this section, or under division (A) of this section; 39339
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(4) Any one-year conditional teaching permit issued under former section 3319.302 or 3319.304 of the Revised Code, as it existed prior to the effective date of this section, or under division (A) of this section. 39343
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(D) Any school nurse license issued under former section 3319.22 of the Revised Code, as it existed prior to the effective date of this section, or under division (A) of this section shall be valid until the license expires for employment as a school nurse, except as the license is limited, suspended, or revoked under section 3319.31 of the Revised Code. 39347
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(E) Nothing in this section shall be construed to prohibit a person from applying to the state board for an educator license issued under section 3319.22 of the Revised Code, a school nurse license or a school nurse wellness coordinator license issued under section 3319.221 of the Revised Code, or an alternative resident educator license issued under section 3319.26 of the Revised Code, as the section exists on and after the effective date of this section. 39353
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(F) On and after the effective date of this section, any reference in the Revised Code to educator licensing is hereby deemed to refer also to certification or licensure under divisions (A) to (D) of this section. 39361
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Sec. 3319.223. (A) Not later than January 1, 2011, the superintendent of public instruction and the chancellor of the 39365
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Ohio board of regents jointly shall establish the Ohio teacher residency program, which shall be a four-year, entry-level program for classroom teachers. The teacher residency program shall include at least the following components: 39367
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(1) Mentoring by teachers who hold a lead professional educator license issued under section 3319.22 of the Revised Code; 39371
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(2) Counseling to ensure that program participants receive needed professional development; 39373
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(3) Use of measures of student academic gain to evaluate the effectiveness of program participants; 39375
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(4) Measures of appropriate progression through the program. 39377

(B) The teacher residency program shall be aligned with the standards for teachers adopted by the state board of education under section 3319.61 of the Revised Code and best practices identified by the superintendent of public instruction. 39378
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(C) Each person who holds a resident educator license issued under section 3319.22 of the Revised Code or an alternative resident educator license issued under section 3319.26 of the Revised Code shall participate in the teacher residency program. Successful completion of the program shall be required to qualify any such person for a professional educator license issued under section 3319.22 of the Revised Code. 39382
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Sec. 3319.234. The teacher quality partnership, a consortium of teacher preparation programs that have been approved by the ~~state board of education~~ chancellor of the Ohio board of regents under section ~~3319.23~~ 3333.048 of the Revised Code, shall study the relationship of teacher performance on educator licensure assessments, as adopted by the state board of education under section 3319.22 of the Revised Code, to teacher effectiveness in the classroom. Not later than September 1, 2008, the partnership 39389
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shall begin submitting annual data reports along with any other 39397
data on teacher effectiveness the partnership determines 39398
appropriate to the governor, the president and minority leader of 39399
the senate, the speaker and minority leader of the house of 39400
representatives, the chairpersons and ranking minority members of 39401
the standing committees of the senate and the house of 39402
representatives that consider education legislation, the 39403
superintendent of public instruction, the state board of 39404
education, the chancellor of the Ohio board of regents, and the 39405
partnership for continued learning. 39406

Sec. 3319.235. (A) The standards for the preparation of 39407
teachers adopted under section ~~3319.23~~ 3333.048 of the Revised 39408
Code shall require any institution that provides a course of study 39409
for the training of teachers to ensure that graduates of such 39410
course of study are skilled at integrating educational technology 39411
in the instruction of children, as evidenced by the graduate 39412
having either demonstrated proficiency in such skills in a manner 39413
prescribed by the department of education or completed a course 39414
that includes training in such skills. 39415

(B) The eTech Ohio commission shall establish model 39416
professional development programs to assist teachers who completed 39417
their teacher preparation prior to the effective date of division 39418
(A) of this section to become skilled at integrating educational 39419
technology in the instruction of children. The commission shall 39420
provide technical assistance to school districts wishing to 39421
establish such programs. 39422

Sec. 3319.24. This section does not apply to any applicant 39423
for an educator license that is designed for persons specializing 39424
in teaching children in kindergarten through twelfth grade, or the 39425
equivalent, in the area of dance, drama, theater, music, visual 39426

arts, or physical education or a specialty area substantially 39427
equivalent to any of these when such applicant will be teaching 39428
children in the specialty area specified in the license. 39429

(A) As used in this section: 39430

(1) "Coursework in the teaching of reading" means coursework 39431
that includes training in a range of instructional strategies for 39432
teaching reading, in the assessment of reading skills, and in the 39433
diagnosis and remediation of reading difficulties; 39434

(2) "Phonics" means the techniques and strategies used to 39435
teach children to match, blend, and translate letters of the 39436
alphabet into the sounds they represent, which techniques and 39437
strategies are systematically integrated and thoroughly practiced 39438
in a developmentally appropriate instructional program to assist 39439
the child in learning to read, write, and spell; 39440

(3) "Course in the teaching of phonics" means a course 39441
providing the background necessary for effectively teaching and 39442
assessing phonics, phonemic awareness, and word recognition, 39443
including, but not limited to, the following topics: 39444

(a) Phonological and morphological underpinnings of English 39445
spellings and the history thereof; 39446

(b) The nature and role of word recognition in proficient 39447
reading; 39448

(c) Methods and rationale for the instruction of phonemic 39449
awareness, decoding, spelling, and the application thereof in 39450
reading and writing; 39451

(d) Methods and rationale for the assessment of phonemic 39452
awareness, decoding, spelling, and the application thereof in 39453
reading and writing; 39454

(e) The relation of deficits in phonemic awareness, decoding, 39455
spelling, and word recognition to reading disabilities; 39456

(4) "Phonemic awareness" means the awareness of sounds that 39457
make up spoken words and the ability to use this awareness of 39458
sounds in reading. 39459

(B) The rules adopted under ~~division (A)~~ of section 3319.22 39460
of the Revised Code shall require an applicant for ~~an initial~~ 39461
~~provisional~~ a resident educator license designated for teaching 39462
children in grades kindergarten through six or the equivalent to 39463
have successfully completed at least six semester hours, or the 39464
equivalent, of coursework in the teaching of reading that includes 39465
at least one separate course of at least three semester hours, or 39466
the equivalent, in the teaching of phonics in the context of 39467
reading, writing, and spelling. In addition, such rules shall 39468
require that such license be granted for a period of not more than 39469
~~two~~ four years, and shall require that the ~~first renewal~~ 39470
subsequent issuance of ~~such a professional educator~~ license be 39471
contingent upon the ~~license holder~~ applicant having completed six 39472
additional semester hours or the equivalent of coursework in the 39473
teaching of reading. The rules shall permit ~~a license holder~~ an 39474
applicant to apply undergraduate coursework in order to meet ~~such~~ 39475
~~renewal~~ this requirement for additional coursework. 39476

Sec. 3319.25. Any teacher performance assessment entity with 39477
which the department of education or the state board of education 39478
contracts or any independent agent with whom such entity, the 39479
department, or the state board contracts to provide services as a 39480
teacher performance assessor, trainer of assessors, or assessment 39481
coordinator is not liable for damages in a civil action concerning 39482
the actions of such entity or agent made in the conduct of a 39483
teacher performance assessment unless those actions were conducted 39484
with malicious purpose, in bad faith, or in a wanton or reckless 39485
manner. 39486

As used in this section, "teacher performance assessment" 39487

means an assessment prescribed by the state board of education to 39488
measure the classroom performance of a teacher who is a candidate 39489
for a ~~professional educator license~~ licensure based on 39490
observations conducted by a trained assessor while the teacher is 39491
engaged in actual classroom instruction. 39492

Sec. 3319.26. (A) The state board of education shall adopt 39493
rules establishing the standards and requirements for obtaining an 39494
alternative resident educator license for teaching in grades ~~seven~~ 39495
four to twelve, or the equivalent, in a designated subject area. 39496
However, an alternative resident educator license in the area of 39497
intervention specialist, as defined by rule of the state board, 39498
shall be valid for teaching in grades kindergarten to twelve. 39499

(B)~~(1)~~ The superintendent of public instruction and the 39500
chancellor of the Ohio board of regents jointly shall develop an 39501
intensive pedagogical training institute to provide instruction in 39502
the principles and practices of teaching for individuals seeking 39503
an alternative resident educator license. The instruction shall 39504
cover such topics as student development and learning, pupil 39505
assessment procedures, curriculum development, classroom 39506
management, and teaching methodology. 39507

(C) The rules adopted under this section shall require 39508
applicants for the alternative resident educator license to 39509
satisfy the following conditions prior to issuance of the license: 39510
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~~(a)~~(1) Hold a minimum of a baccalaureate degree; 39512

~~(b)~~(2) Successfully complete ~~three semester hours or the 39513
equivalent of college coursework in the developmental 39514
characteristics of adolescent youths and three semester hours or 39515
the equivalent in teaching methods~~ the pedagogical training 39516
institute described in division (B) of this section; 39517

~~(e)~~(3) Pass an examination in the subject area for which application is being made. 39518
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~~(2)~~(D) An alternative resident educator license shall be valid for ~~two~~ four years and shall not be renewable. 39520
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~~(3)~~(E) The rules shall require the holder of an alternative resident educator license, as a condition of continuing to hold the license, to ~~show~~ do all of the following: 39522
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(1) Participate in the Ohio teacher residency program established under section 3319.223 of the Revised Code; 39525
39526

(2) Show satisfactory progress in taking and successfully completing within ~~two~~ four years at least twelve additional semester hours, or the equivalent, of college coursework in the principles and practices of teaching in such topics as student development and learning, pupil assessment procedures, curriculum development, classroom management, and teaching methodology; 39527
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(3) Take an assessment of professional knowledge in the second year of teaching under the license. 39533
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~~(C)~~(F) The rules shall provide for the granting of a ~~provisional~~ professional educator license to a holder of an alternative resident educator license upon successfully completing all of the following: 39535
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(1) ~~Two~~ Four years of teaching under the alternative license; 39539

(2) The twelve semester hours, or the equivalent, of the additional college coursework described in division ~~(B)~~(3)(E)(2) of this section; 39540
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(3) The assessment of professional knowledge ~~that is required of other applicants for a provisional educator license described in division (E)(3) of this section.~~ The standards for successfully completing this assessment and the manner of conducting the assessment shall be the same as for any other ~~applicant for a~~ 39543
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~~provisional educator license individual who is required to take~~ 39548
~~the assessment pursuant to rules adopted by the state board under~~ 39549
~~section 3319.22 of the Revised Code.~~ 39550

(4) The Ohio teacher residency program; 39551

(5) All other requirements for a professional educator 39552
license adopted by the state board under section 3319.22 of the 39553
Revised Code. 39554

Sec. 3319.261. An individual who otherwise qualifies for an 39555
alternative resident educator license for employment as an 39556
intervention specialist as authorized under section 3319.26 of the 39557
Revised Code shall be issued such license without successful 39558
completion of the examination specified in division 39559
~~(B)(1)(e)(C)(3)~~ of section 3319.26 of the Revised Code. The 39560
individual to whom the alternative resident educator license is 39561
issued under this section shall be required to successfully 39562
complete that examination prior to issuance of a ~~provisional~~ 39563
professional educator license as provided in division ~~(C)(F)~~ of 39564
section 3319.26 of the Revised Code only after completing the 39565
coursework prescribed in division ~~(B)(3)(E)(2)~~ of that section. 39566

Sec. 3319.28. (A) As used in this section, "STEM school" 39567
means a science, technology, engineering, and mathematics school 39568
established under Chapter 3326. of the Revised Code. 39569

(B) Notwithstanding any other provision of the Revised Code 39570
or any rule adopted by the state board of education to the 39571
contrary, the state board shall issue a two-year provisional 39572
educator license for teaching science, technology, engineering, or 39573
mathematics in grades six through twelve in a STEM school to any 39574
applicant who meets the following conditions: 39575

(1) Holds a bachelor's degree from an accredited institution 39576
of higher education in a field related to the subject area to be 39577

taught; 39578

(2) Has passed an examination prescribed by the state board 39579
in the subject area to be taught. 39580

(C) The holder of a provisional educator license issued under 39581
this section shall complete a structured apprenticeship program 39582
provided by an educational service center or a teacher preparation 39583
program approved under section ~~3319.23~~ 3333.048 of the Revised 39584
Code, in partnership with the STEM school that employs the license 39585
holder. The apprenticeship program shall include the following: 39586
39587

(1) Mentoring by a teacher or administrator who regularly 39588
observes the license holder's classroom instruction, provides 39589
feedback on the license holder's teaching strategies and classroom 39590
management, and engages the license holder in discussions about 39591
methods for fostering and measuring student learning; 39592

(2) Regularly scheduled seminars or meetings that address the 39593
following topics: 39594

(a) The statewide academic standards adopted by the state 39595
board under section 3301.079 of the Revised Code and the 39596
importance of aligning curriculum with those standards; 39597

(b) The achievement ~~tests~~ assessments prescribed by section 39598
3301.0710 of the Revised Code; 39599

(c) The school district and building accountability system 39600
established under Chapter 3302. of the Revised Code; 39601

(d) Instructional methods and strategies; 39602

(e) Student development; 39603

(f) Assessing student progress and providing remediation and 39604
intervention, as necessary, to meet students' special needs; 39605

(g) Classroom management and record keeping. 39606

(D) After two years of teaching under a provisional educator license issued under this section, a person may apply for a five-year professional educator license in the same subject area named in the provisional license. The state board shall issue the applicant a professional educator license if the applicant meets the following conditions:

(1) The applicant completed the apprenticeship program described in division (C) of this section.

(2) The applicant receives a positive recommendation indicating that the applicant is an effective teacher from both of the following:

(a) The chief administrative officer of the STEM school that most recently employed the applicant as a classroom teacher;

(b) The educational service center or teacher preparation program administrator in charge of the apprenticeship program completed by the applicant.

(3) The applicant meets all other requirements for a professional educator license adopted by the state board under section 3319.22 of the Revised Code.

(E) The department of education shall evaluate the experiences of STEM schools with classroom teachers holding provisional educator licenses issued under this section. The evaluation shall cover the first two school years for which licenses are issued and shall consider at least the schools' satisfaction with the teachers and the operation of the apprenticeship programs.

Sec. 3319.291. (A) The state board of education shall require each of the following persons, at the times prescribed by division (A) of this section, to submit two complete sets of fingerprints and written permission that authorizes the superintendent of

public instruction to forward the fingerprints to the bureau of 39637
criminal identification and investigation pursuant to division (F) 39638
of section 109.57 of the Revised Code and that authorizes that 39639
bureau to forward the fingerprints to the federal bureau of 39640
investigation for purposes of obtaining any criminal records that 39641
the federal bureau maintains on the person: 39642

(1) Any person initially applying for any certificate, 39643
license, or permit described in this chapter or in division (B) of 39644
section 3301.071 or in section 3301.074 of the Revised Code at the 39645
time that application is made; 39646

(2) Any person applying for renewal of any certificate, 39647
license, or permit described in division (A)(1) of this section at 39648
the time that application is made; 39649

(3) Any person who is teaching under a professional teaching 39650
certificate issued under former ~~section 3319.22 or under~~ section 39651
3319.222 of the Revised Code upon a date prescribed by the state 39652
board; 39653

(4) Any person who is teaching under a permanent teaching 39654
certificate issued under former section 3319.22 as it existed 39655
prior to October 29, 1996, or under former section 3319.222 of the 39656
Revised Code upon a date prescribed by the state board and every 39657
five years thereafter. 39658

(B) Except as provided in division (C) of this section, prior 39659
to issuing or renewing any certificate, license, or permit 39660
described in division (A)(1) or (2) of this section and in the 39661
case of a person required to submit fingerprints and written 39662
permission under division (A)(3) or (4) of this section, the state 39663
board or the superintendent of public instruction shall request 39664
the superintendent of the bureau of criminal identification and 39665
investigation to investigate and determine whether the bureau has 39666
any information, gathered pursuant to division (A) of section 39667

109.57 of the Revised Code, pertaining to any person submitting 39668
fingerprints and written permission under this section and to 39669
obtain any criminal records that the federal bureau of 39670
investigation has on the person. 39671

(C) The state board or the superintendent of public 39672
instruction may choose not to request any information required by 39673
division (B) of this section if the person applying for the 39674
issuance or renewal of a certificate, license, or permit described 39675
in division (A)(1) or (2) of this section or the person required 39676
to submit fingerprints and written permission under division 39677
(A)(3) or (4) of this section provides proof that a criminal 39678
records check was conducted on the person as a condition of 39679
employment pursuant to section 3319.39 of the Revised Code within 39680
the immediately preceding year. The state board or the 39681
superintendent of public instruction may accept a certified copy 39682
of records that were issued by the bureau of criminal 39683
identification and investigation and that are presented by a 39684
person applying for the issuance or renewal of a certificate, 39685
license, or permit described in this section in lieu of requesting 39686
that information under division (B) of this section if the records 39687
were issued by the bureau within the immediately preceding year. 39688

(D)(1) If a person described in division (A)(3) or (4) of 39689
this section fails to submit fingerprints and written permission 39690
by the date specified in the applicable division, and the state 39691
board or the superintendent of public instruction does not apply 39692
division (C) of this section to the person, the superintendent 39693
shall prepare a written notice stating that if the person does not 39694
submit the fingerprints and written permission within fifteen days 39695
after the date the notice was mailed, the person's professional or 39696
permanent teaching certificate will be inactivated. The 39697
superintendent shall send the notification by regular mail to the 39698
person's last known residence address or last known place of 39699

employment, as indicated in the department of education's records, 39700
or both. 39701

If the person fails to submit the fingerprints and written 39702
permission within fifteen days after the date the notice was 39703
mailed, the superintendent of public instruction, on behalf of the 39704
state board, shall issue a written order inactivating the person's 39705
professional or permanent teaching certificate. The inactivation 39706
shall remain in effect until the person submits the fingerprints 39707
and written permission. The superintendent shall send the order by 39708
regular mail to the person's last known residence address or last 39709
known place of employment, as indicated in the department's 39710
records, or both. The order shall state the reason for the 39711
inactivation and shall explain that the inactivation remains in 39712
effect until the person complies with division (A) of this 39713
section. 39714

The inactivation of a professional or permanent teaching 39715
certificate under division (D)(1) of this section does not 39716
constitute a suspension or revocation of the certificate by the 39717
state board under section 3319.31 of the Revised Code and the 39718
state board and the superintendent of public instruction need not 39719
provide the person with an opportunity for a hearing with respect 39720
to the inactivation. 39721

(2) If a person whose professional or permanent teaching 39722
certificate has been inactivated under division (D)(1) of this 39723
section submits fingerprints and written permission as required by 39724
division (A) of this section, the superintendent of public 39725
instruction, on behalf of the state board, shall issue a written 39726
order reactivating the certificate. The superintendent shall send 39727
the order to the person by regular mail. 39728

(E) Notwithstanding divisions (A) and (B) of this section, if 39729
a person holds more than one certificate, license, or permit 39730
described in division (A)(1) of this section, the following shall 39731

apply: 39732

(1) If the certificates, licenses, or permits are of 39733
different durations, the person shall be subject to divisions 39734
(A)(2) and (B) of this section only when applying for renewal of 39735
the certificate, license, or permit that is of the longest 39736
duration. Prior to renewing any certificate, license, or permit 39737
with a shorter duration, the state board or the superintendent of 39738
public instruction shall determine whether the department of 39739
education has received any information about the person pursuant 39740
to section 109.5721 of the Revised Code, but the person shall not 39741
be subject to division (A)(2) or (B) of this section as long as 39742
the person's certificate, license, or permit with the longest 39743
duration is valid. 39744

(2) If the certificates, licenses, or permits are of the same 39745
duration but do not expire in the same year, the person shall 39746
designate one of the certificates, licenses, or permits as the 39747
person's primary certificate, license, or permit and shall notify 39748
the department of that designation. The person shall be subject to 39749
divisions (A)(2) and (B) of this section only when applying for 39750
renewal of the person's primary certificate, license, or permit. 39751
Prior to renewing any certificate, license, or permit that is not 39752
the person's primary certificate, license, or permit, the state 39753
board or the superintendent of public instruction shall determine 39754
whether the department has received any information about the 39755
person pursuant to section 109.5721 of the Revised Code, but the 39756
person shall not be subject to division (A)(2) or (B) of this 39757
section as long as the person's primary certificate, license, or 39758
permit is valid. 39759

(3) If the certificates, licenses, or permits are of the same 39760
duration and expire in the same year and the person applies for 39761
renewal of the certificates, licenses, or permits at the same 39762
time, the state board or the superintendent of public instruction 39763

shall request only one criminal records check of the person under 39764
division (B) of this section. 39765

Sec. 3319.303. (A) The state board of education shall adopt 39766
rules establishing standards and requirements for obtaining a 39767
pupil-activity program permit for any individual who does not hold 39768
a valid educator license, certificate, or permit issued by the 39769
state board under section 3319.22, 3319.26, or 3319.27, ~~3319.302,~~ 39770
~~or 3319.304~~ of the Revised Code. The permit issued under this 39771
section shall be valid for coaching, supervising, or directing a 39772
pupil-activity program under section 3313.53 of the Revised Code. 39773
Subject to the provisions of section 3319.31 of the Revised Code, 39774
a permit issued under this section shall be valid for three years 39775
and shall be renewable. 39776

(B) The state board shall adopt rules applicable to 39777
individuals who hold valid educator licenses, certificates, or 39778
permits issued by the state board under section 3319.22, 3319.26, 39779
or 3319.27, ~~3319.302,~~ ~~or 3319.304~~ of the Revised Code setting 39780
forth standards to assure any such individual's competence to 39781
direct, supervise, or coach a pupil-activity program. The rules 39782
adopted under this division shall not be more stringent than the 39783
standards set forth in rules applicable to individuals who do not 39784
hold such licenses, certificates, or permits adopted under 39785
division (A) of this section. 39786

Sec. 3319.36. (A) No treasurer of a board of education or 39787
educational service center shall draw a check for the payment of a 39788
teacher for services until the teacher files with the treasurer 39789
both of the following: 39790

(1) Such reports as are required by the state board of 39791
education, the school district board of education, or the 39792
superintendent of schools; 39793

(2) Except for a teacher who is engaged pursuant to section 3319.301 of the Revised Code, a written statement from the city, exempted village, or local school district superintendent or the educational service center superintendent that the teacher has filed with the treasurer a legal educator license, or true copy of it, to teach the subjects or grades taught, with the dates of its validity. The state board of education shall prescribe the record and administration for such filing of educator licenses in educational service centers.

(B) Notwithstanding division (A) of this section, the treasurer may pay either of the following:

(1) Any teacher for services rendered during the first two months of the teacher's initial employment with the school district or educational service center, provided such teacher is the holder of a bachelor's degree or higher and has filed with the state board of education an application for the issuance of a ~~provisional or professional~~ an educator license described in division (A)(1) of section 3319.22 of the Revised Code.

(2) Any substitute teacher for services rendered while conditionally employed under section 3319.101 of the Revised Code.

(C) Upon notice to the treasurer given by the state board of education or any superintendent having jurisdiction that reports required of a teacher have not been made, the treasurer shall withhold the salary of the teacher until the required reports are completed and furnished.

Sec. 3319.41. (A)~~(1) Beginning September 1, 1994, and except as provided in division (C) of this section, no~~ No person employed or engaged as a teacher, principal, administrator, nonlicensed school employee, or bus driver in a public or chartered nonpublic school may inflict or cause to be inflicted corporal punishment as a means of discipline upon a pupil attending such school,~~unless~~

~~the board of education of the school district in which the school 39825
is located adopts a resolution no later than September 1, 1994, to 39826
permit corporal punishment as a means of discipline and does not 39827
adopt a resolution prohibiting corporal punishment pursuant to 39828
division (B) of this section. No board shall adopt a resolution 39829
permitting corporal punishment before receiving and studying the 39830
report of the local discipline task force appointed under division 39831
(A)(2) of this section. 39832~~

~~(2) The board of education of each city, local, exempted 39833
village, and joint vocational school district that has not adopted 39834
a rule prohibiting corporal punishment under section 3313.20 of 39835
the Revised Code prior to the effective date of this amendment 39836
shall appoint, and any board that has adopted a rule under that 39837
section prior to the effective date of this amendment may appoint, 39838
no later than April 1, 1994, a local discipline task force to 39839
conduct a study of effective discipline measures that are 39840
appropriate for that school district. Members of the task force 39841
shall include teachers, administrators, nonlicensed school 39842
employees, school psychologists, members of the medical 39843
profession, pediatricians when available, and representatives of 39844
parents' organizations. 39845~~

~~The task force shall hold meetings regularly. All meetings of 39846
the task force shall be open to the public and at least one of the 39847
meetings shall be for the purpose of inviting public 39848
participation. The board of education shall provide public notice 39849
of any public meeting of the task force in newspapers or other 39850
periodicals of general circulation in the school district. The 39851
task force shall report its findings and recommendations in 39852
writing to the board of education no later than July 15, 1994. The 39853
task force's written report must be available for inspection by 39854
the public at the board's offices for at least five years after 39855
being submitted to the board. 39856~~

~~(B)(1) At any time after September 1, 1996, the board of education of any city, local, exempted village, or joint vocational school district in which corporal punishment is permitted may adopt a resolution to prohibit corporal punishment. After the adoption of a resolution prohibiting corporal punishment pursuant to division (B)(1) of this section, the board of education of any city, local, exempted village, or joint vocational school district may adopt a resolution permitting corporal punishment after complying with division (B)(3) of this section.~~

~~(2) At any time after September 1, 1998, the board of education of any city, local, exempted village, or joint vocational school district that did not adopt a resolution permitting corporal punishment as a means of discipline pursuant to division (A)(1) of this section may adopt a resolution permitting corporal punishment after complying with division (B)(3) of this section.~~

~~(3)(a) The board of education of each city, local, exempted village, and joint vocational school district that intends to adopt a resolution permitting corporal punishment as a means of discipline pursuant to division (B)(1) or (2) of this section may adopt that resolution permitting corporal punishment as a means of discipline only after receiving and studying the report of the secondary local discipline task force appointed under division (B)(3)(b) of this section.~~

~~(b) Any board of education described in division (B)(1) or (2) of this section that intends to adopt a resolution permitting corporal punishment as a means of discipline shall appoint a secondary local discipline task force to conduct a study of effective discipline measures that are appropriate for that school district. Membership on the secondary local discipline task force shall consist of the same types of persons that are required to be~~

~~included as members of the local discipline task force pursuant to 39889
division (A)(2) of this section. The secondary local discipline 39890
task force shall follow the same procedures with respect to 39891
holding meetings, the provision of public notice, and the 39892
production and inspection of a written report of findings and 39893
recommendations that are applicable to the local discipline task 39894
force pursuant to division (A)(2) of this section, except that the 39895
secondary local discipline task force is not required to present 39896
its written report to the board of education on a date that is no 39897
later than July 15, 1994. 39898~~

~~(C) The prohibition of corporal punishment by division (A) of 39899
this section or by a resolution adopted under division (B) of this 39900
section does not prohibit the use of reasonable force or restraint 39901
in accordance with division (C) of this section. 39902~~

~~(D) If the board of education of any city, local, exempted 39903
village, or joint vocational school district does not prohibit 39904
corporal punishment on the effective date of this amendment but at 39905
any time after that date corporal punishment will be prohibited in 39906
the district pursuant to division (A)(1) or (B) of this section, 39907
the board shall do both of the following prior to the date on 39908
which the prohibition takes effect: 39909~~

~~(1) Adopt a disciplinary policy for the district that 39910
includes alternative disciplinary measures; 39911~~

~~(2) Consider what in-service training, if any, school 39912
district employees might need as part of implementing the policy 39913
adopted under division (D)(1) of this section. 39914~~

~~(E) A person employed or otherwise engaged as a teacher, 39915
principal, or administrator by a board of education permitting 39916
corporal punishment pursuant to division (A)(1) of this section or 39917
by a nonpublic school, except as otherwise provided by the 39918
governing authority of the nonpublic school, may inflict or cause 39919~~

~~to be inflicted reasonable corporal punishment upon a pupil 39920
attending the school to which the person is assigned whenever such 39921
punishment is reasonably necessary in order to preserve discipline 39922
while the student is subject to school authority. 39923~~

~~(F) A board of education of a school district that permits 39924
the use of corporal punishment as a means of discipline pursuant 39925
to a resolution adopted by the board pursuant to division (A)(1) 39926
of this section shall permit as part of its discipline policy the 39927
parents, guardian, or custodian of a child that is attending any 39928
school within the school district to request that corporal 39929
punishment not be used as a means of discipline on that child; 39930
upon the receipt of a request of that nature, shall ensure that an 39931
alternative disciplinary measure is applied with respect to that 39932
child; and shall include a procedure for the exercise of that 39933
option in the resolution adopted pursuant to division (A)(1) of 39934
this section. 39935~~

~~(G) Persons employed or engaged as teachers, principals, or 39936
administrators in a school, whether public or private, and 39937
nonlicensed school employees and school bus drivers may, within 39938
the scope of their employment, use and apply such amount of force 39939
and restraint as is reasonable and necessary to quell a 39940
disturbance threatening physical injury to others, to obtain 39941
possession of weapons or other dangerous objects upon the person 39942
or within the control of the pupil, for the purpose of 39943
self-defense, or for the protection of persons or property. 39944~~

Sec. 3319.51. (A) The state board of education shall annually 39945
establish the amount of the fees required to be paid for any 39946
license, certificate, or permit issued under this chapter or 39947
division (B) of section 3301.071, under sections or section 39948
3301.074, 3319.088, 3319.29, 3319.302, and 3319.304, and under 39949
division (A) of section 3319.303 of the Revised Code. The amount 39950

of these fees shall be such that they, along with any 39951
appropriation made to the fund established under division (B) of 39952
this section, will be sufficient to cover the annual estimated 39953
cost of administering the ~~sections of law listed~~ requirements 39954
described under division (B) of this section. 39955

(B) There is hereby established in the state treasury the 39956
state board of education licensure fund, which shall be used by 39957
the state board of education solely to pay the cost of 39958
administering requirements related to the issuance and renewal of 39959
licenses, certificates, and permits described in this chapter and 39960
sections 3301.071, and 3301.074, ~~3319.088, 3319.22, 3319.29,~~ 39961
~~3319.291, 3319.301, 3319.302, 3319.303, 3319.304, and 3319.31~~ of 39962
the Revised Code. The fund shall consist of the amounts paid into 39963
the fund pursuant to division (B) of section 3301.071, and 39964
sections 3301.074, ~~3319.088,~~ and 3319.29, ~~3319.302, and 3319.304,~~ 39965
~~and division (A) of section 3319.303~~ of the Revised Code and any 39966
appropriations to the fund by the general assembly. 39967

Sec. 3319.56. The department of education shall identify 39968
promising practices in Ohio and throughout the country for 39969
engaging teachers certified by the national board for professional 39970
teaching standards, ~~and other master lead teachers, as defined who~~ 39971
meet the criteria adopted by the educator standards board pursuant 39972
to section 3319.61 of the Revised Code, in ways that add value 39973
beyond their own classrooms. Practices identified by the 39974
department as promising may include placing national board 39975
certified and ~~master~~ lead teachers in key roles in peer review 39976
programs; having such teachers serve as coaches, mentors, and 39977
trainers for other teachers; or having such teachers develop 39978
curricula or instructional integration strategies. 39979

Once the department has identified promising practices, the 39980
department shall inform all school districts of the practices by 39981

posting such information on the department's world wide web site. 39982

Sec. 3319.57. (A) A grant program is hereby established under 39983
which the department of education shall award grants to assist 39984
certain schools in a city, exempted village, local, or joint 39985
vocational school district in implementing one of the following 39986
innovations: 39987

(1) The use of instructional specialists to mentor and 39988
support classroom teachers; 39989

(2) The use of building managers to supervise the 39990
administrative functions of school operation so that a school 39991
principal can focus on supporting instruction, providing 39992
instructional leadership, and engaging teachers as part of the 39993
instructional leadership team; 39994

(3) The reconfiguration of school leadership structure in a 39995
manner that allows teachers to serve in leadership roles so that 39996
teachers may share the responsibility for making and implementing 39997
school decisions; 39998

(4) The adoption of new models for restructuring the school 39999
day or school year, such as including teacher planning and 40000
collaboration time as part of the school day; 40001

(5) The creation of smaller schools or smaller units within 40002
larger schools for the purpose of facilitating teacher 40003
collaboration to improve and advance the professional practice of 40004
teaching; 40005

(6) The implementation of "grow your own" recruitment 40006
strategies that are designed to assist individuals who show a 40007
commitment to education become licensed teachers, to assist 40008
experienced teachers obtain licensure in subject areas for which 40009
there is need, and to assist teachers in becoming principals; 40010

(7) The provision of better conditions for new teachers, such 40011

as reduced teaching load and reduced class size; 40012

(8) The provision of incentives to attract qualified 40013
mathematics, science, or special education teachers; 40014

(9) The development and implementation of a partnership with 40015
teacher preparation programs at colleges and universities to help 40016
attract teachers qualified to teach in shortage areas; 40017

(10) The implementation of a program to increase the cultural 40018
competency of both new and veteran teachers; 40019

(11) The implementation of a program to increase the subject 40020
matter competency of veteran teachers. 40021

(B) To qualify for a grant to implement one of the 40022
innovations described in division (A) of this section, a school 40023
must meet both of the following criteria: 40024

(1) Be hard to staff, as defined by the department. 40025

(2) Use existing school district funds for the implementation 40026
of the innovation in an amount equal to the grant amount 40027
multiplied by (1 - the district's state share percentage for the 40028
fiscal year in which the grant is awarded). 40029

For purposes of division (B)(2) of this section, "state share 40030
percentage" ~~shall be as calculated under section 3317.022 of the~~ 40031
~~Revised Code, in the case of a city, local, or exempted village~~ 40032
~~school district, or as calculated under section 3317.16~~ has the 40033
same meaning as in section 3306.02 of the Revised Code, ~~in the~~ 40034
~~case of a joint vocational school district.~~ 40035

(C) The amount and number of grants awarded under this 40036
section shall be determined by the department based on any 40037
appropriations made by the general assembly for grants under this 40038
section. 40039

(D) The state board of education shall adopt rules for the 40040
administration of this grant program. 40041

Sec. 3319.60. There is hereby established the educator 40042
standards board. The board shall develop and recommend to the 40043
state board of education standards for entering and continuing in 40044
the ~~teaching and principalship~~ educator professions and standards 40045
for educator professional development. The board membership shall 40046
reflect the diversity of the state in terms of gender, race, 40047
ethnic background, and geographic distribution. 40048

(A) The board shall consist of the following members: 40049

(1) The following sixteen members appointed by the state 40050
board of education ~~within sixty days of the effective date of this~~ 40051
~~section:~~ 40052

~~(1)~~(a) Eight persons employed as teachers in a school 40053
district. Two persons appointed under this division shall be 40054
employed as teachers in a secondary school, two persons shall be 40055
employed as teachers in a middle school, two persons shall be 40056
employed as teachers in an elementary school, one person shall be 40057
employed as a teacher in a pre-kindergarten classroom, and one 40058
person shall be a teacher who serves on a local professional 40059
development committee pursuant to section 3319.22 of the Revised 40060
Code. At least one person appointed under this division shall hold 40061
a teaching certificate or license issued by the national board for 40062
professional teaching standards. The Ohio education association 40063
shall submit a list of twelve nominees for these appointments and 40064
the state board shall appoint six members to the educator 40065
standards board from that list. The Ohio federation of teachers 40066
shall submit a list of four nominees for these appointments and 40067
the state board shall appoint two members to the educator 40068
standards board from that list. If there is an insufficient number 40069
of nominees from both lists to satisfy the membership requirements 40070
of this division, the state board shall request additional 40071
nominees who satisfy those requirements. 40072

~~(2)~~(b) One person employed as a teacher in a chartered, 40073
nonpublic school. Stakeholder groups selected by the state board 40074
shall submit a list of two nominees for this appointment. 40075

~~(3)~~ ~~Four~~ (c) Five persons employed as school administrators 40076
in a school district. Of ~~the four~~ those five persons ~~appointed~~ 40077
~~under this division~~, one person shall be employed as a secondary 40078
school principal, one person shall be employed as a middle school 40079
principal, one person shall be employed as an elementary school 40080
principal, one person shall be employed as a school district 40081
treasurer or business manager, and one person shall be employed as 40082
a school district superintendent. The buckeye association of 40083
school administrators shall submit a list of two nominees for the 40084
school district superintendent, the Ohio association of school 40085
business officials shall submit a list of two nominees for the 40086
school district treasurer or business manager, the Ohio 40087
association of elementary school administrators shall submit a 40088
list of two nominees for the elementary school principal, and the 40089
Ohio association of secondary school administrators shall submit a 40090
list of two nominees for the middle school principal and a list of 40091
two nominees for the secondary school principal. 40092

~~(4)~~(d) One person who is a member of a school district board 40093
of education. The Ohio school boards association shall submit a 40094
list of two nominees for this appointment. 40095

~~(5)~~ ~~Three persons employed by institutions of higher~~ 40096
~~education that offer teacher preparation programs approved under~~ 40097
~~section 3319.23 of the Revised Code. One person appointed under~~ 40098
~~this division shall be employed by an institution of higher~~ 40099
~~education that has a certificate of authorization under Chapter~~ 40100
~~1713. of the Revised Code; one person shall be employed by a state~~ 40101
~~university, as defined in section 3345.011 of the Revised Code, or~~ 40102
~~a university branch; and one person shall be employed by a state~~ 40103
~~community college, community college, or technical college. Of the~~ 40104

~~two persons appointed under this division from an institution of higher education that has a certificate of authorization under Chapter 1713. of the Revised Code and from a state university or university branch, one shall be employed in a college of education and one shall be employed in a college of arts and sciences. The chancellor of the Ohio board of regents shall submit two slates of nominees for these appointments and the state board shall appoint one slate as members of the educator standards board.~~

(6)(e) One person who is a parent of a student currently enrolled in a school operated by a school district. The Ohio parent teacher association shall submit a list of two nominees for this appointment.

(2) The chancellor of the Ohio board of regents shall appoint three persons employed by institutions of higher education that offer teacher preparation programs. One person shall be employed by an institution of higher education that has a certificate of authorization under Chapter 1713. of the Revised Code; one person shall be employed by a state university, as defined in section 3345.011 of the Revised Code, or a university branch; and one person shall be employed by a state community college, community college, or technical college. Of the two persons appointed from an institution of higher education that has a certificate of authorization under Chapter 1713. of the Revised Code and from a state university or university branch, one shall be employed in a college of education and one shall be employed in a college of arts and sciences.

(3) The superintendent of public instruction or a designee of the superintendent, the chancellor of the Ohio board of regents or a designee of the chancellor, and the chairpersons and the ranking minority members of the education committees of the senate and house of representatives shall serve as nonvoting, ex officio members.

(B) ~~Initial terms of office for nine members shall be for two~~ 40137
~~years and three years for eight members, beginning on the day all~~ 40138
~~members are appointed to the board. At the first meeting of the~~ 40139
~~board, members shall draw lots to determine the length of the term~~ 40140
~~each member shall serve. Thereafter terms~~ Terms of office shall be 40141
for two years. Each member shall hold office from the date of the 40142
member's appointment until the end of the term for which the 40143
member was appointed. At the first meeting, appointed members 40144
shall select a chairperson and a vice-chairperson. Vacancies on 40145
the board shall be filled in the same manner as ~~the original~~ 40146
prescribed for appointments under division (A) of this section. 40147
Any member appointed to fill a vacancy occurring prior to the 40148
expiration of the term for which the member's predecessor was 40149
appointed shall hold office for the remainder of such term. Any 40150
member shall continue in office subsequent to the expiration date 40151
of the member's term until the member's successor takes office, or 40152
until a period of sixty days has elapsed, whichever occurs first. 40153
The terms of office of members are renewable. 40154

(C) Members shall receive no compensation for their services. 40155

(D) The board shall establish guidelines for its operation. 40156
These guidelines shall require the creation of a standing 40157
subcommittee on higher education, and shall permit the creation of 40158
other standing subcommittees when necessary. The board shall 40159
determine the membership of any subcommittee it creates. The board 40160
may select persons who are not members of the board to participate 40161
in the deliberations of any subcommittee as representatives of 40162
stakeholder groups, but no such person shall vote on any issue 40163
before the subcommittee. 40164

Sec. 3319.61. (A) The educator standards board, in 40165
consultation with the chancellor of the Ohio board of regents, 40166
shall do all of the following: 40167

(1) Develop state standards for teachers and principals that 40168
reflect what teachers and principals are expected to know and be 40169
able to do at all stages of their careers. These standards shall 40170
be aligned with the statewide academic content standards for 40171
students adopted pursuant to section 3301.079 of the Revised Code, 40172
be primarily based on educator performance instead of years of 40173
experience or certain courses completed, and rely on 40174
evidence-based factors. These standards shall also be aligned with 40175
the operational standards adopted under division (E) of section 40176
3301.07 of the Revised Code. 40177

(a) The standards for teachers shall reflect the following 40178
additional criteria: 40179

(i) Alignment with the interstate new teacher assessment and 40180
support consortium standards; 40181

(ii) Differentiation among novice, experienced, and advanced 40182
teachers; 40183

(iii) Reliance on competencies that can be measured; 40184

(iv) Reliance on content knowledge, teaching skills, 40185
discipline-specific teaching methods, and requirements for 40186
professional development; 40187

(v) Alignment with a career-long system of professional 40188
development and evaluation that ensures teachers receive the 40189
support and training needed to achieve the teaching standards as 40190
well as reliable feedback about how well they meet the standards; 40191

(vi) The standards under section 3301.079 of the Revised 40192
Code, including standards on collaborative learning environments 40193
and interdisciplinary, project-based real world learning, 40194
differentiated instruction, and community service learning; 40195

(vii) The Ohio leadership framework. 40196

(b) The standards for principals shall be aligned with the 40197

interstate school leaders licensing consortium standards. 40198

(2) Develop standards for school district superintendents 40199
that reflect what superintendents are expected to know and be able 40200
to do at all stages of their careers. The standards shall reflect 40201
knowledge of systems theory and effective management principles 40202
and be aligned with the buckeye association of school 40203
administrators standards and operational standards developed under 40204
division (E) of section 3301.07 of the Revised Code. 40205

(3) Develop standards for school district treasurers and 40206
business managers that reflect what treasurers and business 40207
managers are expected to know and be able to do at all stages of 40208
their careers. The standards shall reflect knowledge of systems 40209
theory and effective management principles and be aligned with the 40210
association of school business officials international standards 40211
and the operational standards developed under division (E) of 40212
section 3301.07 of the Revised Code. 40213

(4) Develop standards for the renewal of ~~educator~~ licenses 40214
under ~~section~~ sections 3319.22 and 3301.074 of the Revised Code; 40215

~~(3)~~(5) Develop standards for educator professional 40216
development; 40217

(6) Investigate and make recommendations for the creation, 40218
expansion, and implementation of school building and school 40219
district leadership academies. 40220

The superintendent of public instruction, the chancellor of 40221
the Ohio board of regents, or the education standards board itself 40222
may request that the educator standards board update, review, or 40223
reconsider any standards developed under this section. 40224

(B) The educator standards board shall incorporate indicators 40225
of cultural competency into the standards developed under division 40226
(A) of this section. For this purpose, the educator standards 40227
board shall develop a definition of cultural competency based upon 40228

content and experiences that enable educators to know, understand, 40229
and appreciate the students, families, and communities that they 40230
serve and skills for addressing cultural diversity in ways that 40231
respond equitably and appropriately to the cultural needs of 40232
individual students. 40233

(C) In developing the standards under division (A) of this 40234
section, the educator standards board shall consider the impact of 40235
the standards on closing the achievement gap between students of 40236
different subgroups. 40237

(D) In developing the standards under division (A) of this 40238
section, the educator standards board shall ensure that both of 40239
the following: 40240

(1) That teachers and principals have sufficient knowledge to 40241
provide appropriate instruction for students identified as gifted 40242
pursuant to Chapter 3324. of the Revised Code and to assist in the 40243
identification of such students, and have sufficient knowledge 40244
that will enable teachers to provide learning opportunities for 40245
all children to succeed; 40246

(2) That principals, superintendents, school treasurers, and 40247
school business managers have sufficient knowledge to provide 40248
principled, collaborative, foresighted, and data-based leadership 40249
that will provide learning opportunities for all children to 40250
succeed. 40251

(E) The standards for educator professional development 40252
developed under division (A)~~(3)~~(5) of this section shall include 40253
standards that address the crucial link between academic 40254
achievement and mental health issues. 40255

(F) The educator standards board shall also perform the 40256
following functions: 40257

~~(1) Collaborate with colleges and universities that offer~~ 40258
~~teacher preparation programs approved pursuant to section 3319.23~~ 40259

~~of the Revised Code to align teacher and principal preparation 40260
courses with the standards developed under division (A) of this 40261
section and with student academic content standards adopted under 40262
section 3301.079 of the Revised Code. The educator standards board 40263
shall study the model developed by the college of food, 40264
agricultural, and environmental sciences and the college of 40265
education of the Ohio state university for aligning teacher 40266
preparation programs in agricultural education with recognized 40267
standards for this purpose. 40268~~

~~(2) Monitor compliance with the teacher and principal 40269
standards developed under division (A) of this section and make 40270
recommendations to the state board of education for appropriate 40271
corrective action if such standards are not met; 40272~~

~~(3)(2) Research, develop, and recommend policies on the 40273
professions of teaching and school administration; 40274~~

~~(4)(3) Recommend policies to close the achievement gap 40275
between students of different subgroups; 40276~~

~~(5) Define a "master teacher" in a manner that can be used 40277
uniformly by all school districts (4) Adopt criteria that a 40278
candidate for a lead professional educator license under section 40279
3319.22 of the Revised Code who does not hold a valid certificate 40280
issued by the national board for professional teaching standards 40281
must meet to be considered a lead teacher for purposes of division 40282
(B)(4)(d) of that section. It is the intent of the general 40283
assembly that when defining "master teacher," the educator 40284
standards board shall adopt multiple, equal-weighted criteria to 40285
use in determining whether a person is a master lead teacher. Such 40286
The criteria shall be in addition to the other standards and 40287
qualifications prescribed in division (B)(4) of section 3319.22 of 40288
the Revised Code. The criteria may include, but shall not be 40289
limited to, attainment of a master's degree in an appropriate 40290
subject area, completion of other educational levels beyond a 40291~~

~~master's degree or other professional development courses,~~ 40292
~~certification by the national board for professional teaching~~ 40293
~~standards,~~ or demonstration of a leadership role in the teacher's 40294
school building or district. The board shall determine the number 40295
of criteria that a teacher shall satisfy to be recognized as a 40296
~~master~~ lead teacher, which shall not be the total number of 40297
criteria adopted by the board. 40298

(5) Develop model teacher and principal evaluation 40299
instruments and processes. The models shall be based on the 40300
standards developed under division (A) of this section and student 40301
performance over time as determined by value-added data and other 40302
demonstrations of students' skills and abilities. 40303

(G) The educator standards board shall submit recommendations 40304
of standards developed under division (A) of this section to the 40305
state board of education ~~within one year after the educator~~ 40306
~~standards board first convenes~~ not later than September 1, 2010. 40307
The state board of education shall review those recommendations at 40308
the state board's regular meeting that next succeeds the date that 40309
the recommendations are submitted to the state board. At that 40310
meeting, the state board of education shall vote to either adopt 40311
standards based on those recommendations or request that the 40312
educator standards board reconsider its recommendations. The state 40313
board of education shall articulate reasons for requesting 40314
reconsideration of the recommendations but shall not direct the 40315
content of the recommendations. The educator standards board shall 40316
reconsider its recommendations if the state board of education so 40317
requests, may revise the recommendations, and shall resubmit the 40318
recommendations, whether revised or not, to the state board not 40319
later than two weeks prior to the state board's regular meeting 40320
that next succeeds the meeting at which the state board requested 40321
reconsideration of the initial recommendations. The state board of 40322
education shall review the recommendations as resubmitted by the 40323

educator standards board at the state board's regular meeting that 40324
next succeeds the meeting at which the state board requested 40325
reconsideration of the initial recommendations and may adopt the 40326
standards as resubmitted or, if the resubmitted standards have not 40327
addressed the state board's concerns, the state board may modify 40328
the standards prior to adopting them. The final responsibility to 40329
determine whether to adopt standards as described in division (A) 40330
of this section and the content of those standards, if adopted, 40331
belongs solely to the state board of education. 40332

Sec. 3319.611. The subcommittee on standards for 40333
superintendents of the education standards board is hereby 40334
established. The subcommittee shall consist of the following 40335
members: 40336

(A) The school district superintendent appointed to the 40337
educator standards board under section 3319.60 of the Revised 40338
Code, who shall act as chairperson of the subcommittee; 40339

(B) Three additional school district superintendents 40340
appointed by the state board of education, for terms of two years. 40341
The buckeye association of school administrators shall submit a 40342
list of six nominees for appointments under this section. 40343

(C) Three additional members of the educator standards board, 40344
appointed by the chairperson of the educator standards board; 40345

(D) The superintendent of public instruction and the 40346
chancellor of the Ohio board of regents, or their designees, who 40347
shall serve as nonvoting, ex officio members of the subcommittee. 40348

Members of the subcommittee shall receive no compensation for 40349
their services. The members appointed under divisions (B) and (C) 40350
of this section may be reappointed. 40351

The subcommittee shall assist the educator standards board in 40352
developing the standards for superintendents and with any 40353

additional matters the educator standards board directs the 40354
subcommittee to examine. 40355

Sec. 3319.612. The subcommittee on standards for school 40356
treasurers and business managers of the educator standards board 40357
is hereby established. The subcommittee shall consist of the 40358
following members: 40359

(A) The school district treasurer or business manager 40360
appointed to the educator standards board under section 3319.60 of 40361
the Revised Code, who shall act as chairperson of the 40362
subcommittee; 40363

(B) Three additional school district treasurers or business 40364
managers appointed by the state board of education for terms of 40365
two years. The Ohio association of school business officials shall 40366
submit a list of six nominees for appointments under this section. 40367

(C) Three additional members of the educator standards board, 40368
appointed by the chairperson of the educator standards board; 40369

(D) The superintendent of public instruction and the 40370
chancellor of the Ohio board of regents, or their designees, who 40371
shall serve as nonvoting, ex officio members of the subcommittee. 40372

Members of the subcommittee shall receive no compensation for 40373
their services. The members appointed under divisions (B) and (C) 40374
of this section may be reappointed. 40375

The subcommittee shall assist the educator standards board in 40376
developing the standards for school treasurers and business 40377
managers and with any additional matters the educator standards 40378
board directs the subcommittee to examine. 40379

Sec. 3319.63. The board of education of a school district 40380
that employs any person who is appointed to serve as a member of 40381
the educator standards board under division (A)(1)(a) or ~~(3)~~(c) of 40382

section 3319.60, as a member of the subcommittee on standards for 40383
superintendents under division (B) or (C) of section 3319.611, or 40384
as a member of the subcommittee on standards for school treasurers 40385
and business managers under division (B) or (C) of section 40386
3319.612 of the Revised Code shall grant that person paid 40387
professional leave for the purpose of attending meetings and 40388
conducting official business of the educator standards board and 40389
the subcommittees. 40390

Sec. 3319.70. (A) The school health services advisory council 40391
is hereby established. The council shall consist of the following 40392
members: 40393

(1) A registered nurse licensed under Chapter 4723. of the 40394
Revised Code who also is licensed as a school nurse pursuant to 40395
section 3319.221 or former section 3319.22 of the Revised Code and 40396
is a member of the Ohio association of school nurses, appointed by 40397
the governor; 40398

(2) A licensed practical nurse licensed under Chapter 4723. 40399
of the Revised Code who is employed by a school district or a 40400
community school established under Chapter 3314. of the Revised 40401
Code, appointed by the governor; 40402

(3) A representative of the Ohio board of nursing, appointed 40403
by the governor; 40404

(4) A representative of the department of health who has 40405
expertise in school and adolescent health services, appointed by 40406
the director of health; 40407

(5) A representative of the department of education, 40408
appointed by the superintendent of public instruction; 40409

(6) A representative of the chancellor of the Ohio board of 40410
regents, appointed by the chancellor; 40411

(7) A representative of a nurse education program, appointed 40412

by the chancellor; 40413

(8) A representative of the department of development who has expertise in workforce development, appointed by the director of development; 40414
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40416

(9) A representative of the department of job and family services who has expertise in child and adolescent care, appointed by the director of job and family services. 40417
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(B) Initial appointments to the council shall be made within thirty days after the effective date of this section. Members of the council shall serve at the pleasure of their appointing authorities. Vacancies shall be filled in the same manner as the original appointment. Members shall receive no compensation for their services, except to the extent that service on the council is part of their regular employment duties. 40420
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(C) The representative of the department of education shall call the first meeting of the council. At that meeting, the members shall select a chairperson and vice-chairperson. Subsequent meetings of the council shall be held at the call of the chairperson. 40427
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Sec. 3319.71. (A) The school health services advisory council shall make recommendations on the following topics: 40432
40433

(1) The content of the course of instruction required to obtain a school nurse license under section 3319.221 of the Revised Code; 40434
40435
40436

(2) The content of the course of instruction required to obtain a school nurse wellness coordinator license under section 3319.221 of the Revised Code; 40437
40438
40439

(3) Best practices for the use of school nurses and school nurse wellness coordinators in providing health and wellness programs for students and employees of school districts, community 40440
40441
40442

schools established under Chapter 3314. of the Revised Code, and 40443
STEM schools established under Chapter 3326. of the Revised Code. 40444

(B) The council shall issue its initial recommendations not 40445
later than March 31, 2010, and may issue subsequent 40446
recommendations as it considers necessary. Copies of all 40447
recommendations shall be provided to the state board of education, 40448
the chancellor of the Ohio board of regents, the Ohio board of 40449
nursing, and the health care leverage and quality council. 40450

Sec. 3321.01. (A)(1) As used in this chapter, "parent," 40451
"guardian," or "other person having charge or care of a child" 40452
means either parent unless the parents are separated or divorced 40453
or their marriage has been dissolved or annulled, in which case 40454
"parent" means the parent who is the residential parent and legal 40455
custodian of the child. If the child is in the legal or permanent 40456
custody of a person or government agency, "parent" means that 40457
person or government agency. When a child is a resident of a home, 40458
as defined in section 3313.64 of the Revised Code, and the child's 40459
parent is not a resident of this state, "parent," "guardian," or 40460
"other person having charge or care of a child" means the head of 40461
the home. 40462

A child between six and eighteen years of age is "of 40463
compulsory school age" for the purpose of sections 3321.01 to 40464
3321.13 of the Revised Code. A child under six years of age who 40465
has been enrolled in kindergarten also shall be considered "of 40466
compulsory school age" for the purpose of sections 3321.01 to 40467
3321.13 of the Revised Code unless at any time the child's parent 40468
or guardian, at the parent's or guardian's discretion and in 40469
consultation with the child's teacher and principal, formally 40470
withdraws the child from kindergarten. The compulsory school age 40471
of a child shall not commence until the beginning of the term of 40472
such schools, or other time in the school year fixed by the rules 40473

of the board of the district in which the child resides. 40474

(2) No child shall be admitted to a kindergarten or a first 40475
grade of a public school in a district in which all children are 40476
admitted to kindergarten and the first grade in August or 40477
September unless the child is five or six years of age, 40478
respectively, by the thirtieth day of September of the year of 40479
admittance, or by the first day of a term or semester other than 40480
one beginning in August or September in school districts granting 40481
admittance at the beginning of such term or semester, except that 40482
in those school districts using or obtaining educationally 40483
accepted standardized testing programs for determining entrance, 40484
as approved by the board of education of such districts, the board 40485
shall admit a child to kindergarten or the first grade who fails 40486
to meet the age requirement, provided the child meets necessary 40487
standards as determined by such standardized testing programs. If 40488
the board of education has not established a standardized testing 40489
program, the board shall designate the necessary standards and a 40490
testing program it will accept for the purpose of admitting a 40491
child to kindergarten or first grade who fails to meet the age 40492
requirement. Each child who will be the proper age for entrance to 40493
kindergarten or first grade by the first day of January of the 40494
school year for which admission is requested shall be so tested 40495
upon the request of the child's parent. 40496

(3) Notwithstanding divisions (A)(2) and (D) of this section, 40497
beginning with the school year that starts in 2001 and continuing 40498
thereafter the board of education of any district may adopt a 40499
resolution establishing the first day of August in lieu of the 40500
thirtieth day of September as the required date by which students 40501
must have attained the age specified in those divisions. 40502

(B) As used in divisions (C) and (D) of this section, 40503
"successfully completed kindergarten" and "successful completion 40504
of kindergarten" mean that the child has completed the 40505

kindergarten requirements at one of the following: 40506

(1) A public or chartered nonpublic school; 40507

(2) A kindergarten class that is both of the following: 40508

(a) Offered by a day-care provider licensed under Chapter 40509
5104. of the Revised Code; 40510

(b) If offered after July 1, 1991, is directly taught by a 40511
teacher who holds one of the following: 40512

(i) A valid educator license issued under section 3319.22 of 40513
the Revised Code; 40514

(ii) A Montessori preprimary credential or age-appropriate 40515
diploma granted by the American Montessori society or the 40516
association Montessori internationale; 40517

(iii) Certification determined under division (G) of this 40518
section to be equivalent to that described in division 40519
(B)(2)(b)(ii) of this section; 40520

(iv) Certification for teachers in nontax-supported schools 40521
pursuant to section 3301.071 of the Revised Code. 40522

(C) Except as provided in division (D) of this section, no 40523
school district shall admit to the first grade any child who has 40524
not successfully completed kindergarten. 40525

(D) Upon request of a parent, the requirement of division (C) 40526
of this section may be waived by the district's pupil personnel 40527
services committee in the case of a child who is at least six 40528
years of age by the thirtieth day of September of the year of 40529
admittance and who demonstrates to the satisfaction of the 40530
committee the possession of the social, emotional, and cognitive 40531
skills necessary for first grade. 40532

The board of education of each city, local, and exempted 40533
village school district shall establish a pupil personnel services 40534
committee. The committee shall be composed of all of the following 40535

to the extent such personnel are either employed by the district 40536
or employed by the governing board of the educational service 40537
center within whose territory the district is located and the 40538
educational service center generally furnishes the services of 40539
such personnel to the district: 40540

- (1) The director of pupil personnel services; 40541
- (2) An elementary school counselor; 40542
- (3) An elementary school principal; 40543
- (4) A school psychologist; 40544
- (5) A teacher assigned to teach first grade; 40545
- (6) A gifted coordinator. 40546

The responsibilities of the pupil personnel services 40547
committee shall be limited to the issuing of waivers allowing 40548
admittance to the first grade without the successful completion of 40549
kindergarten. The committee shall have no other authority except 40550
as specified in this section. 40551

(E) The scheduling of times for kindergarten classes and 40552
length of the school day for kindergarten shall be determined by 40553
the board of education of a city, exempted village, or local 40554
school district. 40555

(F) Any kindergarten class offered by a day-care provider or 40556
school described by division (B)(1) or (B)(2)(a) of this section 40557
shall be developmentally appropriate. 40558

(G) Upon written request of a day-care provider described by 40559
division (B)(2)(a) of this section, the department of education 40560
shall determine whether certification held by a teacher employed 40561
by the provider meets the requirement of division (B)(2)(b)(iii) 40562
of this section and, if so, shall furnish the provider a statement 40563
to that effect. 40564

(H) ~~As used in this division, "all-day kindergarten" has the~~ 40565

~~same meaning as in section 3317.029 of the Revised Code.~~ 40566

~~(1) Any school district that is not eligible to receive 40567
poverty based assistance for all day kindergarten under division 40568
(D) of section 3317.029 of the Revised Code may charge fees or 40569
tuition for students enrolled in all day kindergarten. If a 40570
district charges fees or tuition for all day kindergarten under 40571
this division, the district shall develop a sliding fee scale 40572
based on family incomes.~~ 40573

~~(2) The department of education shall conduct an annual 40574
survey of each school district described in division (H)(1) of 40575
this section to determine the following: 40576~~

~~(a) Whether the district charges fees or tuition for students 40577
enrolled in all day kindergarten; 40578~~

~~(b) The amount of the fees or tuition charged; 40579~~

~~(c)(1) How many of the students for whom tuition is charged 40580
are eligible for free lunches under the "National School Lunch 40581
Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, and the 40582
"Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as 40583
amended, and how many of the students for whom tuition is charged 40584
are eligible for reduced price lunches under those acts; 40585~~

~~(d)(2) How many students are enrolled in ~~traditional~~ half-day 40586
kindergarten ~~rather than~~ and how many students are enrolled in 40587
all-day kindergarten, as defined in section 3321.05 of the Revised 40588
Code. 40589~~

~~Each district shall report to the department, in the manner 40590
prescribed by the department, the information described in 40591
divisions (H)(2)(a) to (d) of this section required by this 40592
division. 40593~~

~~The department shall issue an annual report on the results of 40594
the survey and shall post the report on its web site. The 40595~~

department shall issue the first report not later than April 30, 40596
2008, and shall issue a report not later than the thirtieth day of 40597
April each year thereafter. 40598

Sec. 3321.05. (A) As used in this section, "all-day 40599
kindergarten" means a kindergarten class that is in session five 40600
days per week for not less than the same number of clock hours 40601
each day as for students in grades one through six. 40602

(B) Any school district may operate all-day kindergarten or 40603
extended kindergarten, but ~~no~~ beginning in fiscal year 2011, each 40604
city, local, and exempted village school district shall provide 40605
all-day kindergarten to each student enrolled in kindergarten, 40606
except as specified in divisions (C) and (D) of this section. 40607

(C) The board of education of a school district may apply to 40608
the superintendent of public instruction for a waiver of the 40609
requirement to provide all-day kindergarten for all kindergarten 40610
students. In making the determination to grant or deny the waiver, 40611
the state superintendent may consider space concerns or 40612
alternative delivery approaches used by the school district. 40613

(D) No district shall require any student to attend 40614
kindergarten for more than one-half of the number of clock hours 40615
required each day for ~~traditional kindergarten~~ grades one through 40616
six by the minimum standards adopted under division (D) of section 40617
3301.07 of the Revised Code. Each school district ~~that operates~~ 40618
~~all-day or extended kindergarten~~ shall accommodate kindergarten 40619
students whose parents or guardians elect to enroll them for 40620
one-half of the minimum number of hours required each day for 40621
grades one through six. 40622

Sec. 3323.05. The state board of education shall establish 40623
procedures to ensure that children with disabilities and their 40624
parents are guaranteed procedural safeguards under this chapter 40625

with respect to a free appropriate public education. 40626

The procedures shall include, but need not be limited to: 40627

(A) An opportunity for the parents of a child with a 40628
disability to examine all records related to the child and to 40629
participate in meetings with respect to identification, 40630
evaluation, and educational placement of the child, and to obtain 40631
an independent educational evaluation of the child; 40632

(B) Procedures to protect the rights of the child whenever 40633
the parents of the child are not known, an agency after making 40634
reasonable efforts cannot find the parents, or the child is a ward 40635
of the state, including the assignment, ~~in accordance with section~~ 40636
~~3323.051 of the Revised Code,~~ of an individual to act as a 40637
surrogate for the parents+ made by the school district or other 40638
educational agency responsible for educating the child or by the 40639
court with jurisdiction over the child's custody. Such assignment 40640
shall be made in accordance with section 3323.051 of the Revised 40641
Code. 40642

(C) Prior written notice to the child's parents of a school 40643
district's proposal or refusal to initiate or change the 40644
identification, evaluation, or educational placement of the child 40645
or the provision of a free appropriate education for the child. 40646
The procedures established under this division shall: 40647

(1) Be designed to ensure that the written prior notice is in 40648
the native language of the parents, unless it clearly is not 40649
feasible to do so. 40650

(2) Specify that the prior written notice shall include: 40651

(a) A description of the action proposed or refused by the 40652
district; 40653

(b) An explanation of why the district proposes or refuses to 40654
take the action and a description of each evaluation procedure, 40655

assessment, record, or report the district used as a basis for the 40656
proposed or refused action; 40657

(c) A statement that the parents of a child with a disability 40658
have protection under the procedural safeguards and, if the notice 40659
is not in regard to an initial referral for evaluation, the means 40660
by which a copy of a description of the procedural safeguards can 40661
be obtained; 40662

(d) Sources for parents to contact to obtain assistance in 40663
understanding the provisions of Part B of the "Individuals with 40664
Disabilities Education Improvement Act of 2004"; 40665

(e) A description of other options considered by the IEP team 40666
and the reason why those options were rejected; 40667

(f) A description of the factors that are relevant to the 40668
agency's proposal or refusal. 40669

(D) An opportunity for the child's parents to present 40670
complaints to the superintendent of the child's school district of 40671
residence with respect to any matter relating to the 40672
identification, evaluation, or educational placement of the child, 40673
or the provision of a free appropriate public education under this 40674
chapter. 40675

Within twenty school days after receipt of a complaint, the 40676
district superintendent or the superintendent's designee, without 40677
undue delay and at a time and place convenient to all parties, 40678
shall review the case, may conduct an administrative review, and 40679
shall notify all parties in writing of the superintendent's or 40680
designee's decision. Where the child is placed in a program 40681
operated by a county MR/DD board or other educational agency, the 40682
superintendent shall consult with the administrator of that county 40683
MR/DD board or agency. 40684

Any party aggrieved by the decision of the district 40685
superintendent or the superintendent's designee may file a 40686

complaint with the state board as provided under division (E) of 40687
this section, request mediation as provided under division (F) of 40688
this section, or present a due process complaint notice and 40689
request for a due process hearing in writing to the superintendent 40690
of the district, with a copy to the state board, as provided under 40691
division (G) of this section. 40692

(E) An opportunity for a party to file a complaint with the 40693
state board of education with respect to the identification, 40694
evaluation, or educational placement of the child, or the 40695
provision of a free appropriate public education to such child. 40696
The department of education shall review and, where appropriate, 40697
investigate the complaint and issue findings. 40698

(F) An opportunity for parents and a school district to 40699
resolve through mediation disputes involving any matter. 40700

(1) The procedures established under this section shall 40701
ensure that the mediation process is voluntary on the part of the 40702
parties, is not used to deny or delay a parent's right to a due 40703
process hearing or to deny any other rights afforded under this 40704
chapter, and is conducted by a qualified and impartial mediator 40705
who is trained in effective mediation techniques. 40706

(2) A school district may establish procedures to offer to 40707
parents and schools that choose not to use the mediation process, 40708
an opportunity to meet, at a time and location convenient to the 40709
parents, with a disinterested party to encourage the use, and 40710
explain the benefits, of the mediation process to the parents. The 40711
disinterested party shall be an individual who is under contract 40712
with a parent training and information center or community parent 40713
resource center in the state or is under contract with an 40714
appropriate alternative dispute resolution entity. 40715

(3) The department shall maintain a list of individuals who 40716
are qualified mediators and knowledgeable in laws and regulations 40717

relating to the provision of special education and related services. 40718
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(4) The department shall bear the cost of the mediation process, including the costs of meetings described in division (F)(2) of this section. 40720
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(5) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute. 40723
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(6) Discussions that occur during the mediation process shall be confidential and shall not be used as evidence in any subsequent due process hearing or civil proceeding. 40726
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(7) In the case that a resolution is reached to resolve the complaint through the mediation process, the parties shall execute a legally binding agreement that sets forth the resolution and that: 40729
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40732

(a) States that all discussions that occurred during the mediation process shall be confidential and shall not be used as evidence in any subsequent due process hearing or civil proceeding; 40733
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(b) Is signed by both the parent and a representative for the school district who has the authority to bind the district; 40737
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(c) Is enforceable in any state court of competent jurisdiction or in a district court of the United States. 40739
40740

(G)(1) An opportunity for parents or a school district to present a due process complaint and request for a due process hearing to the superintendent of the school district of the child's residence with respect to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child. The party presenting the due process complaint and request for a due process hearing 40741
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shall provide due process complaint notice to the other party and 40748
forward a copy of the notice to the state board. The due process 40749
complaint notice shall include: 40750

(a) The name of the child, the address of the residence of 40751
the child, or the available contact information in the case of a 40752
homeless child, and the name of the school the child is attending; 40753

(b) A description of the nature of the problem of the child 40754
relating to the proposed initiation or change, including facts 40755
relating to the problem; 40756

(c) A proposed resolution of the problem to the extent known 40757
and available to the party at the time. 40758

A party shall not have a due process hearing until the party, 40759
or the attorney representing the party, files a notice that meets 40760
the requirement for filing a due process complaint notice. 40761

A due process hearing shall be conducted by an impartial 40762
hearing officer in accordance with standards and procedures 40763
adopted by the state board. A hearing officer shall not be an 40764
employee of the state board or any agency involved in the 40765
education or care of the child or a person having a personal or 40766
professional interest that conflicts with the person's objectivity 40767
in the hearing. A hearing officer shall possess knowledge of, and 40768
the ability to understand, the provisions of the "Individuals with 40769
Disabilities Education Improvement Act of 2004," federal and state 40770
regulations pertaining to that act, and legal interpretations of 40771
that act by federal and state courts; possess the knowledge and 40772
ability to conduct hearings in accordance with appropriate 40773
standard legal practice; and possess the knowledge and ability to 40774
render and write decisions in accordance with appropriate standard 40775
legal practice. The due process requirements of section 615 of the 40776
"Individuals with Disabilities Education Improvement Act of 2004," 40777
20 U.S.C. 1415, apply to due process complaint notices and 40778

requests for due process hearings and to due process hearings held 40779
under division (G) of this section, including, but not limited to, 40780
timelines for requesting hearings, requirements for sufficient 40781
complaint notices, resolution sessions, and sufficiency and 40782
hearing decisions. 40783

(2) Discussions that occur during a resolution session shall 40784
be confidential and shall not be used as evidence in any 40785
subsequent due process hearing or civil proceeding. If a 40786
resolution to the dispute is reached at a resolution session, the 40787
parties must execute a legally binding written settlement 40788
agreement which shall state that all discussions that occurred 40789
during the resolution process shall be confidential and shall not 40790
be used as evidence in any subsequent due process hearing or civil 40791
proceeding. 40792

(3) A party to a hearing under division (G) of this section 40793
shall be accorded: 40794

(a) The right to be accompanied and advised by counsel and by 40795
individuals with special knowledge or training with respect to the 40796
problems of children with disabilities; 40797

(b) The right to present evidence and confront, 40798
cross-examine, and compel the attendance of witnesses; 40799

(c) The right to a written or electronic verbatim record of 40800
the hearing; 40801

(d) The right to written findings of fact and decisions, 40802
which findings of fact and decisions shall be made available to 40803
the public consistent with the requirements relating to the 40804
confidentiality of personally identifiable data, information, and 40805
records collected and maintained by state educational agencies and 40806
local educational agencies; and shall be transmitted to the 40807
advisory panel established and maintained by the department for 40808
the purpose of providing policy guidance with respect to special 40809

education and related services for children with disabilities in 40810
the state. 40811

(H) An opportunity for any party aggrieved by the findings 40812
and decision rendered in a hearing under division (G) of this 40813
section to appeal within forty-five days of notification of the 40814
decision to the state board, which shall appoint a state level 40815
officer who shall review the case and issue a final order. The 40816
state level officer shall be appointed and shall review the case 40817
in accordance with standards and procedures adopted by the state 40818
board. 40819

Any party aggrieved by the final order of the state level 40820
officer may appeal the final order, in accordance with Chapter 40821
119. of the Revised Code, within forty-five days after 40822
notification of the order to the court of common pleas of the 40823
county in which the child's school district of residence is 40824
located, or to a district court of the United States within ninety 40825
days after the date of the decision of the state level review 40826
officer, as provided in section 615(i)(2) of the "Individuals with 40827
Disabilities Education Improvement Act of 2004," 20 U.S.C. 40828
1415(i)(2). 40829

Sec. 3323.091. (A) The department of mental health, the 40830
department of mental retardation and developmental disabilities, 40831
the department of youth services, and the department of 40832
rehabilitation and correction shall establish and maintain special 40833
education programs for children with disabilities in institutions 40834
under their jurisdiction according to standards adopted by the 40835
state board of education. 40836

(B) The superintendent of each state institution required to 40837
provide services under division (A) of this section, and each 40838
county MR/DD board, providing special education for preschool 40839
children with disabilities under this chapter may apply to the 40840

state department of education for unit funding, which shall be 40841
paid in accordance with sections 3317.052 and 3317.053 of the 40842
Revised Code. 40843

The superintendent of each state institution required to 40844
provide services under division (A) of this section may apply to 40845
the department of education for special education and related 40846
services weighted funding for children with disabilities other 40847
than preschool children with disabilities, calculated in 40848
accordance with section 3317.201 of the Revised Code. 40849

Each county MR/DD board providing special education for 40850
children with disabilities other than preschool children with 40851
disabilities may apply to the department of education for base 40852
cost and special education and related services weighted funding 40853
calculated in accordance with section 3317.20 of the Revised Code. 40854

(C) In addition to the authorization to apply for state 40856
funding described in division (B) of this section, each state 40857
institution required to provide services under division (A) of 40858
this section is entitled to tuition payments calculated in the 40859
manner described in division (C) of this section. 40860

On or before the thirtieth day of June of each year, the 40861
superintendent of each institution that during the school year 40862
provided special education pursuant to this section shall prepare 40863
a statement for each child with a disability under twenty-two 40864
years of age who has received special education. The statement 40865
shall contain the child's data verification code assigned pursuant 40866
to division (D)(2) of section 3301.0714 of the Revised Code and 40867
the name of the child's school district of residence. Within sixty 40868
days after receipt of such statement, the department of education 40869
shall perform one of the following: 40870

(1) For any child except a preschool child with a disability 40871

described in division (C)(2) of this section, pay to the 40872
institution submitting the statement an amount equal to the 40873
tuition calculated under division (A) of section 3317.08 of the 40874
Revised Code for the period covered by the statement, and deduct 40875
the same from the amount of state funds, if any, payable under 40876
sections ~~3317.022~~ 3306.13 and 3317.023 of the Revised Code, to the 40877
child's school district of residence or, if the amount of such 40878
state funds is insufficient, require the child's school district 40879
of residence to pay the institution submitting the statement an 40880
amount equal to the amount determined under this division. 40881

(2) For any preschool child with a disability not included in 40882
a unit approved under division (B) of section 3317.05 of the 40883
Revised Code, perform the following: 40884

(a) Pay to the institution submitting the statement an amount 40885
equal to the tuition calculated under division (B) of section 40886
3317.08 of the Revised Code for the period covered by the 40887
statement, except that in calculating the tuition under that 40888
section the operating expenses of the institution submitting the 40889
statement under this section shall be used instead of the 40890
operating expenses of the school district of residence; 40891

(b) Deduct from the amount of state funds, if any, payable 40892
under sections ~~3317.022~~ 3306.13 and 3317.023 of the Revised Code 40893
to the child's school district of residence an amount equal to the 40894
amount paid under division (C)(2)(a) of this section. 40895

Sec. 3323.14. This section does not apply to any preschool 40896
child with a disability except if included in a unit approved 40897
under division (B) of section 3317.05 of the Revised Code. 40898

(A) Where a child who is a school resident of one school 40899
district receives special education from another district and the 40900
per capita cost to the educating district for that child exceeds 40901
the sum of the amount received by the educating district for that 40902

child under division (A) of section 3317.08 of the Revised Code 40903
and the amount received by the district from the state board of 40904
education for that child, then the board of education of the 40905
district of residence shall pay to the board of the school 40906
district that is providing the special education such excess cost 40907
as is determined by using a formula approved by the department of 40908
education and agreed upon in contracts entered into by the boards 40909
of the districts concerned at the time the district providing such 40910
special education accepts the child for enrollment. The department 40911
shall certify the amount of the payments under ~~Chapter~~ Chapters 40912
3306. and 3317. of the Revised Code for such pupils with 40913
disabilities for each school year ending on the thirtieth day of 40914
July. 40915

(B) In the case of a child described in division (A) of this 40916
section who has been placed in a home, as defined in section 40917
3313.64 of the Revised Code, pursuant to the order of a court and 40918
who is not subject to section 3323.141 of the Revised Code, the 40919
district providing the child with special education and related 40920
services may charge to the child's district of residence the 40921
excess cost determined by formula approved by the department, 40922
regardless of whether the district of residence has entered into a 40923
contract with the district providing the services. If the district 40924
providing the services chooses to charge excess costs, the 40925
district may report the amount calculated under this division to 40926
the department. 40927

(C) If a district providing special education for a child 40928
reports an amount for the excess cost of those services, as 40929
authorized and calculated under division (A) or (B) of this 40930
section, the department shall pay that amount of excess cost to 40931
the district providing the services and shall deduct that amount 40932
from the child's district of residence in accordance with division 40933
(N) of section 3317.023 of the Revised Code. 40934

Sec. 3323.142. This section does not apply to any preschool 40935
child with a disability except if included in a unit approved 40936
under division (B) of section 3317.05 of the Revised Code. 40937

As used in this section, "per pupil amount" for a preschool 40938
child with a disability included in such an approved unit means 40939
the amount determined by dividing the amount received for the 40940
classroom unit in which the child has been placed by the number of 40941
children in the unit. For any other child, "per pupil amount" 40942
means the amount paid for the child under section 3317.20 of the 40943
Revised Code. 40944

When a school district places or has placed a child with a 40945
county MR/DD board for special education, but another district is 40946
responsible for tuition under section 3313.64 or 3313.65 of the 40947
Revised Code and the child is not a resident of the territory 40948
served by the county MR/DD board, the board may charge the 40949
district responsible for tuition with the educational costs in 40950
excess of the per pupil amount received by the board under ~~Chapter~~ 40951
Chapters 3306. and 3317. of the Revised Code. The amount of the 40952
excess cost shall be determined by the formula established by rule 40953
of the department of education under section 3323.14 of the 40954
Revised Code, and the payment for such excess cost shall be made 40955
by the school district directly to the county MR/DD board. 40956

A school district board of education and the county MR/DD 40957
board that serves the school district may negotiate and contract, 40958
at or after the time of placement, for payments by the board of 40959
education to the county MR/DD board for additional services 40960
provided to a child placed with the county MR/DD board and whose 40961
individualized education program established pursuant to section 40962
3323.08 of the Revised Code requires additional services that are 40963
not routinely provided children in the county MR/DD board's 40964
program but are necessary to maintain the child's enrollment and 40965

participation in the program. Additional services may include, but 40966
are not limited to, specialized supplies and equipment for the 40967
benefit of the child and instruction, training, or assistance 40968
provided by staff members other than staff members for which 40969
funding is received under Chapter 3306. or 3317. of the Revised 40970
Code. 40971

Sec. 3324.05. (A) Each school district shall submit an annual 40972
report to the department of education specifying the number of 40973
students in each of grades kindergarten through twelfth screened, 40974
the number assessed, and the number identified as gifted in each 40975
category specified in section 3324.03 of the Revised Code. 40976

(B) The department of education shall audit each school 40977
district's identification numbers at least once every three years 40978
and may select any district at random or upon complaint or 40979
suspicion of noncompliance for a further audit to determine 40980
compliance with sections 3324.03 to 3324.06 of the Revised Code. 40981

(C) The department shall provide technical assistance to any 40982
district found in noncompliance under division (B) of this 40983
section. The department may reduce funds received by the district 40984
under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code by any 40985
amount if the district continues to be noncompliant. 40986

Sec. 3325.01. The state school for the deaf and the state 40987
school for the blind shall be under the control and supervision of 40988
the state board of education. On the recommendation of the 40989
superintendent of public instruction, the state board of education 40990
shall appoint a an assistant superintendent for the state school 40991
for the deaf and a an assistant superintendent for the state 40992
school for the blind, each of whom shall serve at the pleasure of 40993
the state board. 40994

Sec. 3325.011. Subject to the regulations adopted by the 40995

state board of education, the state school for the deaf shall be 40996
open to receive persons who are deaf, partially deaf, and both 40997
blind and deaf residents of this state, who, in the judgment of 40998
the superintendent of public instruction and the assistant 40999
superintendent ~~of~~ for the school for the deaf, due to such 41000
disability, cannot be educated in the public school system and are 41001
suitable persons to receive instructions according to the methods 41002
employed in such school. The ~~superintendent~~ department of ~~the~~ 41003
~~school for the deaf~~ education may pay the expenses necessary for 41004
the instruction of children who are both blind and deaf, who are 41005
~~resident~~ residents of this state, in any suitable institution. 41006

41007

Sec. 3325.02. Subject to the regulations adopted by the state 41008
board of education, the state school for the blind shall be open 41009
to receive such blind and partially blind persons, residents of 41010
this state, who, in the judgment of the superintendent of public 41011
instruction and the assistant superintendent ~~of~~ for the school for 41012
the blind, due to such disability, cannot be educated in the 41013
public school system and are suitable persons to receive 41014
instructions according to the methods employed in such school. 41015

Sec. 3325.03. The assistant superintendent ~~of~~ for the state 41016
school for the deaf or the assistant superintendent ~~of~~ for the 41017
state school for the blind may return to ~~its~~ the pupil's parents, 41018
guardian, or proper agency any pupil under ~~his~~ the assistant 41019
superintendent's jurisdiction, who, in the opinion of such 41020
assistant superintendent and the superintendent of public 41021
instruction, is not making sufficient progress in ~~its~~ the pupil's 41022
school or industrial work to justify ~~its~~ continuance as a pupil in 41023
such school. 41024

Sec. 3325.04. The ~~superintendent of the state school for the~~ 41025

~~deaf and the superintendent of the state school for the blind,~~ 41026
~~with the approval of the superintendent of public instruction,~~ 41027
~~shall, for their respective schools and~~ department of education, 41028
subject to the rules and regulations of the civil service, shall 41029
employ for the state school for the deaf and the state school for 41030
the blind suitable teachers, nurses, and other help necessary to 41031
provide the proper instruction and care for the pupils under ~~their~~ 41032
the schools' jurisdiction. 41033

No individual hired on or after ~~the effective date of this~~ 41034
~~amendment~~ August 29, 1991, as a classroom teacher at the state 41035
school for the blind shall be permitted to retain employment as a 41036
teacher at the school unless prior to the date of such hiring, or 41037
within one year of that date, the individual completes at least 41038
two courses of instruction in braille at an institution of higher 41039
education or demonstrates equivalent competency in the use of 41040
braille to the satisfaction of the superintendent of ~~the state~~ 41041
~~school for the blind~~ public instruction. 41042

Sec. 3325.041. Beginning on the effective date of this 41043
section, the superintendent of public instruction is the 41044
appointing authority for all teachers, nurses, and other employees 41045
employed by the state school for the deaf or the state school for 41046
the blind. Subject to any agreement entered into pursuant to 41047
Chapter 4117. of the Revised Code and the layoff provisions and 41048
procedures specified in sections 124.321 to 124.328 of the Revised 41049
Code, the superintendent shall identify the employees of the state 41050
school for the deaf or employees of the state school for the blind 41051
to be transferred to the department of education and shall 41052
transfer those employees by July 1, 2009, or as soon as possible 41053
thereafter. Any employee transferred to the department retains the 41054
employee's respective classification, but the superintendent may 41055
reassign and reclassify the employee's position and compensation 41056
as the superintendent determines to be in the interest of 41057

efficient administration. Employees employed by the department, 41058
the state school for the deaf, or the state school for the blind 41059
who are subject to Chapter 4117. of the Revised Code shall retain 41060
all of their rights and benefits conferred pursuant to that 41061
chapter as it presently exists or is hereafter amended and nothing 41062
in this chapter shall be construed as eliminating or interfering 41063
with Chapter 4117. of the Revised Code or the rights and benefits 41064
conferred under that chapter to public employees or to any 41065
bargaining unit. 41066

Sec. 3325.07. The state board of education in carrying out 41067
this section and section 3325.06 of the Revised Code shall, 41068
insofar as practicable, plan, present, and carry into effect an 41069
educational program by means of any of the following methods of 41070
instruction: 41071

(A) Classes for parents of deaf or hard of hearing children 41072
of preschool age; 41073

(B) A nursery school where parent and child would enter the 41074
nursery school as a unit; 41075

(C) Correspondence course; 41076

(D) Personal consultations and interviews; 41077

(E) Day-care or child development courses; 41078

(F) Summer enrichment courses; 41079

(G) By such other means or methods as the assistant 41080
superintendent ~~of~~ for the state school for the deaf deems 41081
advisable that would permit a deaf or hard of hearing child of 41082
preschool age to construct a pattern of communication at an early 41083
age. 41084

The assistant superintendent may allow children who are not 41085
deaf or hard of hearing to participate in the methods of 41086

instruction described in divisions (A) to (G) of this section as a 41087
means to assist deaf or hard of hearing children to construct a 41088
pattern of communication. The assistant superintendent shall 41089
establish policies and procedures regarding the participation of 41090
children who are not deaf or hard of hearing. 41091

The assistant superintendent may establish reasonable fees 41092
for participation in the methods of instruction described in 41093
divisions (A) to (G) of this section to defray the costs of 41094
carrying them out. The assistant superintendent shall determine 41095
the manner by which any such fees shall be collected. All fees 41096
shall be deposited in the even start fees and gifts fund, which is 41097
hereby created in the state treasury. The money in the fund shall 41098
be used to implement this section. 41099

Sec. 3325.08. (A) A diploma shall be granted by the assistant 41100
superintendent ~~of~~ for the state school for the blind and the 41101
assistant superintendent ~~of~~ for the state school for the deaf to 41102
any student enrolled in one of these state schools to whom all of 41103
the following apply: 41104

(1) The student has successfully completed the individualized 41105
education program developed for the student for the student's high 41106
school education pursuant to section 3323.08 of the Revised Code; 41107

(2) Subject to section 3313.614 of the Revised Code, the 41108
student has met the assessment requirements of division (A)(2)(a) 41109
or (b) of this section, as applicable. 41110

(a) If the student entered the ninth grade prior to the date 41111
prescribed by rule of the state board of education under division 41112
(E)(2) of section 3301.0712 of the Revised Code, the student 41113
either: 41114

~~(a)~~(i) Has attained at least the applicable scores designated 41115
under division (B)(1) of section 3301.0710 of the Revised Code on 41116

all the ~~tests~~ assessments prescribed by that division unless 41117
division (L) of section 3313.61 of the Revised Code applies to the 41118
student; 41119

~~(b)(ii)~~ Has satisfied the alternative conditions prescribed 41120
in section 3313.615 of the Revised Code. 41121

(b) If the student entered the ninth grade on or after the 41122
date prescribed by rule of the state board under division (E)(2) 41123
of section 3301.0712 of the Revised Code, the student has attained 41124
on the entire assessment system prescribed under division (B)(2) 41125
of section 3301.0710 of the Revised Code at least the required 41126
passing composite score, designated under division (C)(1) of 41127
section 3301.0712 of the Revised Code, except to the extent that 41128
division (L) of section 3313.61 of the Revised Code applies to the 41129
student. 41130

(3) The student is not eligible to receive an honors diploma 41131
granted pursuant to division (B) of this section. 41132

No diploma shall be granted under this division to anyone 41133
except as provided under this division. 41134

(B) In lieu of a diploma granted under division (A) of this 41135
section, the assistant superintendent ~~of~~ for the state school for 41136
the blind and the assistant superintendent ~~of~~ for the state school 41137
for the deaf shall grant an honors diploma, in the same manner 41138
that the boards of education of school districts grant such 41139
diplomas under division (B) of section 3313.61 of the Revised 41140
Code, to any student enrolled in one of these state schools who 41141
accomplishes all of the following: 41142

(1) Successfully completes the individualized education 41143
program developed for the student for the student's high school 41144
education pursuant to section 3323.08 of the Revised Code; 41145

(2) Subject to section 3313.614 of the Revised Code, has met 41146
the assessment requirements of division (B)(2)(a) or (b) of this 41147

section, as applicable. 41148

(a) If the student entered the ninth grade prior to the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the student either: 41149
41150
41151

~~(a)~~(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the ~~tests~~ assessments prescribed under that division; 41152
41153
41154

~~(b)~~(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code. 41155
41156

(b) If the student entered the ninth grade on or after the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the student has attained on the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code. 41157
41158
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(3) Has met additional criteria for granting an honors diploma. 41164
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These additional criteria shall be the same as those prescribed by the state board under division (B) of section 3313.61 of the Revised Code for the granting of such diplomas by school districts. No honors diploma shall be granted to anyone failing to comply with this division and not more than one honors diploma shall be granted to any student under this division. 41166
41167
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(C) A diploma or honors diploma awarded under this section shall be signed by the superintendent of public instruction and the assistant superintendent ~~of~~ for the state school for the blind or the assistant superintendent ~~of~~ for the state school for the deaf, as applicable. Each diploma shall bear the date of its issue and be in such form as the ~~school~~ assistant superintendent prescribes. 41172
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(D) Upon granting a diploma to a student under this section, 41179
the assistant superintendent ~~of~~ for the state school in which the 41180
student is enrolled shall provide notice of receipt of the diploma 41181
to the board of education of the school district where the student 41182
is entitled to attend school under section 3313.64 or 3313.65 of 41183
the Revised Code when not residing at the state school for the 41184
blind or the state school for the deaf. The notice shall indicate 41185
the type of diploma granted. 41186

Sec. 3325.10. The department of education, on behalf of the 41187
state school for the blind, may receive and administer any federal 41188
funds relating to the education of blind or visually impaired 41189
students. The ~~school for the blind~~ department also may accept and 41190
administer any gifts, donations, or bequests made to ~~it~~ the school 41191
for the blind for programs or services relating to the education 41192
of blind or visually impaired students. 41193

Sec. 3325.11. There is hereby created in the state treasury 41194
the state school for the blind student activity and work-study 41195
fund. Moneys received from donations, bequests, the school 41196
vocational program, and any other moneys designated for deposit in 41197
the fund by the assistant superintendent ~~of~~ for the state school 41198
for the blind shall be credited to the fund. Notwithstanding 41199
section 3325.01 of the Revised Code, the approval of the state 41200
board of education is not required to designate money for deposit 41201
into the fund. The ~~school for the blind~~ department of education 41202
shall use money in the fund for ~~school~~ operating expenses of the 41203
school for the blind, including, but not limited to, personal 41204
services, maintenance, and equipment related to student support, 41205
activities, and vocational programs, and for providing 41206
scholarships to students for further training upon graduation. 41207

Sec. 3325.12. Money deposited with the assistant 41208

superintendent ~~of~~ for the state school for the blind and the 41209
assistant superintendent ~~of~~ for the state school for the deaf by 41210
parents, relatives, guardians, and friends for the special benefit 41211
of any pupil shall remain in the hands of the respective assistant 41212
superintendent for use accordingly. Each assistant superintendent 41213
shall deposit the money into one or more personal deposit funds. 41214
Each assistant superintendent shall keep itemized book accounts of 41215
the receipt and disposition of the money, which books shall be 41216
open at all times to the inspection of the superintendent of 41217
public instruction. The assistant superintendent ~~of~~ for the state 41218
school for the blind and the assistant superintendent ~~of~~ for the 41219
state school for the deaf each shall ~~adopt rules~~ establish written 41220
requirements governing the deposit, transfer, withdrawal, or 41221
investment of the money and the investment earnings of the money. 41222

Whenever a pupil ceases to be enrolled in the state school 41223
for the blind or the state school for the deaf, if personal money 41224
of the pupil remains in the hands of the respective assistant 41225
superintendent and no demand is made upon the assistant 41226
superintendent by the pupil or the pupil's parent or guardian, the 41227
assistant superintendent shall hold the money in a personal 41228
deposit fund for a period of at least one year. During that time, 41229
the assistant superintendent shall make every effort possible to 41230
locate the pupil or the pupil's parent or guardian. If, at the end 41231
of this period, no demand has been made for the money held by the 41232
state school for the blind, the assistant superintendent ~~of~~ for 41233
the state school for the blind shall dispose of the money by 41234
transferring it to the state school for the blind student activity 41235
and work-study fund established by section 3325.11 of the Revised 41236
Code. If at the end of this period, no demand has been made for 41237
the money held by the state school for the deaf, the assistant 41238
superintendent ~~of~~ for the state school for the deaf shall dispose 41239
of the money by transferring it to the state school for the deaf 41240

educational program expenses fund established by section 3325.16 41241
of the Revised Code. 41242

Sec. 3325.15. The department of education, on behalf of the 41243
state school for the deaf, may receive and administer any federal 41244
funds relating to the education of deaf or hearing-impaired 41245
students. The ~~school for the deaf~~ department also may accept and 41246
administer any gifts, donations, or bequests given to ~~it~~ the 41247
school for the deaf for programs or services relating to the 41248
education of deaf or hearing-impaired students. 41249

Sec. 3325.16. There is hereby created in the state treasury 41250
the state school for the deaf educational program expenses fund. 41251
Moneys received ~~by the school~~ from donations, bequests, student 41252
fundraising activities, fees charged for camps and workshops, gate 41253
receipts from athletic contests, and the student work experience 41254
program operated by the school, and any other moneys designated 41255
for deposit in the fund by the assistant superintendent ~~of~~ for the 41256
school, shall be credited to the fund. Notwithstanding section 41257
3325.01 of the Revised Code, the approval of the state board of 41258
education is not required to designate money for deposit into the 41259
fund. The ~~state school for the deaf~~ department of education shall 41260
use moneys in the fund for the school for the deaf's educational 41261
programs, after-school activities, and expenses associated with 41262
student activities and clubs. 41263

Sec. 3326.11. Each science, technology, engineering, and 41264
mathematics school established under this chapter and its 41265
governing body shall comply with division (A)(9) of section 41266
3313.60 of the Revised Code and sections 9.90, 9.91, 109.65, 41267
121.22, 149.43, 2151.357, 2151.421, 2313.18, 2921.42, 2921.43, 41268
~~3301.0712,~~ 3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 41269
3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 41270

3313.50, 3313.536, 3313.605, 3313.607, 3313.608, 3313.6012, 41271
3313.6013, 3313.6014, 3313.61, 3313.611, 3313.614, 3313.615, 41272
3313.643, 3313.648, 3313.66, 3313.661, 3313.662, 3313.666, 41273
3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 41274
3313.716, 3313.718, 3313.80, 3313.801, 3313.82, 3313.821, 3313.96, 41275
3319.073, 3319.21, 3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 41276
3319.41, 3319.45, 3321.01, 3321.13, 3321.14, 3321.17, 3321.18, 41277
3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and 41278
Chapters 102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 41279
4112., 4123., 4141., and 4167. of the Revised Code as if it were a 41280
school district. 41281

Sec. 3326.14. Each science, technology, engineering, and 41282
mathematics school and its governing body shall administer the 41283
~~tests~~ assessments required by sections 3301.0710 ~~and,~~ 3301.0711, 41284
and 3301.0712 of the Revised Code, as if it were a school 41285
district, except that, notwithstanding any provision of those 41286
sections to the contrary, any student enrolled in a grade lower 41287
than the tenth grade in a STEM school may take one or more of the 41288
Ohio graduation tests prescribed under division (B)(1) of section 41289
3301.0710 of the Revised Code on any of the dates prescribed ~~in~~ 41290
~~division (C)(3) of that section~~ for that assessment. 41291

Sec. 3326.21. (A) Each science, technology, engineering, and 41293
mathematics school shall have a treasurer who is licensed under 41294
section 3301.074 of the Revised Code. The governing body of the 41295
school and the treasurer shall comply with sections 3301.072, 41296
3313.22 to 3313.32, 3313.51, and 3315.08 of the Revised Code in 41297
the same manner as a school district board of education and a 41298
district treasurer. 41299

(B) Each STEM school shall comply with the financial 41300
reporting standards adopted by the state board of education under 41301

division (B)(2) of section 3301.07 of the Revised Code. Financial 41302
records of each STEM school shall be maintained in the same manner 41303
as are financial records of school districts, pursuant to rules of 41304
the auditor of state. 41305

Sec. 3326.23. The governing body of each science, technology, 41306
engineering, and mathematics school annually shall provide the 41307
following assurances in writing to the department of education not 41308
later than ten business days prior to the opening of the school: 41309
41310

(A) That the school has a plan for providing special 41311
education and related services to students with disabilities and 41312
has demonstrated the capacity to provide those services in 41313
accordance with Chapter 3323. of the Revised Code and federal law; 41314
41315

(B) That the school has a plan and procedures for 41316
administering the achievement ~~tests~~ and diagnostic assessments 41317
prescribed by sections 3301.0710, 3301.0712, and 3301.0715 of the 41318
Revised Code; 41319

(C) That school personnel have the necessary training, 41320
knowledge, and resources to properly use and submit information to 41321
all databases maintained by the department for the collection of 41322
education data, including the education management information 41323
system established under section 3301.0714 of the Revised Code; 41324

(D) That all required information about the school has been 41325
submitted to the Ohio education directory system or any successor 41326
system; 41327

(E) That all classroom teachers are licensed in accordance 41328
with sections 3319.22 to 3319.31 of the Revised Code or are 41329
engaged to teach pursuant to section 3319.301 of the Revised Code; 41330

(F) That the school's treasurer is in compliance with section 41331

3326.21 of the Revised Code;	41332
(G) That the school has complied with sections 3319.39 and 3319.391 of the Revised Code with respect to all employees and that the school has conducted a criminal records check of each of its governing body members;	41333 41334 41335 41336
(H) That the school holds all of the following:	41337
(1) Proof of property ownership or a lease for the facilities used by the school;	41338 41339
(2) A certificate of occupancy;	41340
(3) Liability insurance for the school, as required by section 3326.11 of the Revised Code;	41341 41342
(4) A satisfactory health and safety inspection;	41343
(5) A satisfactory fire inspection;	41344
(6) A valid food permit, if applicable.	41345
(I) That the governing body has conducted a pre-opening site visit to the school for the school year for which the assurances are provided;	41346 41347 41348
(J) That the school has designated a date it will open for the school year for which the assurances are provided;	41349 41350
(K) That the school has met all of the governing body's requirements for opening and any other requirements of the governing body.	41351 41352 41353
Sec. 3326.31. As used in sections 3326.31 to 3326.50 of the Revised Code:	41354 41355
(A) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a disability described in that section.	41356 41357 41358
(B) "Applicable vocational education weight" means the	41359

~~multiple specified in section 3317.014 of the Revised Code for~~ 41360
~~vocational education programs or classes described in that~~ 41361
~~section.~~ 41362

~~(C) "Formula amount" has the same meaning as in section~~ 41363
~~3317.02 of the Revised Code.~~ 41364

~~(D) "IEP" means an individualized education program as~~ 41365
~~defined in section 3323.01 of the Revised Code.~~ 41366

~~(E) A student is "included in the poverty student count of~~ 41367
~~the student's resident district" if the student's family receives~~ 41368
~~assistance under the Ohio works first program.~~ 41369

~~(F)~~(B) "Resident district" means the school district in which 41370
a student is entitled to attend school under section 3313.64 or 41371
3313.65 of the Revised Code. 41372

~~(G) "State education aid" has the same meaning as in section~~ 41373
~~5751.20 of the Revised Code.~~ 41374

Sec. 3326.32. Each science, technology, engineering, and 41375
mathematics school shall report to the department of education, in 41376
the form and manner required by the department, all of the 41377
following information: 41378

(A) The total number of students enrolled in the school; 41379

(B) The number of students who are receiving special 41380
education and related services pursuant to an IEP; 41381

(C) For each student reported under division (B) of this 41382
section, which category specified in divisions ~~(A) to (F)~~(C)(1) to 41383
(6) of section ~~3317.013~~ 3306.02 of the Revised Code applies to the 41384
student; 41385

(D) The full-time equivalent number of students who are 41386
enrolled in vocational education programs or classes described in 41387
each of divisions (A) and (B) of section 3317.014 of the Revised 41388

Code that are provided by the STEM school; 41389

(E) The resident district of each student; 41390

(F) Any additional information the department determines 41391
necessary to make payments ~~under this chapter~~ to the school. 41392

Sec. 3326.33. For each student enrolled in a science, 41393
technology, engineering, and mathematics school established under 41394
this chapter other than a school that is governed as provided in 41395
section 3326.51 of the Revised Code, the department of education 41396
annually shall ~~deduct from the state education aid of a student's~~ 41397
~~resident school district and, if necessary, from the payment made~~ 41398
~~to the district under sections 321.24 and 323.156 of the Revised~~ 41399
~~Code and pay to the school the sum of the following:~~ 41400

(A) ~~The sum of the formula amount plus the per pupil amount~~ 41401
~~of the base funding supplements specified in divisions (C)(1) to~~ 41402
~~(4) of section 3317.012 of the Revised Code.~~ 41403

(B) ~~If the student is receiving special education and related~~ 41404
~~services pursuant to an IEP, the product of the applicable special~~ 41405
~~education weight times the formula amount;~~ 41406

(C) ~~If the student is enrolled in vocational education~~ 41407
~~programs or classes that are described in section 3317.014 of the~~ 41408
~~Revised Code, are provided by the school, and are comparable as~~ 41409
~~determined by the superintendent of public instruction to school~~ 41410
~~district vocational education programs and classes eligible for~~ 41411
~~state weighted funding under section 3317.014 of the Revised Code,~~ 41412
~~the product of the applicable vocational education weight times~~ 41413
~~the formula amount times the percentage of time the student spends~~ 41414
~~in the vocational education programs or classes;~~ 41415

(D) ~~If the student is included in the poverty student count~~ 41416
~~of the student's resident district, the per pupil amount of the~~ 41417
~~district's payment under division (C) of section 3317.029 of the~~ 41418

~~Revised Code;~~ 41419

~~(E) If the student is identified as limited English proficient and the student's resident district receives a payment for services to limited English proficient students under division (F) of section 3317.029 of the Revised Code, the per pupil amount of the district's payment under that division, calculated in the same manner as per pupil payments are calculated under division (C)(6) of section 3314.08 of the Revised Code;~~ 41420
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~~(F) If the student's resident district receives a payment under division (G), (H), or (I) of section 3317.029 of the Revised Code, the per pupil amount of the district's payments under each division, calculated in the same manner as per pupil payments are calculated under divisions (C)(7) and (8) of section 3314.08 of the Revised Code;~~ 41427
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~~(G) If the student's resident district receives a parity aid payment under section 3317.0217 of the Revised Code, the per pupil amount calculated for the district under division (C) or (D) of that section amount calculated for the school under section 3306.17 of the Revised Code.~~ 41433
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Sec. 3326.34. If a science, technology, engineering, and mathematics school established under this chapter, other than a school that is governed as provided in section 3326.51 of the Revised Code, incurs costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a disability described in divisions ~~(B)(C)(1)~~ to ~~(F)(6)~~ of section ~~3317.013~~ 3306.02 of the Revised Code that exceed the threshold catastrophic cost for serving the student as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the STEM school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a 41438
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student of the type and in the manner prescribed, the department 41450
of education shall pay to the school an amount equal to the 41451
school's costs for the student in excess of the threshold 41452
catastrophic costs. 41453

The school shall only report under this section, and the 41454
department shall only pay for, the costs of educational expenses 41455
and the related services provided to the student in accordance 41456
with the student's IEP. Any legal fees, court costs, or other 41457
costs associated with any cause of action relating to the student 41458
may not be included in the amount. 41459

Sec. 3326.36. The department of education shall reduce the 41460
amounts paid to a science, technology, engineering, and 41461
mathematics school under section 3326.33 of the Revised Code to 41462
reflect payments made to colleges under division (B) of section 41463
3365.07 of the Revised Code or through alternative funding 41464
agreements entered into under rules adopted under section 3365.12 41465
of the Revised Code. A student shall be considered enrolled in the 41466
school for any portion of the school year the student is attending 41467
a college under Chapter 3365. of the Revised Code. 41468

Sec. 3326.37. The department of education shall not pay to a 41469
science, technology, engineering, and mathematics school any 41470
amount for any of the following: 41471

(A) Any student who has graduated from the twelfth grade of a 41472
public or nonpublic school; 41473

(B) Any student who is not a resident of the state; 41474

(C) Any student who was enrolled in a STEM school during the 41475
previous school year when ~~tests~~ assessments were administered 41476
under section 3301.0711 of the Revised Code but did not take one 41477
or more of the ~~tests~~ assessments required by that section and was 41478
not excused pursuant to division (C)(1) or (3) of that section, 41479

unless the superintendent of public instruction grants the student 41480
a waiver from the requirement to take the ~~test~~ assessment. The 41481
superintendent may grant a waiver only for good cause in 41482
accordance with rules adopted by the state board of education. 41483
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(D) Any student who has attained the age of twenty-two years, 41485
except for veterans of the armed services whose attendance was 41486
interrupted before completing the recognized twelve-year course of 41487
the public schools by reason of induction or enlistment in the 41488
armed forces and who apply for enrollment in a STEM school not 41489
later than four years after termination of war or their honorable 41490
discharge. If, however, any such veteran elects to enroll in 41491
special courses organized for veterans for whom tuition is paid 41492
under federal law, or otherwise, the department shall not pay to 41493
the school any amount for that veteran. 41494

Sec. 3326.38. A science, technology, engineering, and 41495
mathematics school may do all of the following: 41496

(A) ~~Apply to the department of education for gifted unit~~ 41497
~~funding;~~ 41498

~~(B)~~ Apply to any state or federal agency for grants that a 41499
school district or public school may receive under federal or 41500
state law or any appropriations act of the general assembly; 41501

~~(C)~~(B) Apply to any private entity or foundation for 41502
additional funds. 41503

Sec. 3326.51. (A) As used in this section: 41504

(1) "Resident district" has the same meaning as in section 41505
3326.31 of the Revised Code. 41506

(2) "STEM school sponsoring district" means a municipal, 41507
city, local, exempted village, or joint vocational school district 41508

that governs and controls a STEM school pursuant to this section. 41509

(B) Notwithstanding any other provision of this chapter to 41510
the contrary: 41511

(1) If a proposal for a STEM school submitted under section 41512
3326.03 of the Revised Code proposes that the governing body of 41513
the school be the board of education of a municipal, city, local, 41514
exempted village, or joint vocational school district that is one 41515
of the partners submitting the proposal, and the partnership for 41516
continued learning approves that proposal, that school district 41517
board shall govern and control the STEM school as one of the 41518
schools of its district. 41519

(2) The STEM school sponsoring district shall maintain a 41520
separate accounting for the STEM school as a separate and distinct 41521
operational unit within the district's finances. The auditor of 41522
state, in the course of an annual or biennial audit of the school 41523
district serving as the STEM school sponsoring district, shall 41524
audit that school district for compliance with the financing 41525
requirements of this section. 41526

(3) With respect to students enrolled in a STEM school whose 41527
resident district is the STEM school sponsoring district: 41528

~~(a) The department of education shall make no deductions 41529
under section 3326.33 of the Revised Code from the STEM school 41530
sponsoring district's state payments. 41531~~

~~(b) The STEM school sponsoring district shall ensure that it 41532
allocates to the STEM school funds equal to or exceeding the 41533
amount that would be calculated pursuant to division (B) of 41534
section 3313.981 Chapter 3306. of the Revised Code for the 41535
students attending the school whose resident district is the STEM 41536
school sponsoring district. 41537~~

~~(e)(b) The STEM school sponsoring district is responsible for 41538
providing children with disabilities with a free appropriate 41539~~

public education under Chapter 3323. of the Revised Code. 41540

~~(d)~~(c) The STEM school sponsoring district shall provide 41541
student transportation in accordance with laws and policies 41542
generally applicable to the district. 41543

(4) With respect to students enrolled in the STEM school 41544
whose resident district is another school district, ~~the department~~ 41545
~~shall make no payments or deductions under sections 3326.31 to~~ 41546
~~3326.49 of the Revised Code. Instead,~~ the students shall be 41547
considered as open enrollment students and the ~~department shall~~ 41548
~~make payments and deductions in accordance with~~ STEM school 41549
sponsoring district shall include those students in its formula 41550
ADM reported under section ~~3313.981~~ 3317.03 of the Revised Code. 41551
The STEM school sponsoring district shall allocate ~~the state~~ 41552
payments received under Chapter 3306. of the Revised Code that are 41553
attributable to those students to the STEM school. The STEM school 41554
sponsoring district may enter into financial agreements with the 41555
students' resident districts, which agreements may provide 41556
financial support in addition to the funds received ~~from the open~~ 41557
~~enrollment calculation~~ under Chapter 3306. of the Revised Code. 41558
The STEM school sponsoring district shall allocate all such 41559
additional funds to the STEM school. 41560

(5) Where the department is required to make, deny, reduce, 41561
or adjust payments to a STEM school sponsoring district pursuant 41562
to this section, it shall do so in such a manner that the STEM 41563
school sponsoring district may allocate that action to the STEM 41564
school. 41565

(6) A STEM school sponsoring district and its board may 41566
assign its district employees to the STEM school, in which case 41567
section 3326.18 of the Revised Code shall not apply. The district 41568
and board may apply any other resources of the district to the 41569
STEM school in the same manner that it applies district resources 41570
to other district schools. 41571

(7) Provisions of this chapter requiring a STEM school and its governing body to comply with specified laws as if it were a school district and in the same manner as a board of education shall instead require such compliance by the STEM school sponsoring district and its board of education, respectively, with respect to the STEM school. Where a STEM school or its governing body is required to perform a specific duty or permitted to take a specific action under this chapter, that duty is required to be performed or that action is permitted to be taken by the STEM school sponsoring district or its board of education, respectively, with respect to the STEM school.

(8) No provision of this chapter limits the authority, as provided otherwise by law, of a school district and its board of education to levy taxes and issue bonds secured by tax revenues.

(9) The treasurer of the STEM school sponsoring district or, if the STEM school sponsoring district is a municipal school district, the chief financial officer of the district, shall have all of the respective rights, authority, exemptions, and duties otherwise conferred upon the treasurer or chief financial officer by the Revised Code.

Sec. 3327.02. (A) After considering each of the following factors, the board of education of a city, exempted village, or local school district may determine that it is impractical to transport a pupil who is eligible for transportation to and from a school under section 3327.01 of the Revised Code:

(1) The time and distance required to provide the transportation;

(2) The number of pupils to be transported;

(3) The cost of providing transportation in terms of equipment, maintenance, personnel, and administration;

(4) Whether similar or equivalent service is provided to other pupils eligible for transportation;	41602 41603
(5) Whether and to what extent the additional service unavoidably disrupts current transportation schedules;	41604 41605
(6) Whether other reimbursable types of transportation are available.	41606 41607
(B)(1) Based on its consideration of the factors established in division (A) of this section, the board may pass a resolution declaring the impracticality of transportation. The resolution shall include each pupil's name and the reason for impracticality.	41608 41609 41610 41611
(2) The board shall report its determination to the state board of education in a manner determined by the state board.	41612 41613
(3) The board of education of a local school district additionally shall submit the resolution for concurrence to the educational service center that contains the local district's territory. If the educational service center governing board considers transportation by school conveyance practicable, it shall so inform the local board and transportation shall be provided by such local board. If the educational service center board agrees with the view of the local board, the local board may offer payment in lieu of transportation as provided in this section.	41614 41615 41616 41617 41618 41619 41620 41621 41622 41623
(C) After passing the resolution declaring the impracticality of transportation, the district board shall offer to provide payment in lieu of transportation by doing the following:	41624 41625 41626
(1) In accordance with guidelines established by the department of education, informing the pupil's parent, guardian, or other person in charge of the pupil of both of the following:	41627 41628 41629
(a) The board's resolution;	41630
(b) The right of the pupil's parent, guardian, or other	41631

person in charge of the pupil to accept the offer of payment in 41632
lieu of transportation or to reject the offer and instead request 41633
the department to initiate mediation procedures. 41634

(2) Issuing the pupil's parent, guardian, or other person in 41635
charge of the pupil a contract or other form on which the parent, 41636
guardian, or other person in charge of the pupil is given the 41637
option to accept or reject the board's offer of payment in lieu of 41638
transportation. 41639

(D) If the parent, guardian, or other person in charge of the 41640
pupil accepts the offer of payment in lieu of providing 41641
transportation, the board shall pay the parent, guardian, or other 41642
person in charge of the child an amount that shall be not less 41643
than the amount determined by the department of education as the 41644
minimum for payment in lieu of transportation, and not more than 41645
the amount determined by the department as the average cost of 41646
pupil transportation for the previous school year. Payment may be 41647
prorated if the time period involved is only a part of the school 41648
year. 41649

(E)(1)(a) Upon the request of a parent, guardian, or other 41650
person in charge of the pupil who rejected the payment in lieu of 41651
transportation, the department shall conduct mediation procedures. 41652

(b) If the mediation does not resolve the dispute, the state 41653
board of education shall conduct a hearing in accordance with 41654
Chapter 119. of the Revised Code. The state board may approve the 41655
payment in lieu of transportation or may order the board of 41656
education to provide transportation. The decision of the state 41657
board is binding in subsequent years and on future parties in 41658
interest provided the facts of the determination remain 41659
comparable. 41660

(2) The school district shall provide transportation for the 41661
pupil from the time the parent, guardian, or other person in 41662

charge of the pupil requests mediation until the matter is 41663
resolved under division (E)(1)(a) or (b) of this section. 41664

(F)(1) If the department determines that a school district 41665
board has failed or is failing to provide transportation as 41666
required by division (E)(2) of this section or as ordered by the 41667
state board under division (E)(1)(b) of this section, the 41668
department shall order the school district board to pay to the 41669
pupil's parent, guardian, or other person in charge of the pupil, 41670
an amount equal to the state average daily cost of transportation 41671
as determined by the state board of education for the previous 41672
year. The school district board shall make payments on a schedule 41673
ordered by the department. 41674

(2) If the department subsequently finds that a school 41675
district board is not in compliance with an order issued under 41676
division (F)(1) of this section and the affected pupils are 41677
enrolled in a nonpublic or community school, the department shall 41678
deduct the amount that the board is required to pay under that 41679
order from any payments the department makes to the school 41680
district board under ~~division (D) of section 3317.022~~ 3306.12 of 41681
the Revised Code. The department shall use the moneys so deducted 41682
to make payments to the nonpublic or community school attended by 41683
the pupil. The department shall continue to make the deductions 41684
and payments required under this division until the school 41685
district board either complies with the department's order issued 41686
under division (F)(1) of this section or begins providing 41687
transportation. 41688

(G) A nonpublic or community school that receives payments 41689
from the department under division (F)(2) of this section shall do 41690
either of the following: 41691

(1) Disburse the entire amount of the payments to the parent, 41692
guardian, or other person in control of the pupil affected by the 41693
failure of the school district of residence to provide 41694

transportation; 41695

(2) Use the entire amount of the payments to provide 41696
acceptable transportation for the affected pupil. 41697

Sec. 3327.04. (A) The board of education of any city, 41698
exempted village, or local school district may contract with the 41699
board of another district for the admission or transportation, or 41700
both, of pupils into any school in such other district, on terms 41701
agreed upon by such boards. 41702

(B) The boards of two school districts may enter into a 41703
contract under this section to share the provision of 41704
transportation to a child who resides in one school district and 41705
attends school in the other district. Under such an agreement, one 41706
district may claim the total transportation subsidy available for 41707
such child under ~~division (D) of section 3317.022~~ 3306.12 of the 41708
Revised Code and may agree to pay any portion of such subsidy to 41709
the other district sharing the provision of transportation to that 41710
child. The contract shall delineate the transportation 41711
responsibilities of each district. 41712

A school district that enters into a contract under this 41713
section is not liable for any injury, death, or loss to the person 41714
or property of a student that may occur while the student is being 41715
furnished transportation by the other school district that is a 41716
party to the contract. 41717

(C) Whenever a board not maintaining a high school enters 41718
into an agreement with one or more boards maintaining such school 41719
for the schooling of all its high school pupils, the board making 41720
such agreement is exempt from the payment of tuition at other high 41721
schools of pupils living within three miles of the school 41722
designated in the agreement. In case no such agreement is entered 41723
into, the high school to be attended can be selected by the pupil 41724
holding an eighth grade diploma, and the tuition shall be paid by 41725

the board of the district of school residence. 41726

Sec. 3327.05. (A) Except as provided in division (B) of this 41727
section, no board of education of any school district shall 41728
provide transportation for any pupil who is a school resident of 41729
another school district unless the pupil is enrolled pursuant to 41730
section 3313.98 of the Revised Code or the board of the other 41731
district has given its written consent thereto. If the board of 41732
any school district files with the state board of education a 41733
written complaint that transportation for resident pupils is being 41734
provided by the board of another school district contrary to this 41735
division, the state board of education shall make an investigation 41736
of such complaint. If the state board of education finds that 41737
transportation is being provided contrary to this section, it may 41738
withdraw from state funds due the offending district any part of 41739
the amount that has been approved for transportation pursuant to 41740
~~division (D) of section 3317.022~~ 3306.12 of the Revised Code. 41741

(B) Notwithstanding division (D) of section 3311.19 and 41742
division (D) of section 3311.52 of the Revised Code, this division 41743
does not apply to any joint vocational or cooperative education 41744
school district. 41745

A board of education may provide transportation to and from 41746
the nonpublic school of attendance if both of the following apply: 41747

(1) The parent, guardian, or other person in charge of the 41748
pupil agrees to pay the board for all costs incurred in providing 41749
the transportation that are not reimbursed pursuant to Chapter 41750
3306. or 3317. of the Revised Code; 41751

(2) The pupil's school district of residence does not provide 41752
transportation for public school pupils of the same grade as the 41753
pupil being transported under this division, or that district is 41754
not required under section 3327.01 of the Revised Code to 41755
transport the pupil to and from the nonpublic school because the 41756

direct travel time to the nonpublic school is more than thirty 41757
minutes. 41758

Upon receipt of the request to provide transportation, the 41759
board shall review the request and determine whether the board 41760
will accommodate the request. If the board agrees to transport the 41761
pupil, the board may transport the pupil to and from the nonpublic 41762
school and a collection point in the district, as determined by 41763
the board. If the board transports the pupil, the board may 41764
include the pupil in the district's transportation ADM reported to 41765
the department of education under section 3317.03 of the Revised 41766
Code and, accordingly, may receive a state payment under ~~division~~ 41767
~~(D)~~ of section ~~3317.022~~ 3306.12 of the Revised Code for 41768
transporting the pupil. 41769

If the board declines to transport the pupil, the board, in a 41770
written communication to the parent, guardian, or other person in 41771
charge of the pupil, shall state the reasons for declining the 41772
request. 41773

Sec. 3329.16. If the superintendent of public instruction 41774
determines that a school district has expended for other purposes 41775
any moneys appropriated by the general assembly for the specific 41776
purpose of purchasing textbooks or other instructional materials, 41777
the superintendent shall notify the school district of this 41778
determination within seven days and shall deduct the amount so 41779
expended from payments otherwise due to the district under Chapter 41780
3306. or 3317. of the Revised Code. 41781

Sec. 3333.04. The chancellor of the Ohio board of regents 41782
shall: 41783

(A) Make studies of state policy in the field of higher 41784
education and formulate a master plan for higher education for the 41785
state, considering the needs of the people, the needs of the 41786

state, and the role of individual public and private institutions 41787
within the state in fulfilling these needs; 41788

(B)(1) Report annually to the governor and the general 41789
assembly on the findings from the chancellor's studies and the 41790
master plan for higher education for the state; 41791

(2) Report at least semiannually to the general assembly and 41792
the governor the enrollment numbers at each state-assisted 41793
institution of higher education. 41794

(C) Approve or disapprove the establishment of new branches 41795
or academic centers of state colleges and universities; 41796

(D) Approve or disapprove the establishment of state 41797
technical colleges or any other state institution of higher 41798
education; 41799

(E) Recommend the nature of the programs, undergraduate, 41800
graduate, professional, state-financed research, and public 41801
services which should be offered by the state colleges, 41802
universities, and other state-assisted institutions of higher 41803
education in order to utilize to the best advantage their 41804
facilities and personnel; 41805

(F) Recommend to the state colleges, universities, and other 41806
state-assisted institutions of higher education graduate or 41807
professional programs, including, but not limited to, doctor of 41808
philosophy, doctor of education, and juris doctor programs, that 41809
could be eliminated because they constitute unnecessary 41810
duplication, as shall be determined using the process developed 41811
pursuant to this division, or for other good and sufficient cause. 41812
Prior to recommending a program for elimination, the chancellor 41813
shall request the board of regents to hold at least one public 41814
hearing on the matter and advise the chancellor on whether the 41815
program should be recommended for elimination. The board shall 41816
provide notice of each hearing within a reasonable amount of time 41817

prior to its scheduled date. Following the hearing, the board 41818
shall issue a recommendation to the chancellor. The chancellor 41819
shall consider the board's recommendation but shall not be 41820
required to accept it. 41821

For purposes of determining the amounts of any state 41822
instructional subsidies paid to state colleges, universities, and 41823
other state-assisted institutions of higher education, the 41824
chancellor may exclude students enrolled in any program that the 41825
chancellor has recommended for elimination pursuant to this 41826
division except that the chancellor shall not exclude any such 41827
student who enrolled in the program prior to the date on which the 41828
chancellor initially commences to exclude students under this 41829
division. 41830

The chancellor and state colleges, universities, and other 41831
state-assisted institutions of higher education shall jointly 41832
develop a process for determining which existing graduate or 41833
professional programs constitute unnecessary duplication. 41834

(G) Recommend to the state colleges, universities, and other 41835
state-assisted institutions of higher education programs which 41836
should be added to their present programs; 41837

(H) Conduct studies for the state colleges, universities, and 41838
other state-assisted institutions of higher education to assist 41839
them in making the best and most efficient use of their existing 41840
facilities and personnel; 41841

(I) Make recommendations to the governor and general assembly 41842
concerning the development of state-financed capital plans for 41843
higher education; the establishment of new state colleges, 41844
universities, and other state-assisted institutions of higher 41845
education; and the establishment of new programs at the existing 41846
state colleges, universities, and other institutions of higher 41847
education; 41848

(J) Review the appropriation requests of the public community colleges and the state colleges and universities and submit to the office of budget and management and to the chairpersons of the finance committees of the house of representatives and of the senate the chancellor's recommendations in regard to the biennial higher education appropriation for the state, including appropriations for the individual state colleges and universities and public community colleges. For the purpose of determining the amounts of instructional subsidies to be paid to state-assisted colleges and universities, the chancellor shall define "full-time equivalent student" by program per academic year. The definition may take into account the establishment of minimum enrollment levels in technical education programs below which support allowances will not be paid. Except as otherwise provided in this section, the chancellor shall make no change in the definition of "full-time equivalent student" in effect on November 15, 1981, which would increase or decrease the number of subsidy-eligible full-time equivalent students, without first submitting a fiscal impact statement to the president of the senate, the speaker of the house of representatives, the legislative service commission, and the director of budget and management. The chancellor shall work in close cooperation with the director of budget and management in this respect and in all other matters concerning the expenditures of appropriated funds by state colleges, universities, and other institutions of higher education.

(K) Seek the cooperation and advice of the officers and trustees of both public and private colleges, universities, and other institutions of higher education in the state in performing the chancellor's duties and making the chancellor's plans, studies, and recommendations;

(L) Appoint advisory committees consisting of persons associated with public or private secondary schools, members of

the state board of education, or personnel of the state department of education; 41881
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(M) Appoint advisory committees consisting of college and university personnel, or other persons knowledgeable in the field of higher education, or both, in order to obtain their advice and assistance in defining and suggesting solutions for the problems and needs of higher education in this state; 41883
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(N) Approve or disapprove all new degrees and new degree programs at all state colleges, universities, and other state-assisted institutions of higher education; 41888
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(O) Adopt such rules as are necessary to carry out the chancellor's duties and responsibilities. The rules shall prescribe procedures for the chancellor to follow when taking actions associated with the chancellor's duties and responsibilities and shall indicate which types of actions are subject to those procedures. The procedures adopted under this division shall be in addition to any other procedures prescribed by law for such actions. However, if any other provision of the Revised Code or rule adopted by the chancellor prescribes different procedures for such an action, the procedures adopted under this division shall not apply to that action to the extent they conflict with the procedures otherwise prescribed by law. The procedures adopted under this division shall include at least the following: 41891
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(1) Provision for public notice of the proposed action; 41905

(2) An opportunity for public comment on the proposed action, which may include a public hearing on the action by the board of regents; 41906
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(3) Methods for parties that may be affected by the proposed action to submit comments during the public comment period; 41909
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(4) Submission of recommendations from the board of regents 41911

regarding the proposed action, at the request of the chancellor;	41912
(5) Written publication of the final action taken by the chancellor and the chancellor's rationale for the action;	41913 41914
(6) A timeline for the process described in divisions (O)(1) to (5) of this section.	41915 41916
(P) Establish and submit to the governor and the general assembly a clear and measurable set of goals and timetables for their achievement for each program under the chancellor's supervision that is designed to accomplish any of the following:	41917 41918 41919 41920
(1) Increased access to higher education;	41921
(2) Job training;	41922
(3) Adult literacy;	41923
(4) Research;	41924
(5) Excellence in higher education;	41925
(6) Reduction in the number of graduate programs within the same subject area.	41926 41927
In July of each odd-numbered year, the chancellor shall submit to the governor and the general assembly a report on progress made toward these goals.	41928 41929 41930
(Q) Make recommendations to the governor and the general assembly regarding the design and funding of the student financial aid programs specified in sections 3333.12, 3333.122, 3333.21 to 3333.27 <u>3333.26</u> , and 5910.02 of the Revised Code;	41931 41932 41933 41934
(R) Participate in education-related state or federal programs on behalf of the state and assume responsibility for the administration of such programs in accordance with applicable state or federal law;	41935 41936 41937 41938
(S) Adopt rules for student financial aid programs as required by sections 3333.12, 3333.122, 3333.21 to 3333.27	41939 41940

3333.26, 3333.28, and 5910.02 of the Revised Code, and perform 41941
any other administrative functions assigned to the chancellor by 41942
those sections; 41943

(T) Conduct enrollment audits of state-supported institutions 41944
of higher education; 41945

(U) Appoint consortia of college and university personnel to 41946
advise or participate in the development and operation of 41947
statewide collaborative efforts, including the Ohio supercomputer 41948
center, the Ohio academic resources network, OhioLink, and the 41949
Ohio learning network. For each consortium, the chancellor shall 41950
designate a college or university to serve as that consortium's 41951
fiscal agent, financial officer, and employer. Any funds 41952
appropriated for the consortia shall be distributed to the fiscal 41953
agents for the operation of the consortia. A consortium shall 41954
follow the rules of the college or university that serves as its 41955
fiscal agent. The chancellor may restructure existing consortia, 41956
appointed under this division, in accordance with procedures 41957
adopted under divisions (D)(1) to (6) of this section. 41958

(V) Adopt rules establishing advisory duties and 41959
responsibilities of the board of regents not otherwise prescribed 41960
by law; 41961

(W) Respond to requests for information about higher 41962
education from members of the general assembly and direct staff to 41963
conduct research or analysis as needed for this purpose. 41964

Sec. 3333.048. (A) Not later than one year after the 41965
effective date of this section, the chancellor of the Ohio board 41966
of regents and the superintendent of public instruction jointly 41967
shall do the following: 41968

(1) In accordance with Chapter 119. of the Revised Code, 41969
establish metrics and courses of study for the preparation of 41970

educators and other school personnel and the institutions of 41971
higher education that are engaged in their preparation. The 41972
metrics and courses of study shall be aligned with the standards 41973
and qualifications for educator licenses adopted by the state 41974
board of education under section 3319.22 of the Revised Code and 41975
the requirements of the Ohio teacher residency program established 41976
under section 3319.223 of the Revised Code. The metrics and 41977
courses of study also shall ensure that educators and other school 41978
personnel are adequately prepared to use the value-added progress 41979
dimension prescribed by section 3302.021 of the Revised Code. 41980

(2) Provide for the inspection of institutions of higher 41981
education desiring to prepare educators and other school 41982
personnel. 41983

(B) Not later than one year after the effective date of this 41984
section, the chancellor shall approve institutions of higher 41985
education engaged in the preparation of educators and other school 41986
personnel that maintain satisfactory training procedures and 41987
records of performance, as determined by the chancellor. 41988

(C) If the metrics established under division (A)(1) of this 41989
section require an institution of higher education that prepares 41990
teachers to satisfy the standards of an independent accreditation 41991
organization, the chancellor shall permit each institution to 41992
satisfy the standards of either the national council for 41993
accreditation of teacher education or the teacher education 41994
accreditation council. 41995

(D) The metrics and courses of study established under 41996
division (A)(1) of this section may require an institution of 41997
higher education, as a condition of approval by the chancellor, to 41998
make changes in the curricula of its preparation programs for 41999
educators and other school personnel. 42000

Notwithstanding division (D) of section 119.03 and division 42001

(A)(1) of section 119.04 of the Revised Code, any metrics, courses of study, rules, and regulations, or any amendment or rescission of such metrics, courses of study, rules, and regulations, adopted under this section that necessitate institutions offering preparation programs for educators and other school personnel approved by the chancellor to revise the curricula of those programs shall not be effective for at least one year after the first day of January next succeeding the publication of the said change. 42002
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Each institution shall allocate money from its existing appropriations to pay the cost of making the curricular changes. 42011
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(E) The chancellor shall notify the state board of the metrics and courses of study established under division (A)(1) of this section and the institutions of higher education approved under division (B) of this section. The state board shall publish the metrics, courses of study, and approved institutions with the standards and qualifications for each type of educator license. 42013
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(F) The graduates of institutions of higher education approved by the chancellor shall be licensed by the state board in accordance with the standards and qualifications adopted under section 3319.22 of the Revised Code. 42019
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Sec. ~~3319.233~~ 3333.049. ~~The state board of education~~ 42023
~~chancellor of the Ohio board of regents, in collaboration with the~~ 42024
~~Ohio board of regents~~ state board of education, shall issue an 42025
annual report on the quality of institutions approved for the 42026
preparation of teachers pursuant to section ~~3319.23~~ 3333.048 of 42027
the Revised Code. The ~~state board~~ chancellor shall prepare the 42028
report in collaboration with the state board ~~of regents~~ and the 42029
teacher quality partnership and shall use data collected by the 42030
partnership and other educational agencies as the basis for the 42031
information contained in the report. The report shall include at 42032

least the following information: 42033

(A) Identification of best practices in the preparation of 42034
teachers drawn from research conducted by the teacher quality 42035
partnership and other regional and national educational research 42036
efforts; 42037

(B) A plan for implementing best practices in approved 42038
teacher preparation institutions; 42039

(C) The number of graduates of approved teacher preparation 42040
institutions who graduated with a subject area specialty and teach 42041
grades seven through twelve. The number shall be disaggregated 42042
according to the subject areas of mathematics, science, foreign 42043
language, special education and related services, and any other 42044
subject area determined by the ~~state board~~ chancellor. 42045

(D) A plan to be implemented by the teacher preparation 42046
programs approved by the ~~state board~~ chancellor under section 42047
~~3319.23~~ 3333.048 of the Revised Code for increasing the number of 42048
classroom teachers in science, mathematics, and foreign language 42049
toward meeting the identified needs for teachers in those subject 42050
areas throughout the state but especially in hard-to-staff 42051
schools. 42052

The ~~state board~~ chancellor shall submit the report to the 42053
governor, the speaker and minority leader of the house of 42054
representatives, the president and minority leader of the senate, 42055
the chairpersons and ranking minority members of the standing 42056
committees of the house of representatives and the senate that 42057
consider education legislation, and the ~~chancellor of the state~~ 42058
~~board of regents~~. 42059

Sec. 3333.122. (A) ~~As used in this section:~~ 42060

~~(1) "Eligible student" means a student who is:~~ 42061

~~(a) An Ohio resident who first enrolls in an undergraduate 42062~~

~~program in the 2006-2007 academic year or thereafter;~~ 42063

~~(b) If the student first enrolled in an undergraduate program 42064
in the 2006-2007 or 2007-2008 academic year, the student is 42065
enrolled in one of the following:~~ 42066

~~(i) An accredited institution of higher education in this 42067
state that meets the requirements of Title VI of the Civil Rights 42068
Act of 1964 and is state-assisted, is nonprofit and has a 42069
certificate of authorization pursuant to Chapter 1713. of the 42070
Revised Code, has a certificate of registration from the state 42071
board of career colleges and schools and program authorization to 42072
award an associate or bachelor's degree, or is a private 42073
institution exempt from regulation under Chapter 3332. of the 42074
Revised Code as prescribed in section 3333.046 of the Revised 42075
Code. Students who attend an institution that holds a certificate 42076
of registration shall be enrolled in a program leading to an 42077
associate or bachelor's degree for which associate or bachelor's 42078
degree program the institution has program authorization issued 42079
under section 3332.05 of the Revised Code. 42080~~

~~(ii) A technical education program of at least two years 42081
duration sponsored by a private institution of higher education in 42082
this state that meets the requirements of Title VI of the Civil 42083
Rights Act of 1964; 42084~~

~~(iii) A nursing diploma program approved by the board of 42085
nursing under division (A)(5) of section 4723.06 of the Revised 42086
Code and that meets the requirements of Title VI of the Civil 42087
Rights Act of 1964. 42088~~

~~(c) If the student first enrolled in an undergraduate program 42089
after the 2007-2008 academic year, the student is enrolled in one 42090
of the following:~~ 42091

~~(i) An accredited institution of higher education in this 42092
state that meets the requirements of Title VI of the Civil Rights 42093~~

~~Act of 1964 and is state assisted, is nonprofit and has a certificate of authorization pursuant to Chapter 1713. of the Revised Code, or is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code;~~

~~(ii) An education program of at least two years duration sponsored by a private institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964 and has a certificate of authorization pursuant to Chapter 1713. of the Revised Code;~~

~~(iii) A nursing diploma program approved by the board of nursing under division (A)(5) of section 4723.06 of the Revised Code and that meets the requirements of Title VI of the Civil Rights Act of 1964.~~

~~(2) A student who participated in either the early college high school program administered by the department of education or in the post secondary enrollment options program pursuant to Chapter 3365. of the Revised Code before the 2006-2007 academic year shall not be excluded from eligibility for a needs based financial aid grant under this section.~~

~~(3) Resident The chancellor of the Ohio board of regents shall adopt rules to carry out this section and as authorized under section 3333.123 of the Revised Code. The rules shall include definitions of the terms "resident," "expected family contribution" or "EFC," "full-time student," "three-quarters-time student," "half-time student," "one-quarter-time student," "state cost of attendance," and "accredited" shall be defined by rules adopted by the chancellor of the Ohio board of regents for the purpose of those sections.~~

~~(B)(1) Only an Ohio resident who meets both of the following is eligible for a grant awarded under this division:~~

(a) The resident has an expected family contribution of two thousand one hundred ninety or less; 42125
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(b) The resident enrolls in an undergraduate program or in a nursing diploma program approved by the board of nursing under division (A)(5) of section 4723.06 of the Revised Code, at a state-assisted state institution of higher education, as defined in section 3345.12 of the Revised Code, that meets the requirements of Title VI of the Civil Rights Act of 1964. 42127
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(2) The chancellor shall establish and administer a needs-based financial aid grants program based on the United States department of education's method of determining financial need and may adopt rules to carry out this section. The program shall be known as the Ohio college opportunity grant program. The general assembly shall support the needs-based financial aid program by such sums and in such manner as it may provide, but the chancellor also may also receive funds from other sources to support the program. If, for any academic year, the amounts available for support of the program are inadequate to provide grants to all eligible students, the chancellor shall do one of the following: 42133
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(a) Give preference in the payment of grants shall be given in terms of based upon expected family contribution, beginning with the lowest expected family contribution category and proceeding upward by category to the highest expected family contribution category; 42145
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(b) Proportionately reduce the amount of each grant to be awarded for the academic year under division (B) of this section; 42150
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(c) Use an alternate formula for such grants that addresses the shortage of available funds and has been submitted to and approved by the controlling board. 42152
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A (3) The needs-based financial aid grant shall be paid to an 42155

the eligible student through the institution in which the student 42156
is enrolled, except that no needs-based financial aid grant shall 42157
be paid to any person serving a term of imprisonment. Applications 42158
for ~~such~~ the grants shall be made as prescribed by the chancellor, 42159
and such applications may be made in conjunction with and upon the 42160
basis of information provided in conjunction with student 42161
assistance programs funded by agencies of the United States 42162
government or from financial resources of the institution of 42163
higher education. The institution shall certify that the student 42164
applicant meets the requirements set forth in ~~divisions (A)(1)(a)~~ 42165
~~and (b)~~ division (B)(1) of this section. Needs-based financial aid 42166
grants shall be provided to an eligible student only as long as 42167
the student is making appropriate progress toward a nursing 42168
diploma or an associate or bachelor's degree. No student shall be 42169
eligible to receive a grant for more than ten semesters, fifteen 42170
quarters, or the equivalent of five academic years. A grant made 42171
to an eligible student on the basis of less than full-time 42172
enrollment shall be based on the number of credit hours for which 42173
the student is enrolled and shall be computed in accordance with a 42174
formula adopted by rule issued by the chancellor. No student shall 42175
receive more than one grant on the basis of less than full-time 42176
enrollment. 42177

~~A needs based financial aid grant shall not exceed the total 42178
instructional and general charges of the institution. 42179~~

~~(C) The tables in this division prescribe the maximum grant 42180
amounts covering two semesters, three quarters, or a comparable 42181
portion of one academic year. Grant amounts for additional terms 42182
in the same academic year shall be determined under division (D) 42183
of this section. 42184~~

~~As used in the tables in division (C) of this section: 42185~~

~~(1) "Private institution" means an institution that is 42186
nonprofit and has a certificate of authorization pursuant to 42187~~

~~Chapter 1713. of the Revised Code.~~ 42188

~~(2) "Career college" means either an institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code.~~ 42189
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~~Full-time students shall be eligible to receive awards according to the following table:~~ 42194
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~~Full-Time Enrollment~~ 42196

If the EFC is equal to or greater than:	And if the EFC is no more than:	If the student attends a public institution, the annual award shall be:	If the student attends a private institution, the annual award shall be:	If the student attends a career college, the annual award shall be:	
\$2,101	\$2,190	\$300	\$600	\$480	42198
2,001	2,100	402	798	642	42199
1,901	2,000	498	1,002	798	42200
1,801	1,900	600	1,200	960	42201
1,701	1,800	702	1,398	1,122	42202
1,601	1,700	798	1,602	1,278	42203
1,501	1,600	900	1,800	1,440	42204
1,401	1,500	1,002	1,998	1,602	42205
1,301	1,400	1,098	2,202	1,758	42206
1,201	1,300	1,200	2,400	1,920	42207
1,101	1,200	1,302	2,598	2,082	42208
1,001	1,100	1,398	2,802	2,238	42209
901	1,000	1,500	3,000	2,400	42210
801	900	1,602	3,198	2,562	42211
701	800	1,698	3,402	2,718	42212

601	700	1,800	3,600	2,280	42213
501	600	1,902	3,798	3,042	42214
401	500	1,998	4,002	3,198	42215
301	400	2,100	4,200	3,360	42216
201	300	2,202	4,398	3,522	42217
101	200	2,298	4,602	3,678	42218
1	100	2,400	4,800	3,840	42219
0	0	2,496	4,992	3,996	42220

~~Three quarters time students shall be eligible to receive awards according to the following table:~~ 42221
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~~Three Quarters Time Enrollment~~ 42223

If the EFC is equal to or greater than:	And the EFC is no more than:	If the student attends a public institution, the annual award shall be:	If the student attends a private institution, the annual award shall be:	If the student attends a career college, the annual award shall be:	
\$2,101	\$2,190	\$228	\$450	\$360	42225
2,001	2,100	300	600	480	42226
1,901	2,000	372	750	600	42227
1,801	1,900	450	900	720	42228
1,701	1,800	528	1,050	840	42229
1,601	1,700	600	1,200	960	42230
1,501	1,600	678	1,350	1,080	42231
1,401	1,500	750	1,500	1,200	42232
1,301	1,400	822	1,650	1,320	42233
1,201	1,300	900	1,800	1,440	42234
1,101	1,200	978	1,950	1,560	42235
1,001	1,100	1,050	2,100	1,680	42236
901	1,000	1,128	2,250	1,800	42237
801	900	1,200	2,400	1,920	42238

701	800	1,272	2,550	2,040	42239
601	700	1,350	2,700	2,160	42240
501	600	1,428	2,850	2,280	42241
401	500	1,500	3,000	2,400	42242
301	400	1,578	3,150	2,520	42243
201	300	1,650	3,300	2,640	42244
101	200	1,722	3,450	2,760	42245
1	100	1,800	3,600	2,880	42246
0	0	1,872	3,744	3,000	42247

~~Half-time students shall be eligible to receive awards~~ 42248
~~according to the following table:~~ 42249

~~Half-Time Enrollment~~ 42250

If the EFC is equal to or greater than:	And if the EFC is no more than:	If the student attends a public institution, the annual award shall be:	If the student attends a private institution, the annual award shall be:	If the student attends a career college, the annual award shall be:	
\$2,101	\$2,190	\$150	\$300	\$240	42252
2,001	2,100	204	402	324	42253
1,901	2,000	252	504	402	42254
1,801	1,900	300	600	480	42255
1,701	1,800	354	702	564	42256
1,601	1,700	402	804	642	42257
1,501	1,600	450	900	720	42258
1,401	1,500	504	1,002	804	42259
1,301	1,400	552	1,104	882	42260
1,201	1,300	600	1,200	960	42261
1,101	1,200	654	1,302	1,044	42262
1,001	1,100	702	1,404	1,122	42263
901	1,000	750	1,500	1,200	42264

801	900	804	1,602	1,284	42265
701	800	852	1,704	1,362	42266
601	700	900	1,800	1,440	42267
501	600	954	1,902	1,524	42268
401	500	1,002	2,004	1,602	42269
301	400	1,050	2,100	1,680	42270
201	300	1,104	2,202	1,764	42271
101	200	1,152	2,304	1,842	42272
1	100	1,200	2,400	1,920	42273
0	0	1,248	2,496	1,998	42274

~~One quarter time students shall be eligible to receive awards~~ 42275
~~according to the following table:~~ 42276

~~One Quarter Time Enrollment~~ 42277

If the EFC	And if the	If the	If the	If the	
is equal	EFC is no	student	student	student	
to or	more than:	attends a	attends a	attends a	
greater		public	private	career	
than:		institution,	institution,	college,	
		the annual	the annual	the annual	
		award	award	award	
		shall be:	shall be:	shall be:	
\$2,101	\$2,190	\$78	\$150	\$120	42279
2,001	2,100	102	198	162	42280
1,901	2,000	126	252	198	42281
1,801	1,900	150	300	240	42282
1,701	1,800	174	348	282	42283
1,601	1,700	198	402	318	42284
1,501	1,600	228	450	360	42285
1,401	1,500	252	498	402	42286
1,301	1,400	276	552	438	42287
1,201	1,300	300	600	480	42288
1,101	1,200	324	648	522	42289
1,001	1,100	348	702	558	42290

901	1,000	378	750	600	42291
801	900	402	798	642	42292
701	800	426	852	678	42293
601	700	450	900	720	42294
501	600	474	948	762	42295
401	500	498	1,002	798	42296
301	400	528	1,050	840	42297
201	300	552	1,098	882	42298
101	200	576	1,152	918	42299
1	100	600	1,200	960	42300
0	0	624	1,248	1,002	42301

~~(D)~~(4)(a) No grant awarded under division (B) of this section shall exceed the total state cost of attendance. 42302
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(b) Subject to divisions (B)(4)(a) and (c) of this section, the amount of a grant awarded to a student under division (B) of this section shall equal the student's remaining state cost of attendance after the student's Pell grant and expected family contribution are applied to the instructional and general charges for the undergraduate program. However, for students enrolled in a state university or college as defined in section 3345.12 of the Revised Code or a university branch, the chancellor may provide that the grant amount shall equal the student's remaining instructional and general charges for the undergraduate program after the student's Pell grant and expected family contribution have been applied to those charges, but, in no case, shall the grant amount for such a student exceed any maximum that the chancellor may set by rule. 42304
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(c) For a full-time student enrolled in an eligible institution a program described in division (B)(1)(b) of this section for a semester or quarter in addition to the portion of the academic year covered by a grant determined under division ~~(C)~~(B) of this section, the maximum grant amount shall be a 42318
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percentage of the maximum ~~prescribed~~ specified in the applicable 42323
any table of that division established in rules adopted by the 42324
chancellor as provided in division (A) of this section. The 42325
maximum grant for a fourth quarter shall be one-third of the 42326
maximum amount so ~~prescribed under that division.~~ The maximum 42327
grant for a third semester shall be one-half of the maximum amount 42328
so prescribed under that division. 42329

~~(E)~~(C)(1) The chancellor shall establish by rule and 42330
administer a block grant program to provide money to support 42331
needs-based financial aid grants for Ohio resident students 42332
enrolled in nursing or undergraduate programs of nonprofit private 42333
institutions in this state holding certificates of authorization 42334
pursuant to Chapter 1713. of the Revised Code and a separate block 42335
grant program to provide money for such grants to Ohio resident 42336
students enrolled in nursing or undergraduate programs of career 42337
colleges in this state that hold certificates of registration from 42338
the state board of career colleges and schools or are exempt from 42339
regulation under Chapter 3332. of the Revised Code as prescribed 42340
in section 3333.046 of the Revised Code and hold certificates of 42341
authorization pursuant to Chapter 1713. of the Revised Code. The 42342
former shall be known as the private higher education needs-based 42343
financial aid block grant program and the latter, the career 42344
college needs-based financial aid block grant program. The general 42345
assembly shall support these programs in such sums and in such 42346
manner as it may provide, but the chancellor also may receive 42347
funds from other sources to support the programs. 42348

(2) The chancellor by rule shall determine the eligibility of 42350
the nonprofit private institutions and career colleges for, the 42351
terms and conditions of, and the manner of distributing, grants 42352
under each program, as well as determine the needs-based standard 42353
that shall apply to grants awarded to students under each program. 42354

The rules shall include a requirement that, on the financial aid statement that it shall provide to each student aid recipient, a nonprofit private institution or career college receiving a grant under this division must note that a portion of the student's award is from the state of Ohio. 42355
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(D) No grant shall be made pursuant to division (B) or (C) of this section to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, associate of arts, or associate of science degree. 42360
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~~(F)(E)~~(1) Except as provided in division ~~(F)(E)~~(2) of this section, no grant shall be made to any student ~~for enrollment during a fiscal year in an~~ under division (B) of this section if the state institution of higher education under that division has, and no grant shall be made to a nonprofit private institution or career college under division (C) of this section if the institution with or college has, a cohort default rate determined by the United States secretary of education pursuant to the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 20 U.S.C.A. 1085, as amended, as of the fifteenth day of June preceding the fiscal year, equal to or greater than thirty per cent for each of the preceding two fiscal years. 42366
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(2) Division ~~(F)(E)~~(1) of this section does not apply ~~to~~ in the case of either of the following: 42378
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(a) ~~Any student enrolled in an~~ The university institution ~~that under the or college pursuant to~~ federal law appeals its loss of eligibility for federal financial aid and the United States secretary of education determines its cohort default rate after recalculation is lower than the rate specified in division ~~(F)(E)~~(1) of this section or the secretary determines due to mitigating circumstances that the institution or college may 42380
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continue to participate in federal financial aid programs. The 42387
chancellor shall adopt rules requiring ~~institutions~~ any such 42388
appellant to provide information to the chancellor regarding an 42389
appeal ~~to the chancellor~~. 42390

(b) Any student who has previously received a grant ~~under~~ 42391
pursuant to any provision of this section, including prior to the 42392
section's amendment by H.B. 1 of the 128th general assembly, and 42393
who meets all other eligibility requirements ~~of this section~~ for 42394
the respective grant under division (B) or (C) of this section. 42395

(3) The chancellor shall adopt rules for the notification of 42396
all institutions or colleges whose students will be ineligible to 42397
participate in the grant program pursuant to division ~~(F)~~(E)(1) of 42398
this section. 42399

(4) A student's attendance at ~~an~~ any institution or college 42400
whose students ~~lose eligibility~~ are ineligible for grants ~~under~~ 42401
due to division ~~(F)~~(E)(1) of this section shall not affect that 42402
student's eligibility to receive a grant when enrolled in another 42403
institution or college. 42404

~~(G) Institutions of higher education~~ (F)(1) A state 42405
university or state institution of higher education that ~~enroll~~ 42406
enrolls students receiving needs-based financial aid grants under 42407
division (B) of this section shall report to the chancellor all 42408
students who have received such needs-based financial aid grants 42409
but are no longer eligible for all or part of ~~such~~ those grants 42410
and shall refund any moneys due the state within thirty days after 42411
the beginning of the quarter or term immediately following the 42412
quarter or term in which the student was no longer eligible to 42413
receive all or part of the student's grant. There shall be an 42414
interest charge of one per cent per month on all moneys due and 42415
payable after such thirty-day period. The chancellor shall 42416
immediately notify the office of budget and management and the 42417
legislative service commission of all refunds so received. 42418

(2) A nonprofit private institution or career college that 42419
receives a grant under division (C) of this section shall report 42420
to the chancellor all students who have received a portion of that 42421
award and shall report the amount of its award not distributed to 42422
students. That amount shall be deducted from the next such grant 42423
amount received by the institution or college. 42424

Sec. 3333.123. (A) As used in this section: 42425

(1) "The Ohio college opportunity grant program" means the 42426
program established under section 3333.122 of the Revised Code. 42427

(2) "Rules for the Ohio college opportunity grant program" 42428
means the rules authorized in division (S) of section 3333.04 of 42429
the Revised Code for the implementation of the program. 42430

(B) In adopting rules for the Ohio college opportunity grant 42431
program, the chancellor of the Ohio board of regents may include 42432
provisions that give preferential or priority funding to 42433
low-income students who in their primary and secondary school work 42434
participate in or complete rigorous academic coursework, attain 42435
passing scores on the ~~tests~~ assessments prescribed in section 42436
3301.0710 of the Revised Code, or meet other high academic 42437
performance standards determined by the chancellor to reduce the 42438
need for remediation and ensure academic success at the 42439
postsecondary education level. Any such rules shall include a 42440
specification of procedures needed to certify student achievement 42441
of primary and secondary standards as well as the timeline for 42442
implementation of the provisions authorized by this section. 42443

Sec. 3333.28. (A) The chancellor of the Ohio board of regents 42444
shall establish the nurse education assistance program, the 42445
purpose of which shall be to make loans to students enrolled in 42446
prelicensure nurse education programs at institutions approved by 42447
the board of nursing under section 4723.06 of the Revised Code and 42448

postlicensure nurse education programs approved by the chancellor 42449
under section 3333.04 of the Revised Code or offered by an 42450
institution holding a certificate of authorization issued under 42451
Chapter 1713. of the Revised Code. The board of nursing shall 42452
assist the chancellor in administering the program. 42453

(B) There is hereby created in the state treasury the nurse 42454
education assistance fund, which shall consist of all money 42455
transferred to it pursuant to section 4743.05 of the Revised Code. 42456
The fund shall be used by the chancellor for loans made under 42457
division (A) of this section and for expenses of administering the 42458
loan program. 42459

(C) Between July 1, 2005, and January 1, 2012, the chancellor 42460
shall distribute money in the nurse education assistance fund in 42461
the following manner: 42462

(1)(a) Fifty per cent of available funds shall be awarded as 42463
loans to registered nurses enrolled in postlicensure nurse 42464
education programs described in division (A) of this section. To 42465
be eligible for a loan, the applicant shall provide the chancellor 42466
with a letter of intent to practice as a faculty member at a 42467
prelicensure or postlicensure program for nursing in this state 42468
upon completion of the applicant's academic program. 42469

(b) If the borrower of a loan under division (C)(1)(a) of 42470
this section secures employment as a faculty member of an approved 42471
nursing education program in this state within six months 42472
following graduation from an approved nurse education program, the 42473
chancellor may forgive the principal and interest of the student's 42474
loans received under division (C)(1)(a) of this section at a rate 42475
of twenty-five per cent per year, for a maximum of four years, for 42476
each year in which the borrower is so employed. A deferment of the 42477
service obligation, and other conditions regarding the forgiveness 42478
of loans may be granted as provided by the rules adopted under 42479
division (D)(7) of this section. 42480

(c) Loans awarded under division (C)(1)(a) of this section shall be awarded on the basis of the student's expected family contribution, with preference given to those applicants with the lowest expected family contribution. However, the chancellor may consider other factors the chancellor determines relevant in ranking the applications.

(d) Each loan awarded to a student under division (C)(1)(a) of this section shall be not less than five thousand dollars per year.

(2) Twenty-five per cent of available funds shall be awarded to students enrolled in prelicensure nurse education programs for registered nurses, as defined in section 4723.01 of the Revised Code.

(3) Twenty-five per cent of available funds shall be awarded to students enrolled in prelicensure professional nurse education programs for licensed practical nurses, as defined in section 4723.01 of the Revised Code.

After January 1, 2012, the chancellor shall determine the manner in which to distribute loans under this section.

(D) Subject to the requirements specified in division (C) of this section, the chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code establishing:

(1) Eligibility criteria for receipt of a loan;

(2) Loan application procedures;

(3) The amounts in which loans may be made and the total amount that may be loaned to an individual;

(4) The total amount of loans that can be made each year;

(5) The percentage of the money in the fund that must remain in the fund at all times as a fund balance;

(6) Interest and principal repayment schedules;

(7) Conditions under which a portion of principal and interest obligations incurred by an individual under the program will be forgiven;

(8) Ways that the program may be used to encourage individuals who are members of minority groups to enter the nursing profession;

(9) Any other matters incidental to the operation of the program.

(E) The obligation to repay a portion of the principal and interest on a loan made under this section shall be forgiven if the recipient of the loan meets the criteria for forgiveness established by division (C)(1)(b) of this section, in the case of loans awarded under division (C)(1)(a) of this section, or by the chancellor under the rule adopted under division (D)(7) of this section, in the case of other loans awarded under this section.

(F) The receipt of a loan under this section shall not affect a student's eligibility for assistance, or the amount of that assistance, granted under section 3333.12, 3333.122, 3333.22, 3333.26, ~~3333.27~~, 5910.03, 5910.032, or 5919.34 of the Revised Code, but the rules of the chancellor may provide for taking assistance received under those sections into consideration when determining a student's eligibility for a loan under this section.

Sec. 3333.35. The state board of education and the chancellor of the Ohio board of regents shall strive to reduce unnecessary student remediation costs incurred by colleges and universities in this state, increase overall access for students to higher education, enhance the post-secondary enrollment options program in accordance with Chapter 3365. of the Revised Code, and enhance the alternative resident educator licensure program in accordance with section 3319.26 of the Revised Code.

Sec. 3333.38. (A) As used in this section:	42541
(1) "Institution of higher education" includes all of the following:	42542
(a) A state institution of higher education, as defined in section 3345.011 of the Revised Code;	42543
(b) A nonprofit institution issued a certificate of authorization under Chapter 1713. of the Revised Code;	42544
(c) A private institution exempt from regulation under Chapter 3332. of the Revised Code, as prescribed in section 3333.046 of the Revised Code;	42545
(d) An institution of higher education with a certificate of registration from the state board of career colleges and schools under Chapter 3332. of the Revised Code.	42546
(2) "Student financial assistance supported by state funds" includes assistance granted under sections 3315.33, 3333.12, 3333.122, 3333.21, 3333.26, 3333.27 , 3333.28, 3333.372, <u>3333.391</u> , 5910.03, 5910.032, and 5919.34 of the Revised Code, financed by an award under the choose Ohio first scholarship program established under section 3333.61 of the Revised Code, or financed by an award under the Ohio co-op/internship program established under section 3333.72 of the Revised Code, and any other post-secondary student financial assistance supported by state funds.	42547
(B) An individual who is convicted of, pleads guilty to, or is adjudicated a delinquent child for one of the following violations shall be ineligible to receive any student financial assistance supported by state funds at an institution of higher education for two calendar years from the time the individual applies for assistance of that nature:	42548
(1) A violation of section 2917.02 or 2917.03 of the Revised	42549

Code; 42571

(2) A violation of section 2917.04 of the Revised Code that 42572
is a misdemeanor of the fourth degree; 42573

(3) A violation of section 2917.13 of the Revised Code that 42574
is a misdemeanor of the fourth or first degree and occurs within 42575
the proximate area where four or more others are acting in a 42576
course of conduct in violation of section 2917.11 of the Revised 42577
Code. 42578

(C) If an individual is convicted of, pleads guilty to, or is 42579
adjudicated a delinquent child for committing a violation of 42580
section 2917.02 or 2917.03 of the Revised Code, and if the 42581
individual is enrolled in a state-supported institution of higher 42582
education, the institution in which the individual is enrolled 42583
shall immediately dismiss the individual. No state-supported 42584
institution of higher education shall admit an individual of that 42585
nature for one academic year after the individual applies for 42586
admission to a state-supported institution of higher education. 42587
This division does not limit or affect the ability of a 42588
state-supported institution of higher education to suspend or 42589
otherwise discipline its students. 42590

Sec. 3333.39. The chancellor of the Ohio board of regents and 42591
the superintendent of public instruction shall establish and 42592
administer the teach Ohio program to promote and encourage 42593
citizens of this state to consider teaching as a profession. The 42594
program shall include all of the following: 42595

(A) A statewide program administered by a nonprofit 42596
corporation that has been in existence for at least fifteen years 42597
with demonstrated results in encouraging high school students from 42598
economically disadvantaged groups to enter the teaching 42599
profession. The chancellor and superintendent jointly shall select 42600
the nonprofit corporation. 42601

(B) The Ohio teaching fellows program established under sections 3333.391 and 3333.392 of the Revised Code; 42602
42603

(C) The Ohio teacher residency program established under section 3319.223 of the Revised Code; 42604
42605

(D) Alternative licensure procedures established under section 3319.26 of the Revised Code; 42606
42607

(E) Any other program as identified by the chancellor and the superintendent. 42608
42609

Sec. 3333.391. (A) As used in this section and in section 3333.392 of the Revised Code: 42610
42611

(1) "Academic year" shall be as defined by the chancellor of the Ohio board of regents. 42612
42613

(2) "Hard-to-staff school" and "hard-to-staff subject" shall be as defined by the department of education. 42614
42615

(3) "Parent" means the parent, guardian, or custodian of a qualified student. 42616
42617

(4) "Qualified service" means teaching at a qualifying school. 42618
42619

(5) "Qualifying school" means a hard-to-staff school district building or a school district building that has a performance rating of academic watch or academic emergency under section 3302.03 of the Revised Code at the time the recipient becomes employed by the district. 42620
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(B) The chancellor of the Ohio board of regents and the superintendent of public instruction jointly shall develop and agree on a plan for the Ohio teaching fellows program to promote and encourage high school seniors to enter and remain in the teaching profession. Upon agreement of such a plan, the chancellor shall establish and administer the program in conjunction with the 42625
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superintendent and with the cooperation of teacher training 42631
institutions. Under the program, the chancellor annually shall 42632
provide scholarships to students who commit to teaching in a 42633
qualifying school for a minimum of four years upon graduation from 42634
a teacher training program at a state institution of higher 42635
education. The scholarships shall be for up to four years at the 42636
undergraduate level at an amount determined by the chancellor 42637
based on state appropriations. 42638

(C) The chancellor shall adopt a competitive process for 42639
awarding scholarships under the teaching fellows program, which 42640
shall include minimum grade point average and scores on national 42641
standardized tests for college admission. The process shall also 42642
give additional consideration to all of the following: 42643

(1) A person who has participated in the program described in 42644
division (A) of section 3333.39 of the Revised Code; 42645

(2) A person who plans to specialize in teaching students 42646
with special needs; 42647

(3) A person who plans to teach in the disciplines of 42648
science, technology, engineering, or mathematics. 42649

The chancellor shall require that all applicants to the 42650
teaching fellows program shall file a statement of service status 42651
in compliance with section 3345.32 of the Revised Code, if 42652
applicable, and that all applicants have not been convicted of, 42653
plead guilty to, or adjudicated a delinquent child for any 42654
violation listed in section 3333.38 of the Revised Code. 42655

(D) Teaching fellows shall complete the four-year teaching 42656
commitment within not more than seven years after graduating from 42657
the teacher training program. Failure to fulfill the commitment 42658
shall convert the scholarship into a loan to be repaid under 42659
section 3333.392 of the Revised Code. 42660

(E) The chancellor shall adopt rules in accordance with 42661

Chapter 119. of the Revised Code to administer this section and 42662
section 3333.392 of the Revised Code. 42663

Sec. 3333.392. (A) Each recipient who accepts a scholarship 42664
under the Ohio teaching fellows program created under section 42665
3333.391 of the Revised Code, or the recipient's parent if the 42666
recipient is younger than eighteen years of age, shall sign a 42667
promissory note payable to the state in the event the recipient 42668
does not satisfy the service requirement of division (D) of 42669
section 3333.391 of the Revised Code or the scholarship is 42670
terminated. The amount payable under the note shall be the amount 42671
of total scholarships accepted by the recipient under the program 42672
plus ten per cent interest accrued annually beginning on the first 42673
day of September after graduating from the teacher training 42674
program or immediately after termination of the scholarship. The 42675
period of repayment under the note shall be determined by the 42676
chancellor of the Ohio board of regents. The note shall stipulate 42677
that the obligation to make payments under the note is canceled 42678
following completion of four years of qualified service by the 42679
recipient in accordance with division (D) of section 3333.391 of 42680
the Revised Code, or if the recipient dies, becomes totally and 42681
permanently disabled, or is unable to complete the required 42682
qualified service as a result of a reduction in force at the 42683
recipient's school of employment before the obligation under the 42684
note has been satisfied. 42685

(B) Repayment of the principal amount of the scholarship and 42686
interest accrued shall be deferred while the recipient is enrolled 42687
in an approved teaching program, while the recipient is seeking 42688
employment to fulfill the service obligation, for a period not to 42689
exceed six months, or while the recipient is engaged in qualified 42690
service. 42691

(C) During the seven-year period following the recipient's 42692

graduation from an approved teaching program, the chancellor shall 42693
deduct twenty-five per cent of the outstanding balance that may be 42694
converted to a loan for each year the recipient teaches at a 42695
qualifying school. 42696

(D) The chancellor may terminate the scholarship, in which 42697
case the scholarship shall be converted to a loan to be repaid 42698
under division (A) of this section. 42699

(E) The scholarship shall be deemed terminated upon the 42700
recipient's withdrawal from school or the recipient's failure to 42701
meet the standards of the scholarship as determined by the 42702
chancellor and shall be converted to a loan to be repaid under 42703
division (A) of this section. 42704

(F) The chancellor and the attorney general shall collect 42705
payments on the converted loan in accordance with section 131.02 42706
of the Revised Code. 42707

Sec. 3333.83. (A) A student who is enrolled in a school 42708
operated by a school district or in a community school or STEM 42709
school may enroll in a course through the clearinghouse only if 42710
both of the following conditions are satisfied: 42711

(1) The student's enrollment in the course is approved by the 42712
student's school district, community school, or STEM school. 42713

(2) The student's school district, community school, or STEM 42714
school agrees to accept for credit the grade assigned by the 42715
course provider, if that provider is another school district, 42716
community school, or STEM school. 42717

(B) For each student enrolled in a school operated by a 42718
school district or in a community school or STEM school who is 42719
enrolling in a course provided through the clearinghouse by 42720
another school district, community school, or STEM school, the 42721
student's school district, community school, or STEM school shall 42722

transmit the student's name to the course provider. 42723

The course provider may request from the student's school 42724
district, community school, or STEM school other information from 42725
the student's school record. The district or school shall provide 42726
the requested information only in accordance with section 3319.321 42727
of the Revised Code. 42728

(C) The student's school district, community school, or STEM 42729
school shall determine the manner in which and facilities at which 42730
the student shall participate in the course consistent with 42731
specifications for technology and connectivity adopted by the 42732
chancellor of the Ohio board of regents. 42733

(D) A student may withdraw from a course prior to the end of 42734
the course only by a date and in a manner prescribed by the 42735
student's school district, community school, or STEM school. 42736

(E) A student who is enrolled in a school operated by a 42737
school district or in a ~~community school~~ or STEM school that is 42738
governed as provided in section 3326.51 of the Revised Code and 42739
who takes a course through the clearinghouse shall be counted in 42740
the formula ADM of a school district under section 3317.03 of the 42741
Revised Code as if the student were taking the course from the 42742
student's school district, ~~community school~~, or STEM school. 42743

42744

Sec. 3333.90. (A) As used in this section: 42745

(1) "Allocated state share of instruction" means, for any 42746
fiscal year, the amount of the state share of instruction 42747
appropriated to the Ohio board of regents by the general assembly 42748
that is allocated to a community or technical college or community 42749
or technical college district for such fiscal year. 42750

(2) "Authority" means the Ohio building authority. 42751

(3) "Bond service charges" has the same meaning as in section 42752

<u>152.09 of the Revised Code.</u>	42753
<u>(4) "Chancellor" means the chancellor of the Ohio board of regents.</u>	42754
	42755
<u>(5) "Community or technical college" or "college" means any of the following state-supported or state-assisted institutions of higher education:</u>	42756
	42757
	42758
<u>(a) A community college as defined in section 3354.01 of the Revised Code;</u>	42759
	42760
<u>(b) A technical college as defined in section 3357.01 of the Revised Code;</u>	42761
	42762
<u>(c) A state community college as defined in section 3358.01 of the Revised Code.</u>	42763
	42764
<u>(6) "Community or technical college district" or "district" means any of the following institutions of higher education that are state-supported or state-assisted:</u>	42765
	42766
	42767
<u>(a) A community college district as defined in section 3354.01 of the Revised Code;</u>	42768
	42769
<u>(b) A technical college district as defined in section 3357.01 of the Revised Code;</u>	42770
	42771
<u>(c) A state community college district as defined in section 3358.01 of the Revised Code.</u>	42772
	42773
<u>(7) "Credit enhancement facilities" has the same meaning as in section 133.01 of the Revised Code.</u>	42774
	42775
<u>(8) "Obligations" has the meaning as in section 152.09 or 3345.12 of the Revised Code, as the context requires.</u>	42776
	42777
<u>(B) The board of trustees of any community or technical college district authorizing the issuance of obligations under section 3354.12, 3354.121, 3357.11, 3357.112, or 3358.10 of the Revised Code, or for whose benefit and on whose behalf the</u>	42778
	42779
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authority proposes to issue obligations under division (G) of 42782
section 152.09 of the Revised Code, may adopt a resolution 42783
requesting the chancellor to enter into an agreement with the 42784
community or technical college district and the primary paying 42785
agent or fiscal agent for such obligations, providing for the 42786
withholding and deposit of funds otherwise due the district or the 42787
community or technical college it operates in respect of its 42788
allocated state share of instruction, for the payment of bond 42789
service charges on such obligations. 42790

The board of trustees shall deliver to the chancellor a copy 42791
of the resolution and any additional pertinent information the 42792
chancellor may require. 42793

The chancellor and the office of budget and management, and 42794
the authority in the case of obligations to be issued by the 42795
authority, shall evaluate each request received from a community 42796
or technical college district under this section. The chancellor, 42797
with the advice and consent of the director of budget and 42798
management and the authority in the case of obligations to be 42799
issued by the authority, shall approve each request if all of the 42800
following conditions are met: 42801

(1) Approval of the request will enhance the marketability of 42802
the obligations for which the request is made; 42803

(2) The chancellor and the office of budget and management, 42804
and the authority in the case of obligations to be issued by the 42805
authority, have no reason to believe the requesting community or 42806
technical college district or the community or technical college 42807
it operates will be unable to pay when due the bond service 42808
charges on the obligations for which the request is made, and bond 42809
service charges on those obligations are therefore not anticipated 42810
to be paid pursuant to this section from the allocated state share 42811
of instruction for purposes of Section 17 of Article VIII, Ohio 42812
Constitution. 42813

(3) Any other pertinent conditions established in rules 42814
adopted under division (H) of this section. 42815

(C) If the chancellor approves the request of a community or 42816
technical college district to withhold and deposit funds pursuant 42817
to this section, the chancellor shall enter into a written 42818
agreement with the district and the primary paying agent or fiscal 42819
agent for the obligations, which agreement shall provide for the 42820
withholding of funds pursuant to this section for the payment of 42821
bond service charges on those obligations. The agreement may also 42822
include both of the following: 42823

(1) Provisions for certification by the district to the 42824
chancellor, prior to the deadline for payment of the applicable 42825
bond service charges, whether the district and the community or 42826
technical college it operates are able to pay those bond service 42827
charges when due; 42828

(2) Requirements that the district or the community or 42829
technical college it operates deposits amounts for the payment of 42830
those bond service charges with the primary paying agent or fiscal 42831
agent for the obligations prior to the date on which the bond 42832
service charges are due to the owners or holders of the 42833
obligations. 42834

(D) Whenever a district or the community or technical college 42835
it operates notifies the chancellor that it will not be able to 42836
pay the bond service charges when they are due, subject to the 42837
withholding provisions of this section, or whenever the applicable 42838
paying agent or fiscal agent notifies the chancellor that it has 42839
not timely received from a district or from the college it 42840
operates the full amount needed for payment of the bond service 42841
charges when due to the holders or owners of such obligations, the 42842
chancellor shall immediately contact the district or college and 42843
the paying agent or fiscal agent to confirm that the district and 42844
the college are not able to make the required payment by the date 42845

on which it is due. 42846

If the chancellor confirms that the district and the college 42847
are not able to make the payment and the payment will not be made 42848
pursuant to a credit enhancement facility, the chancellor shall 42849
promptly pay to the applicable primary paying agent or fiscal 42850
agent the lesser of the amount due for bond service charges or the 42851
amount of the next periodic distribution scheduled to be made to 42852
the district or to the college in respect of its allocated state 42853
share of instruction. If this amount is insufficient to pay the 42854
total amount then due the agent for the payment of bond service 42855
charges, the chancellor shall continue to pay to the agent from 42856
each periodic distribution thereafter, and until the full amount 42857
due the agent for unpaid bond service charges is paid in full, the 42858
lesser of the remaining amount due the agent for bond service 42859
charges or the amount of the next periodic distribution scheduled 42860
to be made to the district or college in respect of its allocated 42861
state share of instruction. 42862

(E) The chancellor may make any payments under this section 42863
by direct deposit of funds by electronic transfer. 42864

Any amount received by a paying agent or fiscal agent under 42865
this section shall be applied only to the payment of bond service 42866
charges on the obligations of the community or technical college 42867
district or community or technical college subject to this section 42868
or to the reimbursement of the provider of a credit enhancement 42869
facility that has paid the bond service charges. 42870

(F) The chancellor may make payments under this section to 42871
paying agents or fiscal agents during any fiscal biennium of the 42872
state only from and to the extent that money is appropriated to 42873
the board of regents by the general assembly for distribution 42874
during such biennium for the state share of instruction and only 42875
to the extent that a portion of the state share of instruction has 42876
been allocated to the community or technical college district or 42877

community or technical college. Obligations of the authority or of 42878
a community or technical college district to which this section is 42879
made applicable do not constitute an obligation or a debt or a 42880
pledge of the faith, credit, or taxing power of the state, and the 42881
holders or owners of those obligations have no right to have 42882
excises or taxes levied or appropriations made by the general 42883
assembly for the payment of bond service charges on the 42884
obligations, and the obligations shall contain a statement to that 42885
effect. The agreement for or the actual withholding and payment of 42886
money under this section does not constitute the assumption by the 42887
state of any debt of a community or technical college district or 42888
a community or technical college, and bond service charges on the 42889
related obligations are not anticipated to be paid from the state 42890
general revenue fund for purposes of Section 17 of Article VIII, 42891
Ohio Constitution. 42892

(G) In the case of obligations subject to the withholding 42893
provisions of this section, the issuing community or technical 42894
college district, or the authority in the case of obligations 42895
issued by the authority, shall appoint a paying agent or fiscal 42896
agent who is not an officer or employee of the district or 42897
college. 42898

(H) The chancellor, with the advice and consent of the office 42899
of budget and management, may adopt reasonable rules not 42900
inconsistent with this section for the implementation of this 42901
section to secure payment of bond service charges on obligations 42902
issued by a community or technical college district or by the 42903
authority for the benefit of a community or technical college 42904
district or the community or technical college it operates. Those 42905
rules shall include criteria for the evaluation and approval or 42906
denial of community or technical college district requests for 42907
withholding under this section. 42908

(I) The authority granted by this section is in addition to 42909

and not a limitation on any other authorizations granted by or 42910
pursuant to law for the same or similar purposes. 42911

Sec. 3334.01. As used in this chapter: 42912

(A) "Aggregate original principal amount" means the aggregate 42913
of the initial offering prices to the public of college savings 42914
bonds, exclusive of accrued interest, if any. "Aggregate original 42915
principal amount" does not mean the aggregate accreted amount 42916
payable at maturity or redemption of such bonds. 42917

(B) "Beneficiary" means: 42918

(1) An individual designated by the purchaser under a tuition 42919
payment contract or through a scholarship program as the 42920
individual on whose behalf tuition units purchased under the 42921
contract or awarded through the scholarship program will be 42922
applied toward the payment of undergraduate, graduate, or 42923
professional tuition; or 42924

(2) An individual designated by the contributor under a 42925
variable college savings program contract as the individual whose 42926
tuition and other higher education expenses will be paid from a 42927
variable college savings program account. 42928

(C) "Capital appreciation bond" means a bond for which the 42929
following is true: 42930

(1) The principal amount is less than the amount payable at 42931
maturity or early redemption; and 42932

(2) No interest is payable on a current basis. 42933

(D) "Tuition unit" means a credit ~~of the Ohio tuition trust~~ 42934
~~authority~~ purchased under section 3334.09 of the Revised Code. 42935
"Tuition unit" includes a tuition credit purchased prior to July 42936
1, 1994. 42937

(E) "College savings bonds" means revenue and other 42938

obligations issued on behalf of the state or any agency or issuing 42939
authority thereof as a zero-coupon or capital appreciation bond, 42940
and designated as college savings bonds as provided in this 42941
chapter. "College savings bond issue" means any issue of bonds of 42942
which any part has been designated as college savings bonds. 42943

(F) "Institution of higher education" means a state 42944
institution of higher education, a private college, university, or 42945
other postsecondary institution located in this state that 42946
possesses a certificate of authorization issued ~~by the Ohio board~~ 42947
~~of regents~~ pursuant to Chapter 1713. of the Revised Code or a 42948
certificate of registration issued by the state board of career 42949
colleges and schools under Chapter 3332. of the Revised Code, or 42950
an accredited college, university, or other postsecondary 42951
institution located outside this state that is accredited by an 42952
accrediting organization or professional association recognized by 42953
the ~~authority~~ chancellor of the Ohio board of regents. To be 42954
considered an institution of higher education, an institution 42955
shall meet the definition of an eligible educational institution 42956
under section 529 of the Internal Revenue Code. 42957

(G) "Issuing authority" means any authority, commission, 42958
body, agency, or individual empowered by the Ohio Constitution or 42959
the Revised Code to issue bonds or any other debt obligation of 42960
the state or any agency or department thereof. "Issuer" means the 42961
issuing authority or, if so designated under division (B) of 42962
section 3334.04 of the Revised Code, the treasurer of state. 42963

(H) "Tuition" means the charges imposed to attend an 42964
institution of higher education as an undergraduate, graduate, or 42965
professional student and all fees required as a condition of 42966
enrollment, as determined by the ~~Ohio tuition trust authority~~ 42967
chancellor. "Tuition" does not include laboratory fees, room and 42968
board, or other similar fees and charges. 42969

(I) "Weighted average tuition" means the tuition cost 42970

resulting from the following calculation: 42971

(1) Add the products of the annual undergraduate tuition 42972
charged to Ohio residents at each four-year state university 42973
multiplied by that institution's total number of undergraduate 42974
fiscal year equated students; and 42975

(2) Divide the gross total of the products from division 42976
(I)(1) of this section by the total number of undergraduate fiscal 42977
year equated students attending four-year state universities. 42978

When making this calculation, the "annual undergraduate 42979
tuition charged to Ohio residents" shall not incorporate any 42980
tuition reductions that vary in amount among individual recipients 42981
and that are awarded to Ohio residents based upon their particular 42982
circumstances, beyond any minimum amount awarded uniformly to all 42983
Ohio residents. In addition, any tuition reductions awarded 42984
uniformly to all Ohio residents shall be incorporated into this 42985
calculation. 42986

(J) "Zero-coupon bond" means a bond which has a stated 42987
interest rate of zero per cent and on which no interest is payable 42988
until the maturity or early redemption of the bond, and is offered 42989
at a substantial discount from its original stated principal 42990
amount. 42991

(K) "State institution of higher education" includes the 42992
state universities listed in section 3345.011 of the Revised Code, 42993
community colleges created pursuant to Chapter 3354. of the 42994
Revised Code, university branches created pursuant to Chapter 42995
3355. of the Revised Code, technical colleges created pursuant to 42996
Chapter 3357. of the Revised Code, state community colleges 42997
created pursuant to Chapter 3358. of the Revised Code, and the 42998
northeastern Ohio universities college of medicine. 42999

(L) "Four-year state university" means those state 43000
universities listed in section 3345.011 of the Revised Code. 43001

(M) "Principal amount" refers to the initial offering price 43002
to the public of an obligation, exclusive of the accrued interest, 43003
if any. "Principal amount" does not refer to the aggregate 43004
accreted amount payable at maturity or redemption of an 43005
obligation. 43006

(N) "Scholarship program" means a program registered with the 43007
~~Ohio tuition trust authority~~ chancellor pursuant to section 43008
3334.17 of the Revised Code. 43009

(O) "Internal Revenue Code" means the "Internal Revenue Code 43010
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as amended. 43011

(P) "Other higher education expenses" means room and board 43012
and books, supplies, equipment, and nontuition-related fees 43013
associated with the cost of attendance of a beneficiary at an 43014
institution of higher education, but only to the extent that such 43015
expenses meet the definition of "qualified higher education 43016
expenses" under section 529 of the Internal Revenue Code. "Other 43017
higher education expenses" does not include tuition as defined in 43018
division (H) of this section. 43019

(Q) "Purchaser" means the person signing the tuition payment 43020
contract, who controls the account and acquires tuition units for 43021
an account under the terms and conditions of the contract. 43022

(R) "Contributor" means a person who signs a variable college 43023
savings program contract with the ~~Ohio tuition trust authority~~ 43024
chancellor and contributes to and owns the account created under 43025
the contract. 43026

(S) "Contribution" means any payment directly allocated to an 43027
account for the benefit of the designated beneficiary of the 43028
account. 43029

Sec. 3334.02. (A) In order to help make higher education 43030
affordable and accessible to all citizens of Ohio, to maintain 43031

state institutions of higher education by helping to provide a 43032
stable financial base to these institutions, to provide the 43033
citizens of Ohio with financing assistance for higher education 43034
and protection against rising tuition costs, to encourage saving 43035
to enhance the ability of citizens of Ohio to obtain financial 43036
access to institutions of higher education, to encourage 43037
elementary and secondary students in this state to achieve 43038
academic excellence, and to promote a well-educated and 43039
financially secure population to the ultimate benefit of all 43040
citizens of the state of Ohio, there is hereby created the Ohio 43041
college savings program. The program shall consist of the issuance 43042
of college savings bonds and the sale of tuition units. 43043

(B) The provisions of Chapter 1707. of the Revised Code shall 43044
not apply to tuition units or any agreement or transaction related 43045
thereto. 43046

(C) To provide the citizens of Ohio with a choice of 43047
tax-advantaged college savings programs and the opportunity to 43048
participate in more than one type of college savings program at a 43049
time, the chancellor of the Ohio tuition trust authority board of 43050
regents shall establish and administer a variable college savings 43051
program as a qualified state tuition program under section 529 of 43052
the Internal Revenue Code. The program shall allow contributors to 43053
make cash contributions to variable college savings program 43054
accounts created for the purpose of paying future tuition and 43055
other higher education expenses and providing variable rates of 43056
return on contributions. 43057

(D) A person may participate simultaneously in both the Ohio 43058
college savings program and the variable college savings program. 43059

Sec. 3334.03. (A) The chancellor of the Ohio board of regents 43060
shall operate programs under this chapter as a qualified state 43061
tuition program within the meaning of section 529 of the Internal 43062

Revenue Code. The chancellor's exercise of the chancellor's powers 43063
under this chapter shall be and is hereby declared to be an 43064
essential state government function. In exercising powers under 43065
this chapter, the chancellor is subject to all provisions of law 43066
generally applicable to state agencies that do not conflict with 43067
the provisions of this chapter. 43068

(B) The chancellor shall provide the Ohio tuition trust 43069
advisory board with administrative assistance and all necessary 43070
documentation regarding the chancellor's administration of the 43071
programs established under this chapter and the costs of that 43072
administration in order to assist the advisory board in its 43073
preparation of the annual report required under section 3334.031 43074
of the Revised Code and its quarterly meetings. 43075

(C) The chancellor may adopt rules establishing advisory 43076
duties and responsibilities of the advisory board not otherwise 43077
prescribed by law. 43078

Sec. 3334.03 3334.031. ~~(A) There is hereby created the Ohio~~ 43079
~~tuition trust authority, which shall have the powers enumerated in~~ 43080
~~this chapter and which shall operate as a qualified state tuition~~ 43081
~~program within the meaning of section 529 of the Internal Revenue~~ 43082
~~Code. The exercise by the authority of its powers shall be and is~~ 43083
~~hereby declared an essential state governmental function. The~~ 43084
~~authority is subject to all provisions of law generally applicable~~ 43085
~~to state agencies which do not conflict with the provisions of~~ 43086
~~this chapter~~ The Ohio tuition trust advisory board is hereby 43087
established to advise the chancellor of the Ohio board of regents 43088
on the chancellor's duties and responsibilities under this chapter 43089
and on other matters established by the chancellor in rules 43090
adopted under section 3334.03 of the Revised Code. 43091

~~(B) The Ohio tuition trust authority~~ advisory board shall 43092

submit to the general assembly, in accordance with division (B) of 43093
section 101.68 of the Revised Code, and to the governor, an annual 43094
report on the chancellor's administration of the programs 43095
established under this chapter. 43096

(C) The advisory board shall consist of eleven members, no 43097
more than six of whom shall be of the same political party. ~~Six~~ 43098
Seven members shall be appointed by the governor with the advice 43099
and consent of the senate as follows: one shall represent state 43100
institutions of higher education, one shall represent private 43101
nonprofit colleges and universities located in Ohio, one shall 43102
have experience in the field of marketing or public relations, one 43103
shall have experience in the field of information systems design 43104
or management, and ~~two~~ three shall have experience in the field of 43105
banking, investment banking, insurance, or law. Four members shall 43106
be appointed by the speaker of the house of representatives and 43107
the president of the senate as follows: the speaker of the house 43108
of representatives shall appoint one member of the house from each 43109
political party and the president of the senate shall appoint one 43110
member of the senate from each political party. ~~The chancellor of~~ 43111
~~the board of regents shall be an ex officio voting member;~~ 43112
~~provided, however, that the chancellor may designate a~~ 43113
~~vice chancellor of the board of regents to serve as the~~ 43114
~~chancellor's representative. The political party of the chancellor~~ 43115
~~shall be deemed the political party of the designee for purposes~~ 43116
~~of determining that no more than six members are of the same~~ 43117
~~political party.~~ 43118

Initial gubernatorial appointees to the authority advisory 43119
board shall serve staggered terms, with two terms expiring on 43120
January 31, 1991, one term expiring on January 31, 1992, and one 43121
term expiring on January 31, 1993. The governor shall appoint two 43122
additional members to the authority advisory board no later than 43123
thirty days after March 30, 1999, and their initial terms shall 43124

expire January 31, 2002. The governor shall appoint an additional member to the advisory board not later than ninety days after the effective date of this amendment, and the member's initial term shall expire January 31, 2013. Thereafter, terms of office for gubernatorial appointees shall be for four years. The initial terms of the four legislative members shall expire on January 31, 1991. Thereafter legislative members shall serve two-year terms, provided that legislative members may continue to serve on the authority advisory board only if they remain members of the general assembly. Any vacancy on the authority advisory board shall be filled in the same manner as the original appointment, except that any person appointed to fill a vacancy shall be appointed to the remainder of the unexpired term. Any member is eligible for reappointment.

~~(C)~~(D) Any member may be removed by the appointing authority for misfeasance, malfeasance, or willful neglect of duty or for other cause after notice and a public hearing, unless the notice and hearing are waived in writing by the member. Members shall serve without compensation but shall receive their reasonable and necessary expenses incurred in the conduct of authority business.

~~(D)~~(E) The speaker of the house of representatives and the president of the senate shall each designate a member of the authority advisory board to serve as co-chairpersons. The ~~six~~ seven gubernatorial appointees ~~and the chancellor of the board of regents or the chancellor's designee~~ shall serve as the executive committee of the authority advisory board, and shall elect an executive chairperson from among the executive committee members. The authority advisory board and the executive committee may elect such other officers as determined by the authority advisory board or the executive committee respectively. The authority advisory board shall meet at least ~~annually~~ quarterly at the call of either co-chairperson and at such other times as either co-chairperson or

the ~~authority~~ advisory board determines necessary. In the absence 43157
of both co-chairpersons, the executive chairperson shall serve as 43158
the presiding officer of the ~~authority~~ advisory board. The 43159
executive committee shall meet at the call of the executive 43160
chairperson or as the executive committee determines necessary. 43161
The ~~authority~~ advisory board may delegate to the executive 43162
committee such duties and responsibilities as the ~~authority~~ 43163
advisory board determines appropriate, ~~except that the authority~~ 43164
~~may not delegate to the executive committee the final~~ 43165
~~determination of the annual price of a tuition unit, the final~~ 43166
~~designation of bonds as college savings bonds, or the employment~~ 43167
~~of an executive director of the authority.~~ Upon such delegation, 43168
the executive committee shall have the authority to act pursuant 43169
to such delegation without further approval or action by the 43170
~~authority~~ advisory board. A majority of the ~~authority~~ advisory 43171
board shall constitute a quorum of the ~~authority~~ advisory board, 43172
and the affirmative vote of a majority of the members present 43173
shall be necessary for any action taken by the ~~authority~~ advisory 43174
board. A majority of the executive committee shall constitute a 43175
quorum of the executive committee, and the affirmative vote of a 43176
majority of the members present shall be necessary for any action 43177
taken by the executive committee. No vacancy in the membership of 43178
the ~~authority~~ advisory board or the executive committee shall 43179
impair the rights of a quorum to exercise all rights and perform 43180
all duties of the ~~authority~~ advisory board or the executive 43181
committee, respectively. 43182

Sec. 3334.032. Whenever the term "Ohio tuition trust 43183
authority" is used, referred to, or designated in any statute, 43184
rule, contract, grant, or other document, the use, reference, or 43185
designation shall be construed to mean the "chancellor of the Ohio 43186
board of regents." 43187

Sec. 3334.04. (A) Any bonds authorized for issuance by any 43188
issuing authority may, with the approval of the chancellor of the 43189
Ohio ~~tuition trust authority~~ board of regents and at the option 43190
of the issuing authority, be designated as college savings bonds 43191
in accordance with this chapter. Bonds so designated shall be 43192
known as college savings bonds. The issuer shall sell as college 43193
savings bonds as many bonds from such an issue as is practical. 43194

(B) Issuing authorities designating bonds as a college 43195
savings bonds issue, with the approval of the ~~authority~~ 43196
chancellor, may delegate to the treasurer of state the powers and 43197
duties related to the issuance and retirement of the bonds as 43198
provided by law. The financing costs, including the expenses 43199
incurred by the treasurer of ~~the~~ state in performing the powers 43200
and duties, are payable as provided in the bond proceedings from 43201
the bond proceeds, special funds, or other moneys available. 43202

(C) In connection with the authority granted by division (B) 43203
of this section, the issuer, with the approval of the ~~authority~~ 43204
chancellor, may contract for services of financial consultants, 43205
accounting experts, marketing, remarketing, underwriter and 43206
administrative agents, and other consultants and independent 43207
contractors as the issuer determines necessary to carry out such 43208
powers and duties. 43209

(D) Notwithstanding any limitation to the contrary, college 43210
savings bonds may be sold at public or private sale in a manner 43211
which assures, to the extent practicable, the broadest retail 43212
distribution of the bonds to investors residing in the state. 43213

(E) Holders of college savings bonds have all of the rights 43214
and remedies accorded to such holders under the provisions of the 43215
law pursuant to which such bonds are issued, whether or not 43216
issuance of such bonds has been delegated to the treasurer of 43217
state pursuant to division (B) of this section. In addition, the 43218

bond proceedings or other documents pertaining to the bonds may 43219
contain such covenants of the issuer and other matters deemed 43220
advisable by the issuer in consultation with the ~~authority~~ 43221
chancellor, including the terms and conditions for creating and 43222
maintaining sinking funds, reserve funds, and any other special 43223
funds as may be created in the bond proceedings separate and apart 43224
from all other funds and accounts of the state or of the issuing 43225
authority. 43226

(F) In advertising or promoting the sale of college savings 43227
bonds, the issuer and the ~~authority~~ chancellor jointly may 43228
encourage purchasers to apply the value at maturity of college 43229
savings bonds toward the cost of tuition at an institution of 43230
higher education; however, neither the ~~authority~~ chancellor, the 43231
treasurer of state, nor the issuing authority or the issuer shall 43232
provide any guarantee, nor shall any guarantee be inferred, to the 43233
effect that the value at maturity of the bonds held by a person 43234
shall be an amount sufficient to pay for the cost of tuition at 43235
any institution of higher education attended by that person for 43236
such purposes as ~~he~~ the person determines. 43237

Sec. 3334.06. (A) The chancellor of the Ohio ~~tuition trust~~ 43238
~~authority~~ board of regents shall, after consultation with the 43239
issuer, develop a plan for the sale of college savings bonds. The 43240
plan shall include: 43241

(1) An advertising program to inform the public about the 43242
availability of college savings bonds; 43243

(2) The estimated cost of financing and administering the 43244
plan; 43245

(3) A description of the ongoing administrative authority and 43246
responsibility for the plan. 43247

(B) The ~~authority~~ chancellor shall approve the sale of a 43248

college savings bond issue under division (A) of section 3334.04 43249
of the Revised Code only after ~~it~~ the chancellor has determined 43250
that the issuance would comply with section 3334.04 of the Revised 43251
Code. 43252

(C) The ~~authority~~ chancellor shall cooperate with all state 43253
issuing authorities in identifying potential bond issues which may 43254
be appropriate for designation as college savings bonds and shall 43255
encourage those issuing authorities to participate in the Ohio 43256
college savings program. 43257

Sec. 3334.07. (A) The chancellor of the Ohio tuition trust 43258
~~authority~~ board of regents shall develop a plan for the sale of 43259
tuition units. ~~The Ohio board of regents shall cooperate with the~~ 43260
~~authority and provide technical assistance upon request.~~ 43261

(B) Annually, the ~~authority~~ chancellor shall determine the 43262
weighted average tuition of four-year state universities in the 43263
academic year that begins on or after the first day of August of 43264
the current calendar year, and shall establish the price of a 43265
tuition unit in the ensuing sales period. Such price shall be 43266
based on sound actuarial principles, and shall, to the extent 43267
actuarially possible, reasonably approximate one per cent of the 43268
weighted average tuition for that academic year plus the costs of 43269
administering the program that are in excess of general revenue 43270
fund appropriations for administrative costs. The sales period to 43271
which such price applies shall consist of twelve months, and the 43272
~~authority~~ chancellor by rule shall establish the date on which the 43273
sales period begins. If circumstances arise during a sales period 43274
that the ~~authority~~ chancellor determines causes the price of 43275
tuition units to be insufficient to ensure the actuarial soundness 43276
of the Ohio tuition trust fund, the ~~authority~~ chancellor may 43277
adjust the price of tuition units purchased during the remainder 43278
of the sales period. To promote the purchase of tuition units and 43279

in accordance with actuarially sound principles, the ~~authority~~ 43280
chancellor may adjust the sales price as part of incentive 43281
programs, such as discounting for lump sum purchases and 43282
multi-year installment plans at a fixed rate of purchase. 43283

Sec. 3334.08. (A) Subject to division (B) of this section, in 43284
addition to any other powers conferred by this chapter, the 43285
chancellor of the Ohio ~~tuition trust authority~~ board of regents 43286
may do any of the following: 43287

(1) Impose reasonable residency requirements for 43288
beneficiaries of tuition units; 43289

(2) Impose reasonable limits on the number of tuition unit 43290
participants; 43291

(3) Impose and collect administrative fees and charges in 43292
connection with any transaction under this chapter; 43293

(4) Purchase insurance from insurers licensed to do business 43294
in this state providing for coverage against any loss in 43295
connection with ~~the authority's~~ property, assets, or activities or 43296
to further ensure the value of tuition units; 43297

(5) Indemnify or purchase policies of insurance on behalf of 43298
~~members, officers, and~~ employees of the ~~authority~~ chancellor from 43299
insurers licensed to do business in this state providing for 43300
coverage for any liability incurred in connection with any civil 43301
action, demand, or claim against ~~a director, officer, or an~~ 43302
employee by reason of an act or omission by the ~~director, officer,~~ 43303
~~or~~ employee that was not manifestly outside the scope of the 43304
employment or official duties of the ~~director, officer, or~~ 43305
employee or with malicious purpose, in bad faith, or in a wanton 43306
or reckless manner; 43307

(6) Make, execute, and deliver contracts, conveyances, and 43308
other instruments necessary to the exercise and discharge of the 43309

powers and duties of the ~~authority~~ chancellor; 43310

(7) Promote, advertise, and publicize the Ohio college 43311
savings program and the variable college savings program; 43312

(8) Adopt rules under section 111.15 of the Revised Code for 43313
the implementation of the Ohio college savings program; 43314

(9) Contract, for the provision of all or part of the 43315
services necessary for the management and operation of the Ohio 43316
college savings program and the variable college savings program, 43317
with a bank, trust company, savings and loan association, 43318
insurance company, or licensed dealer in securities if the bank, 43319
company, association, or dealer is authorized to do business in 43320
this state and information about the contract is filed with the 43321
controlling board pursuant to division (D)(6) of section 127.16 of 43322
the Revised Code; 43323

(10) Contract for other services, or for goods, needed by the 43324
~~authority~~ chancellor in the conduct of ~~its~~ the chancellor's 43325
business under this chapter, including but not limited to credit 43326
card services; 43327

~~(11) Employ an executive director and other personnel as 43328
necessary to carry out its responsibilities under this chapter, 43329
and fix the compensation of these persons. All employees of the 43330
authority shall be in the unclassified civil service and shall be 43331
eligible for membership in the public employees retirement system. 43332~~

~~(12)~~ Contract with financial consultants, actuaries, 43333
auditors, and other consultants as necessary to carry out ~~its~~ the 43334
chancellor's responsibilities under this chapter; 43335

~~(13)~~(12) Enter into agreements with any agency of the state 43336
or its political subdivisions or with private employers under 43337
which an employee may agree to have a designated amount deducted 43338
in each payroll period from the wages or salary due the employee 43339
for the purpose of purchasing tuition units pursuant to a tuition 43340

payment contract or making contributions pursuant to a variable 43341
college savings program contract; 43342

~~(14)~~(13) Enter into an agreement with the treasurer of state 43343
under which the treasurer of state will receive, and credit to the 43344
Ohio tuition trust fund or variable college savings program fund, 43345
from any bank or savings and loan association authorized to do 43346
business in this state, amounts that a depositor of the bank or 43347
association authorizes the bank or association to withdraw 43348
periodically from the depositor's account for the purpose of 43349
purchasing tuition units pursuant to a tuition payment contract or 43350
making contributions pursuant to a variable college savings 43351
program contract; 43352

~~(15)~~(14) Solicit and accept gifts, grants, and loans from any 43353
person or governmental agency and participate in any governmental 43354
program; 43355

~~(16)~~(15) Impose limits on the number of units which may be 43356
purchased on behalf of or assigned or awarded to any beneficiary 43357
and on the total amount of contributions that may be made on 43358
behalf of a beneficiary; 43359

~~(17)~~(16) Impose restrictions on the substitution of another 43360
individual for the original beneficiary under the Ohio college 43361
savings program; 43362

~~(18)~~(17) Impose a limit on the age of a beneficiary, above 43363
which tuition units may not be purchased on behalf of that 43364
beneficiary; 43365

~~(19)~~(18) Enter into a cooperative agreement with the 43366
treasurer of state to provide for the direct disbursement of 43367
payments under tuition payment or variable college savings program 43368
contracts; 43369

~~(20)~~(19) Determine the other higher education expenses for 43370
which tuition units or contributions may be used; 43371

~~(21)~~(20) Terminate any tuition payment or variable college 43372
savings program contract if no purchases or contributions are made 43373
for a period of three years or more and there are fewer than a 43374
total of five tuition units or less than a dollar amount set by 43375
rule on account, provided that notice of a possible termination 43376
shall be provided in advance, explaining any options to prevent 43377
termination, and a reasonable amount of time shall be provided 43378
within which to act to prevent a termination; 43379

~~(22)~~(21) Maintain a separate account for each tuition payment 43380
or variable college savings program contract; 43381

~~(23)~~(22) Perform all acts necessary and proper to carry out 43382
the duties and responsibilities of the authority chancellor 43383
pursuant to this chapter. 43384

(B) The authority chancellor shall adopt rules under section 43385
111.15 of the Revised Code for the implementation and 43386
administration of the variable college savings program. The rules 43387
shall provide taxpayers with the maximum tax advantages and 43388
flexibility consistent with section 529 of the Internal Revenue 43389
Code and regulations adopted thereunder with regard to disposition 43390
of contributions and earnings, designation of beneficiaries, and 43391
rollover of account assets to other programs. 43392

(C) Except as otherwise specified in this chapter, the 43393
provisions of Chapters 123., 125., and 4117. of the Revised Code 43394
shall not apply to the ~~authority. The department of administrative~~ 43395
~~services shall, upon the request of the authority, act as the~~ 43396
~~authority's agent for the purchase of equipment, supplies,~~ 43397
~~insurance, or services, or the performance of administrative~~ 43398
~~services pursuant to Chapter 125. of the Revised Code~~ chancellor's 43399
exercise of duties and responsibilities under this chapter. 43400

Sec. 3334.09. (A) Except in the case of a scholarship program 43401
established in accordance with section 3334.17 of the Revised 43402

Code, the chancellor of the Ohio ~~tuition trust authority~~ board of 43403
regents may enter into a tuition payment contract with any person 43404
for the purchase of tuition units if either the purchaser or the 43405
beneficiary is a resident of this state at the time the contract 43406
is entered into. A tuition payment contract shall allow any person 43407
to purchase tuition units at the price determined by the ~~authority~~ 43408
chancellor pursuant to section 3334.07 or 3334.12 of the Revised 43409
Code for the year in which the tuition unit is purchased. The 43410
purchaser shall name in the payment contract one specific 43411
individual as the beneficiary for the tuition units. 43412

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In accordance with rules of the ~~authority~~ chancellor, units 43414
may be transferred to the credit of another beneficiary and a new 43415
beneficiary may be substituted for the beneficiary originally 43416
named in the contract. 43417

(B) Each tuition unit shall entitle the beneficiary to an 43418
amount equal to one per cent of the weighted average tuition. 43419

(C) Nothing in this chapter or in any tuition payment 43420
contract entered into pursuant to this chapter shall be construed 43421
as a guarantee by the state, the ~~authority~~ chancellor, or any 43422
institution of higher education that a beneficiary will be 43423
admitted to an institution of higher education, or, upon admission 43424
to an institution of higher education, will be permitted to 43425
continue to attend or will receive a degree from an institution of 43426
higher education. Nothing in this chapter or in any tuition 43427
payment contract entered into pursuant to this chapter shall be 43428
considered a guarantee that the beneficiary's cost of tuition at 43429
an institution of higher education other than a state institution 43430
of higher education will be covered in full by the proceeds of the 43431
beneficiary's tuition units. 43432

(D) The following information shall be disclosed in writing 43433
to each purchaser of tuition units and, where appropriate, to each 43434

entity establishing a scholarship program under section 3334.17 of the Revised Code: 43435
43436

(1) The terms and conditions for the purchase and use of tuition units; 43437
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(2) In the case of a contract described by division (A) of this section, any restrictions on the substitution of another individual for the original beneficiary and any restrictions on the transfer of ownership of units in the payment account; 43439
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(3) The person or entity entitled to terminate the contract; 43443

(4) The terms and conditions under which the contract may be terminated and the amount of the refund, if any, to which the person or entity terminating the contract, or that person's or entity's designee, is entitled upon termination; 43444
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(5) The obligation of the ~~authority~~ chancellor to make payments to a beneficiary, or an institution of higher education on behalf of a beneficiary, under division (B) of this section based upon the number of tuition units purchased on behalf of the beneficiary or awarded to the beneficiary pursuant to a scholarship program; 43448
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(6) The method by which tuition units shall be applied toward payment of tuition and other higher education expenses if in any academic term the beneficiary is a part-time student; 43454
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(7) The period of time during which a beneficiary may receive benefits under the contract; 43457
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(8) The terms and conditions under which money may be wholly or partially withdrawn from the program, including, but not limited to, any reasonable charges and fees that may be imposed for withdrawal; 43459
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(9) All other rights and obligations of the purchaser and the ~~authority~~ chancellor, including the provisions of division (A) of 43463
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section 3334.12 of the Revised Code, and any other terms, 43465
conditions, and provisions the ~~authority~~ chancellor considers 43466
necessary and appropriate. 43467

(E) A tuition payment contract may provide that the ~~authority~~ 43468
chancellor will pay directly to the institution of higher 43469
education in which a beneficiary is enrolled during a term the 43470
amount represented by the tuition units being used that term. 43471

(F) A tuition payment contract described by division (A) of 43472
this section may provide that if the contract has not been 43473
terminated or units purchased under the contract have not been 43474
applied toward the payment of tuition or other higher education 43475
expenses within a specified period of time, the ~~authority~~ 43476
chancellor may, after making a reasonable effort to locate the 43477
purchaser of the tuition units, the beneficiary, and any person 43478
designated in the contract to act on behalf of the purchaser of 43479
the units or the beneficiary, terminate the contract and retain 43480
the amounts payable under the contract. 43481

(G) If, at any time after tuition units are purchased on 43482
behalf of a beneficiary or awarded to a beneficiary or pursuant to 43483
a scholarship program, the beneficiary becomes a nonresident of 43484
this state, or, if the beneficiary was not a resident of this 43485
state at the time the tuition payment contract was entered into, 43486
the purchaser becomes a nonresident of this state, units purchased 43487
or awarded while the beneficiary was a resident may be applied on 43488
behalf of the beneficiary toward the payment of tuition at an 43489
institution of higher education and other higher education 43490
expenses in the manner specified in division (B) of this section, 43491
except that if the beneficiary enrolls in a state institution of 43492
higher education, the beneficiary shall be responsible for payment 43493
of all nonresident fees charged to out-of-state residents by the 43494
institution in which the beneficiary is enrolled. 43495

Sec. 3334.10. Divisions (A) and (B) of this section do not 43496
apply to scholarship programs established under section 3334.17 of 43497
the Revised Code. 43498

(A) Unless otherwise provided for in the tuition payment 43499
contract, the purchaser may rollover amounts to another qualified 43500
tuition program under section 529 of the Internal Revenue Code or 43501
terminate the contract for any reason by filing written notice 43502
with the chancellor of the Ohio ~~tuition trust authority~~ board of 43503
regents. 43504

(1) If the contract is terminated and the beneficiary is 43505
under eighteen years of age, the ~~authority~~ chancellor shall use 43506
actuarially sound principles to determine the amount of the 43507
refund. 43508

(2) If the contract is terminated because of the death or 43509
permanent disability of the beneficiary, the amount of the refund 43510
shall be equal to the greater of the following: 43511

(a) One per cent of the weighted average tuition in the 43512
academic year the refund is paid, multiplied by the number of 43513
tuition units purchased and not used; 43514

(b) The total purchase price of all tuition units purchased 43515
for the beneficiary and not used. 43516

(3) If all or part of the amount accrued under the contract 43517
is liquidated for a rollover to another qualified tuition program 43518
under section 529 of the Internal Revenue Code, the rollover 43519
amount shall be determined in an actuarially sound manner. 43520

(B) The contributor of a variable college savings program 43521
account may rollover amounts to another qualified tuition program 43522
under section 529 of the Internal Revenue Code or terminate the 43523
account for any reason by filing written notice with the ~~Ohio~~ 43524
~~tuition trust authority~~ chancellor. 43525

The contributor may receive an amount equal to the account balance, less any applicable administrative fees. 43526
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(C) A scholarship program may request a refund of tuition units in the program's account by filing a written request with the ~~authority~~ chancellor. The refund shall be paid to the entity that established the scholarship program or, with that entity's approval, to the ~~authority~~ chancellor if this is authorized by federal tax law. The amount of any refund shall be determined by the ~~authority~~ chancellor and shall meet the requirements for refunds made on account of scholarships under section 529 of the Internal Revenue Code. 43528
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(D) The ~~authority~~ chancellor shall maintain a separate account for each variable college savings contract entered into pursuant to division (A) of section 3334.18 of the Revised Code for contributions made on behalf of a beneficiary, showing the name of the beneficiary of that contract and the amount of contributions made pursuant to that contract. Upon request of any beneficiary or contributor, the ~~authority~~ chancellor shall provide a statement indicating, in the case of a beneficiary, the amount of contributions made pursuant to that contract on behalf of the beneficiary, or, in the case of a contributor, contributions made, disbursed, or refunded pursuant to that contract. 43537
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Sec. 3334.11. (A) ~~The assets of the Ohio tuition trust~~ authority reserved for payment of the obligations ~~of the authority~~ pursuant to tuition payment contracts shall be placed in a fund, which is hereby created and shall be known as the Ohio tuition trust fund. The fund shall be in the custody of the treasurer of state, but shall not be part of the state treasury. That portion of payments received by the ~~authority~~ chancellor of the Ohio board of regents or the treasurer of state from persons purchasing tuition units under tuition payment contracts that the ~~authority~~ 43548
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chancellor determines is actuarially necessary for the payment of 43557
obligations ~~of the authority~~ pursuant to tuition payment 43558
contracts, all interest and investment income earned by the fund, 43559
and all other receipts of the ~~authority~~ chancellor from any other 43560
source that the ~~authority~~ chancellor determines appropriate, shall 43561
be deposited in the fund. No purchaser or beneficiary of tuition 43562
units shall have any claim against the funds of any state 43563
institution of higher education. All investment fees and other 43564
costs incurred in connection with the exercise of the investment 43565
powers of the ~~authority~~ chancellor pursuant to divisions (D) and 43566
(E) of this section shall be paid from the assets of the fund. 43567

(B) Unless otherwise provided by the ~~authority~~ chancellor, 43568
the assets of the Ohio tuition trust fund shall be expended in the 43569
following order: 43570

(1) To make payments to beneficiaries, or institutions of 43571
higher education on behalf of beneficiaries, under division (B) of 43572
section 3334.09 of the Revised Code; 43573

(2) To make refunds as provided in divisions (A) and (C) of 43574
section 3334.10 of the Revised Code; 43575

(3) To pay the investment fees and other costs of 43576
administering the fund. 43577

(C)(1) Except as may be provided in an agreement under 43578
division (A)~~(19)~~(18) of section 3334.08 of the Revised Code, all 43579
disbursements from the Ohio tuition trust fund shall be made by 43580
the treasurer of state on order of a designee of the ~~authority~~ 43581
chancellor. 43582

(2) The treasurer of state shall deposit any portion of the 43583
Ohio tuition trust fund not needed for immediate use in the same 43584
manner as state funds are deposited. 43585

(D) The ~~authority~~ chancellor is the trustee of the Ohio 43586
tuition trust fund. The ~~authority~~ chancellor shall have full power 43587

to invest the assets of the fund and in exercising this power 43588
shall be subject to the limitations and requirements contained in 43589
divisions (K) to (M) of this section and sections 145.112 and 43590
145.113 of the Revised Code. The evidences of title of all 43591
investments shall be delivered to the treasurer of state or to a 43592
qualified trustee designated by the treasurer of state as provided 43593
in section 135.18 of the Revised Code. Assets of the fund shall be 43594
administered by the ~~authority~~ chancellor in a manner designed to 43595
be actuarially sound so that the assets of the fund will be 43596
sufficient to satisfy the obligations ~~of the authority~~ pursuant to 43597
tuition payment contracts and defray the reasonable expenses of 43598
administering the fund. 43599

(E) ~~The public employees retirement board shall, with the~~ 43600
~~approval of the authority, exercise the investment powers of the~~ 43601
~~authority as set forth~~ The chancellor may contract with any 43602
business, entity, or government agency to carry out the 43603
chancellor's investment powers provided in division (D) of this 43604
section ~~until the authority determines that assumption and~~ 43605
~~exercise by the authority of the investment powers is financially~~ 43606
~~and administratively feasible.~~ The investment powers shall be 43607
exercised by the ~~public employees retirement board~~ contractor in a 43608
manner agreed upon by the ~~authority~~ chancellor that maximizes the 43609
return on investment and minimizes the administrative expenses. 43610

(F)(1) The ~~authority~~ chancellor shall maintain a separate 43611
account for each tuition payment contract entered into pursuant to 43612
division (A) of section 3334.09 of the Revised Code for the 43613
purchase of tuition units on behalf of a beneficiary or 43614
beneficiaries showing the beneficiary or beneficiaries of that 43615
contract and the number of tuition units purchased pursuant to 43616
that contract. Upon request of any beneficiary or person who has 43617
entered into a tuition payment contract, the ~~authority~~ chancellor 43618
shall provide a statement indicating, in the case of a 43619

beneficiary, the number of tuition units purchased on behalf of 43620
the beneficiary, or in the case of a person who has entered into a 43621
tuition payment contract, the number of tuition units purchased, 43622
used, or refunded pursuant to that contract. A beneficiary and 43623
person that have entered into a tuition payment contract each may 43624
file only one request under this division in any year. 43625

(2) The ~~authority~~ chancellor shall maintain an account for 43626
each scholarship program showing the number of tuition units that 43627
have been purchased for or donated to the program and the number 43628
of tuition units that have been used. Upon the request of the 43629
entity that established the scholarship program, the ~~authority~~ 43630
chancellor shall provide a statement indicating these numbers. 43631

(G) In addition to the Ohio tuition trust fund, there is 43632
hereby established a reserve fund that shall be in the custody of 43633
the treasurer of state but shall not be part of the state 43634
treasury, and shall be known as the Ohio tuition trust reserve 43635
fund, and an operating fund that shall be part of the state 43636
treasury, and shall be known as the Ohio tuition trust operating 43637
fund. That portion of payments received by the ~~authority~~ 43638
chancellor or the treasurer of state from persons purchasing 43639
tuition units under tuition payment contracts that the ~~authority~~ 43640
chancellor determines is not actuarially necessary for the payment 43641
of obligations ~~of the authority~~ pursuant to tuition payment 43642
contracts, any interest and investment income earned by the 43643
reserve fund, any administrative charges and fees imposed by the 43644
~~authority~~ chancellor on transactions under this chapter or on 43645
purchasers or beneficiaries of tuition units, and all other 43646
receipts from any other source that the ~~authority~~ chancellor 43647
determines appropriate, shall be deposited in the reserve fund to 43648
pay the operating expenses of the ~~authority~~ chancellor and the 43649
costs of administering the program. The assets of the reserve fund 43650
may be invested in the same manner and subject to the same 43651

limitations set forth in divisions (D), (E), and (K) to (M) of 43652
this section and sections 145.112 and 145.113 of the Revised Code. 43653
All investment fees and other costs incurred in connection with 43654
the exercise of the investment powers shall be paid from the 43655
assets of the reserve fund. Except as otherwise provided for in 43656
this chapter, all operating expenses of the ~~authority~~ chancellor 43657
and costs of administering the program shall be paid from the 43658
operating fund. The treasurer shall, upon request of the ~~authority~~ 43659
chancellor, transfer funds from the reserve fund to the operating 43660
fund as the ~~authority~~ chancellor determines appropriate to pay 43661
those current operating expenses ~~of the authority~~ and costs of 43662
administering the program as the ~~authority~~ chancellor designates. 43663
Any interest or investment income earned on the assets of the 43664
operating fund shall be deposited in the operating fund. 43665

(H) In January of each year the ~~authority~~ chancellor shall 43666
report to each person who received any payments or refunds under 43667
this chapter from the ~~authority~~ chancellor during the preceding 43668
year information relative to the value of the payments or refunds 43669
to assist in determining that person's tax liability. 43670

(I) The ~~authority~~ chancellor shall report to the tax 43671
commissioner any information, and at the times, as the tax 43672
commissioner requires to determine any tax liability that a person 43673
may have incurred during the preceding year as a result of having 43674
received any payments or refunds from the ~~authority~~ chancellor. 43675

(J) All records of the ~~authority~~ chancellor indicating the 43676
identity of purchasers and beneficiaries of tuition units or 43677
college savings bonds, the number of tuition units purchased, 43678
used, or refunded under a tuition payment contract, and the number 43679
of college savings bonds purchased, held, or redeemed are not 43680
public records within the meaning of section 149.43 of the Revised 43681
Code. 43682

(K) The ~~authority~~ chancellor and other fiduciaries shall 43683

discharge their duties with respect to the funds with care, skill, 43684
prudence, and diligence under the circumstances then prevailing 43685
that a prudent person acting in a like capacity and familiar with 43686
such matters would use in the conduct of an enterprise of a like 43687
character and with like aims; and by diversifying the investments 43688
of the assets of the funds so as to minimize the risk of large 43689
losses, unless under the circumstances it is clearly prudent not 43690
to do so. 43691

To facilitate investment of the funds, the ~~authority~~ 43692
chancellor may establish a partnership, trust, limited liability 43693
company, corporation, including a corporation exempt from taxation 43694
under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as 43695
amended, or any other legal entity authorized to transact business 43696
in this state. 43697

(L) In exercising ~~its~~ the chancellor's fiduciary 43698
responsibility with respect to the investment of the assets of the 43699
funds, it shall be the intent of the ~~authority~~ chancellor to give 43700
consideration to investments that enhance the general welfare of 43701
the state and its citizens where the investments offer quality, 43702
return, and safety comparable to other investments currently 43703
available to the ~~authority~~ chancellor. In fulfilling this intent, 43704
equal consideration shall also be given to investments otherwise 43705
qualifying under this section that involve minority owned and 43706
controlled firms and firms owned and controlled by women, either 43707
alone or in joint venture with other firms. 43708

The ~~authority~~ chancellor shall ~~adopt, in regular meeting,~~ 43709
establish policies, objectives, or criteria for the operation of 43710
the investment program that include asset allocation targets and 43711
ranges, risk factors, asset class benchmarks, time horizons, total 43712
return objectives, and performance evaluation guidelines. In 43713
~~adopting~~ establishing policies and criteria for the selection of 43714
agents with whom the ~~authority~~ chancellor may contract for the 43715

administration of the assets of the funds, the ~~authority~~ 43716
chancellor shall give equal consideration to minority owned and 43717
controlled firms, firms owned and controlled by women, and 43718
ventures involving minority owned and controlled firms and firms 43719
owned and controlled by women that otherwise meet the policies and 43720
criteria established by the ~~authority~~ chancellor. ~~Amendments and~~ 43721
~~additions to the policies and criteria shall be adopted in regular~~ 43722
~~meeting.~~ The ~~authority~~ chancellor shall publish ~~its~~ the policies, 43723
objectives, and criteria under this provision no less often than 43724
annually and shall make copies available to interested parties. 43725

When reporting on the performance of investments, the 43726
~~authority~~ chancellor shall comply with the performance 43727
presentation standards established by the association for 43728
investment management and research. 43729

(M) All investments shall be purchased at current market 43730
prices and the evidences of title of the investments shall be 43731
placed in the hands of the treasurer of state, who is hereby 43732
designated as custodian thereof, or in the hands of the treasurer 43733
of state's authorized agent. The treasurer of state or the agent 43734
shall collect the principal, dividends, distributions, and 43735
interest thereon as they become due and payable and place them 43736
when so collected into the custodial funds. 43737

The treasurer of state shall pay for investments purchased by 43738
the ~~authority~~ chancellor on receipt of written or electronic 43739
instructions from the ~~authority~~ chancellor or the ~~authority's~~ 43740
chancellor's designated agent authorizing the purchase and pending 43741
receipt of the evidence of title of the investment by the 43742
treasurer of state or the treasurer of state's authorized agent. 43743
The ~~authority~~ chancellor may sell investments held by the 43744
~~authority~~ chancellor, and the treasurer of state or the treasurer 43745
of state's authorized agent shall accept payment from the 43746
purchaser and deliver evidence of title of the investment to the 43747

purchaser on receipt of written or electronic instructions from 43748
the ~~authority~~ chancellor or the ~~authority's~~ chancellor's 43749
designated agent authorizing the sale, and pending receipt of the 43750
moneys for the investments. The amount received shall be placed in 43751
the custodial funds. The ~~authority~~ chancellor and the treasurer of 43752
state may enter into agreements to establish procedures for the 43753
purchase and sale of investments under this division and the 43754
custody of the investments. 43755

No purchase or sale of any investment shall be made under 43756
this section except as authorized by the ~~authority~~ chancellor. 43757

Any statement of financial position distributed by the 43758
~~authority~~ chancellor shall include fair value, as of the statement 43759
date, of all investments held by the ~~authority~~ chancellor under 43760
this section. 43761

Sec. 3334.12. Notwithstanding anything to the contrary in 43762
sections 3334.07 and 3334.09 of the Revised Code: 43763

(A) Annually, the chancellor of the Ohio ~~tuition trust~~ 43764
~~authority~~ board of regents shall have the actuarial soundness of 43765
the Ohio tuition trust fund evaluated by a nationally recognized 43766
actuary and shall determine whether additional assets are 43767
necessary to defray ~~the~~ obligations ~~of the authority~~. If, after 43768
the ~~authority~~ chancellor sets the price for tuition units, 43769
circumstances arise that the ~~executive director~~ chancellor 43770
determines necessitate an additional evaluation of the actuarial 43771
soundness of the fund, the ~~executive director~~ chancellor shall 43772
have a nationally recognized actuary conduct the necessary 43773
evaluation. If the assets of the fund are insufficient to ensure 43774
the actuarial soundness of the fund, the ~~authority~~ chancellor 43775
shall adjust the price of subsequent purchases of tuition units to 43776
the extent necessary to help restore the actuarial soundness of 43777
the fund. If, at any time, the adjustment is likely, in the 43778

opinion of the ~~authority~~ chancellor, to diminish the marketability 43779
of tuition units to an extent that the continued sale of the units 43780
likely would not restore the actuarial soundness of the fund and 43781
external economic factors continue to negatively impact the 43782
soundness of the program, the ~~authority~~ chancellor may suspend 43783
sales, either permanently or temporarily, of tuition units. During 43784
any suspension, the ~~authority~~ chancellor shall continue to service 43785
existing college savings program accounts. 43786

(B) Upon termination of the program or liquidation of the 43787
Ohio tuition trust fund, the Ohio tuition trust reserve fund, and 43788
the Ohio tuition trust operating fund, any remaining assets of the 43789
funds after all obligations of the funds have been satisfied 43790
pursuant to division (B) of section 3334.11 of the Revised Code 43791
shall be transferred to the general revenue fund of the state. 43792

(C) The ~~authority~~ chancellor shall prepare and cause to have 43793
audited an annual financial report on all financial activity of 43794
the ~~Ohio tuition trust authority~~ chancellor under this chapter 43795
within ninety days of the end of the fiscal year. The ~~authority~~ 43796
chancellor shall transmit a copy of the audited financial report 43797
to the governor, the president of the senate, the speaker of the 43798
house of representatives, and the minority leaders of the senate 43799
and the house of representatives. Copies of the audited financial 43800
report also shall be made available, upon request, to the persons 43801
entering into contracts with the ~~authority~~ chancellor and to 43802
prospective purchasers of tuition units and prospective 43803
contributors to variable college savings program accounts. 43804

Sec. 3334.16. The general assembly hereby finds that the 43805
prepaid tuition program providing for the sale of tuition ~~credits~~ 43806
units by the chancellor of the Ohio tuition trust authority board 43807
of regents is an official state function, offered through an 43808
agency of this state, which agency receives state appropriations. 43809

Therefore, the ~~authority~~ chancellor is directed by the state of 43810
Ohio to assume ~~it~~ the program is exempt from federal tax 43811
liability. 43812

Sec. 3334.17. (A) The state, any political subdivision of the 43813
state, and any organization that is exempt from federal income 43814
taxation under section 501 (a) and described in section 501 (c)(3) 43815
of the Internal Revenue Code, including the chancellor of the Ohio 43816
~~tuition trust authority~~ board of regents if this is authorized 43817
under federal tax law, may establish a scholarship program to 43818
award scholarships consisting of contributions made to any college 43819
savings program for students. Any scholarship program established 43820
under this section shall be registered with the ~~authority~~ 43821
chancellor. The ~~authority~~ chancellor shall be notified of the name 43822
and address of each scholarship beneficiary under the program, the 43823
amounts awarded, and the institution of higher education in which 43824
the beneficiary is enrolled. Scholarship beneficiaries shall be 43825
selected by the entity establishing the scholarship program, in 43826
accordance with criteria established by the entity. 43827

(B) Any person or governmental entity may purchase tuition 43828
units on behalf of a scholarship program that is or is to be 43829
established in accordance with division (A) of this section at the 43830
same price as is established for the purchase of units for named 43831
beneficiaries pursuant to this chapter. Tuition units shall have 43832
the same value to the beneficiary of a scholarship awarded 43833
pursuant to this section as they would have to any other 43834
beneficiary pursuant to division (B) of section 3334.09 of the 43835
Revised Code. 43836

(C) The entity establishing and maintaining a scholarship 43837
program shall specify whether a scholarship beneficiary may 43838
receive a refund or payment for the amount awarded under the 43839
scholarship program directly from the ~~authority~~ chancellor, or 43840

whether the amount awarded shall be paid by the ~~authority~~ 43841
chancellor only to the institution of higher education in which 43842
the student is enrolled. 43843

(D) If a scholarship beneficiary does not use the amount 43844
awarded within a length of time specified under the scholarship 43845
program, the amount may be awarded to another beneficiary. 43846

Sec. 3334.18. (A) A variable college savings program 43847
established by the chancellor of the Ohio ~~tuition trust authority~~ 43848
board of regents shall include provisions for a contract to be 43849
entered into between a contributor and the ~~authority~~ chancellor 43850
that will authorize the contributor to open an account for a 43851
beneficiary and authorize the contributor to substitute a new 43852
beneficiary for one originally named in the contract, to the 43853
extent permitted by section 529 of the Internal Revenue Code. 43854

(B) The ~~authority~~ chancellor shall provide adequate 43855
safeguards to prevent total contributions to a variable college 43856
savings program account or purchases of tuition units, either 43857
separately or combined, that are made on behalf of a beneficiary 43858
from exceeding the amount necessary to provide for the tuition and 43859
other higher education expenses of the beneficiary, consistent 43860
with the maximum contributions permitted by section 529 of the 43861
Internal Revenue Code. However, in no event shall contributions or 43862
purchases exceed the allowable limit for a qualified tuition 43863
program under section 529 of the Internal Revenue Code. 43864

(C)(1) Participation in the variable college savings program 43865
does not guarantee that contributions and the investment return on 43866
contributions, if any, will be adequate to cover future tuition 43867
and other higher education expenses or that a beneficiary will be 43868
admitted to or permitted to continue to attend an institution of 43869
higher education. 43870

(2) Returns on contributors' investments in the variable 43871

college savings program are not guaranteed by the state and the 43872
contributors to the variable college savings program assume all 43873
investment risk, including the potential loss of principal and 43874
liability for penalties such as those levied for noneducational 43875
withdrawals. 43876

(3) The state shall have no debt or obligation to any 43877
contributor, beneficiary, or any other person as a result of the 43878
establishment of the program, and the state assumes no risk or 43879
liability for funds invested in the variable college savings 43880
program. 43881

(4) Informational materials about the variable college 43882
savings program prepared by the ~~authority~~ chancellor or ~~its~~ the 43883
chancellor's agents and provided to prospective contributors shall 43884
state clearly the information set forth in division (C) of this 43885
section. 43886

Sec. 3334.19. (A) The ~~chancellor of the Ohio tuition trust~~ 43887
~~authority~~ board of regents shall adopt an investment plan that 43888
sets forth investment policies and guidelines to be utilized in 43889
administering the variable college savings program. Except as 43890
provided in section 3334.20 of the Revised Code, the ~~authority~~ 43891
chancellor shall contract with one or more insurance companies, 43892
banks, or other financial institutions to act as its investment 43893
agents and to provide such services as the ~~authority~~ chancellor 43894
considers appropriate to the investment plan, including: 43895

(1) Purchase, control, and safekeeping of assets; 43896

(2) Record keeping and accounting for individual accounts and 43897
for the program as a whole; 43898

(3) Provision of consolidated statements of account. 43899

(B) The ~~authority~~ chancellor or ~~its~~ the chancellor's 43900
investment agents shall maintain a separate account for the 43901

beneficiary of each contract entered into under the variable 43902
college savings program. If a beneficiary has more than one such 43903
account, the ~~authority~~ chancellor or ~~its~~ the chancellor's agents 43904
shall track total contributions and earnings and provide a 43905
consolidated system of account distributions to institutions of 43906
higher education. 43907

(C) The ~~authority~~ chancellor or ~~its~~ the chancellor's 43908
investment agents may place assets of the program in savings 43909
accounts and may purchase fixed or variable life insurance or 43910
annuity contracts, securities, evidence of indebtedness, or other 43911
investment products pursuant to the investment plan. 43912

(D) Contributors shall not direct the investment of their 43913
contributions under the investment plan. The ~~authority~~ chancellor 43914
shall impose other limits on contributors' investment discretion 43915
to the extent required under section 529 of the Internal Revenue 43916
Code. 43917

(E) The investment agents with which the ~~authority~~ chancellor 43918
contracts shall discharge their duties with respect to program 43919
funds with the care and diligence that a prudent person familiar 43920
with such matters and with the character and aims of the program 43921
would use. 43922

(F) The assets of the program shall be preserved, invested, 43923
and expended solely for the purposes of this chapter and shall not 43924
be loaned or otherwise transferred or used by the state for any 43925
other purpose. This section shall not be construed to prohibit the 43926
investment agents of the ~~authority~~ chancellor from investing, by 43927
purchase or otherwise, in bonds, notes, or other obligations of 43928
the state or any agency or instrumentality of the state. Unless 43929
otherwise specified by the ~~authority~~ chancellor, assets of the 43930
program shall be expended in the following order of priority: 43931

(1) To make payments on behalf of beneficiaries; 43932

(2) To make refunds upon termination of variable college savings program contracts; 43933
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(3) To pay the ~~authority's~~ chancellor's costs of administering the program; 43935
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(4) To pay or cover any other expenditure or disbursement the ~~authority~~ chancellor determines necessary or appropriate. 43937
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(G) Fees, charges, and other costs imposed or collected by the ~~authority~~ chancellor in connection with the variable college savings program, including any fees or other payments that the ~~authority~~ chancellor requires an investment agent to pay to the ~~authority~~ chancellor, shall be credited to either the variable operating fund or the index operating fund at the discretion of the ~~authority~~ chancellor. These funds are hereby created in the state treasury. Expenses incurred in the administration of the variable college savings program, as well as other expenses, disbursements, or payments the ~~authority~~ chancellor considers appropriate for the benefit of any college savings programs administered by the ~~authority~~ chancellor, the state of Ohio and its citizens, shall be paid from the variable operating fund or the index operating fund at the discretion of the ~~authority~~ chancellor. 43939
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(H) No records ~~of the authority~~ indicating the identity of purchasers, contributors, and beneficiaries under the program or amounts contributed to, earned by, or distributed from program accounts are public records within the meaning of section 149.43 of the Revised Code. 43954
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Sec. 3334.20. (A) As used in this section, "state agency" means every department, bureau, board, commission, office, or other organized body established by the constitution or laws of this state for the exercise of state government. 43959
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(B) If a condition arises concerning the investment of funds 43963
received under the variable college savings program and requiring 43964
an interim period for investment of program funds, which condition 43965
is determined pursuant to division (D) of this section, the 43966
chancellor of the Ohio ~~tuition trust authority~~ board of regents 43967
shall choose the treasurer of state, a state agency having 43968
investment authority, or an investment agent under contract with 43969
the ~~authority~~ chancellor to invest program funds pursuant to the 43970
investment plan established under division (A) of section 3334.19 43971
of the Revised Code. The treasurer of state, state agency, or 43972
investment agent chosen by the ~~authority~~ chancellor pursuant to 43973
this division shall be subject to the requirements and conditions 43974
that apply to investment agents specified in section 3334.19 of 43975
the Revised Code. 43976

(C) The ~~authority~~ chancellor shall be the trustee of the 43977
program. During the interim period, the ~~authority~~ chancellor shall 43978
receive and hold all payments, deposits, and contributions, as 43979
well as gifts, bequests, endowments, and federal, state, or local 43980
grants and any funds from any other source, public or private, and 43981
all earnings, until disbursed to pay tuition or other higher 43982
education expenses or refunds pursuant to college savings plans 43983
contracts. The ~~authority~~ chancellor shall keep such funds 43984
segregated from all other assets ~~of the authority~~. 43985

(D) The ~~authority~~ chancellor shall adopt rules under section 43986
111.15 of the Revised Code defining the conditions under which an 43987
interim investment period is required and this section applies. 43988
The rules shall include any condition requiring the termination of 43989
the interim period and the authority to contract with alternative 43990
investment agents pursuant to section 3334.19 of the Revised Code 43991
and any other requirements that apply during the interim 43992
investment period. 43993

(E) When the interim period for investment of program funds 43994

terminates, the investment agents selected pursuant to section 43995
3334.19 of the Revised Code for the investment of program funds 43996
shall have the sole authority to invest program funds pursuant to 43997
the investment plan established under division (A) of that section 43998
and shall be subject to that section. 43999

Sec. 3334.21. The variable college savings program may be 44000
terminated by statute or upon the determination of the chancellor 44001
of the Ohio ~~tuition trust authority~~ board of regents that the 44002
program is not financially feasible. Upon termination, all amounts 44003
held in program accounts shall be returned to account owners, to 44004
the extent possible, and any unclaimed assets in the program shall 44005
be transferred to the unclaimed funds trust fund and disposed of 44006
in accordance with section 169.05 of the Revised Code. 44007

Sec. 3345.011. "State university" means a public institution 44008
of higher education which is a body politic and corporate. Each of 44009
the following institutions of higher education shall be recognized 44010
as a state university: university of Akron, Bowling Green state 44011
university, Central state university, university of Cincinnati, 44012
Cleveland state university, Kent state university, Miami 44013
university, Ohio university, Ohio state university, Shawnee state 44014
university, university of Toledo, Wright state university, and 44015
Youngstown state university. 44016

"State institution of higher education" means any state 44017
university or college as defined in division (A)(1) of section 44018
3345.12 of the Revised Code, community college, state community 44019
college, university branch established under Chapter 3355. of the 44020
Revised Code, or technical college. 44021

"University system of Ohio" means the collective group of all 44022
of the state institutions of higher education. 44023

"Member of the university system of Ohio" means any 44024

individual state institution of higher education. 44025

Sec. 3345.12. (A) As used in this section and sections 44026
3345.07 and 3345.11 of the Revised Code, in other sections of the 44027
Revised Code that make reference to this section unless the 44028
context does not permit, and in related bond proceedings unless 44029
otherwise expressly provided: 44030

(1) "State university or college" means each of the state 44031
universities identified in section 3345.011 of the Revised Code 44032
and the northeastern Ohio universities college of medicine, and 44033
includes its board of trustees. 44034

(2) "Institution of higher education" or "institution" means 44035
a state university or college, or a community college district, 44036
technical college district, university branch district, or state 44037
community college, and includes the applicable board of trustees 44038
or, in the case of a university branch district, any other 44039
managing authority. 44040

(3) "Housing and dining facilities" means buildings, 44041
structures, and other improvements, and equipment, real estate, 44042
and interests in real estate therefor, to be used for or in 44043
connection with dormitories or other living quarters and 44044
accommodations, or related dining halls or other food service and 44045
preparation facilities, for students, members of the faculty, 44046
officers, or employees of the institution of higher education, and 44047
their spouses and families. 44048

(4) "Auxiliary facilities" means buildings, structures, and 44049
other improvements, and equipment, real estate, and interests in 44050
real estate therefor, to be used for or in connection with student 44051
activity or student service facilities, housing and dining 44052
facilities, dining halls, and other food service and preparation 44053
facilities, vehicular parking facilities, bookstores, athletic and 44054
recreational facilities, faculty centers, auditoriums, assembly 44055

and exhibition halls, hospitals, infirmaries and other medical and 44056
health facilities, research, and continuing education facilities. 44057

(5) "Education facilities" means buildings, structures, and 44058
other improvements, and equipment, real estate, and interests in 44059
real estate therefor, to be used for or in connection with, 44060
classrooms or other instructional facilities, libraries, 44061
administrative and office facilities, and other facilities, other 44062
than auxiliary facilities, to be used directly or indirectly for 44063
or in connection with the conduct of the institution of higher 44064
education. 44065

(6) "Facilities" means housing and dining facilities, 44066
auxiliary facilities, or education facilities, and includes any 44067
one, part of, or any combination of such facilities, and further 44068
includes site improvements, utilities, machinery, furnishings, and 44069
any separate or connected buildings, structures, improvements, 44070
sites, open space and green space areas, utilities or equipment to 44071
be used in, or in connection with the operation or maintenance of, 44072
or supplementing or otherwise related to the services or 44073
facilities to be provided by, such facilities. 44074

(7) "Obligations" means bonds or notes or other evidences of 44075
obligation, including interest coupons pertaining thereto, 44076
authorized to be issued under this section or section 3345.07, 44077
3345.11, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised 44078
Code. 44079

(8) "Bond service charges" means principal, including any 44080
mandatory sinking fund or redemption requirements for the 44081
retirement of obligations, interest, or interest equivalent and 44082
other accreted amounts, and any call premium required to be paid 44083
on obligations. 44084

(9) "Bond proceedings" means the resolutions, trust 44085
agreement, indenture, and other agreements and credit enhancement 44086

facilities, and amendments and supplements to the foregoing, or 44087
any one or more or combination thereof, authorizing, awarding, or 44088
providing for the terms and conditions applicable to, or providing 44089
for the security or liquidity of, obligations, and the provisions 44090
contained in those obligations. 44091

(10) "Costs of facilities" means the costs of acquiring, 44092
constructing, reconstructing, rehabilitating, remodeling, 44093
renovating, enlarging, improving, equipping, or furnishing 44094
facilities, and the financing thereof, including the cost of 44095
clearance and preparation of the site and of any land to be used 44096
in connection with facilities, the cost of any indemnity and 44097
surety bonds and premiums on insurance, all related direct 44098
administrative expenses and allocable portions of direct costs of 44099
the institution of higher education or state agency, cost of 44100
engineering, architectural services, design, plans, specifications 44101
and surveys, estimates of cost, legal fees, fees and expenses of 44102
trustees, depositories, bond registrars, and paying agents for the 44103
obligations, cost of issuance of the obligations and financing 44104
costs and fees and expenses of financial advisers and consultants 44105
in connection therewith, interest on the obligations from the date 44106
thereof to the time when interest is to be covered by available 44107
receipts or other sources other than proceeds of the obligations, 44108
amounts necessary to establish reserves as required by the bond 44109
proceedings, costs of audits, the reimbursements of all moneys 44110
advanced or applied by or borrowed from the institution or others, 44111
from whatever source provided, including any temporary advances 44112
from state appropriations, for the payment of any item or items of 44113
cost of facilities, and all other expenses necessary or incident 44114
to planning or determining feasibility or practicability with 44115
respect to facilities, and such other expenses as may be necessary 44116
or incident to the acquisition, construction, reconstruction, 44117
rehabilitation, remodeling, renovation, enlargement, improvement, 44118
equipment, and furnishing of facilities, the financing thereof and 44119

the placing of them in use and operation, including any one, part 44120
of, or combination of such classes of costs and expenses. 44121

(11) "Available receipts" means all moneys received by the 44122
institution of higher education, including income, revenues, and 44123
receipts from the operation, ownership, or control of facilities, 44124
grants, gifts, donations, and pledges and receipts therefrom, 44125
receipts from fees and charges, and the proceeds of the sale of 44126
obligations, including proceeds of obligations issued to refund 44127
obligations previously issued, but excluding any special fee, and 44128
receipts therefrom, charged pursuant to division (D) of section 44129
154.21 of the Revised Code. 44130

(12) "Credit enhancement facilities" has the meaning given in 44131
division (H) of section 133.01 of the Revised Code. 44132

(13) "Financing costs" has the meaning given in division (K) 44133
of section 133.01 of the Revised Code. 44134

(14) "Interest" or "interest equivalent" has the meaning 44135
given in division (R) of section 133.01 of the Revised Code. 44136

(B) Obligations issued under section 3345.07 or 3345.11 of 44137
the Revised Code by a state university or college shall be 44138
authorized by resolution of its board of trustees. Obligations 44139
issued by any other institution of higher education shall be 44140
authorized by resolution of its board of trustees, or managing 44141
directors in the case of certain university branch districts, as 44142
applicable. Sections 9.96 and 9.98 to 9.983 of the Revised Code 44143
apply to obligations. Obligations may be issued to pay costs of 44144
facilities even if the institution anticipates the possibility of 44145
a future state appropriation to pay all or a portion of such 44146
costs. 44147

(C) Obligations shall be secured by a pledge of and lien on 44148
all or such part of the available receipts of the institution of 44149
higher education as it provides for in the bond proceedings, 44150

excluding moneys raised by taxation and state appropriations 44151
except as permitted by section 3333.90 of the Revised Code. Such 44152
pledge and lien may be made prior to all other expenses, claims, 44153
or payments, excepting any pledge of such available receipts 44154
previously made to the contrary and except as provided by any 44155
existing restrictions on the use thereof, or such pledge and lien 44156
may be made subordinate to such other expenses, claims, or 44157
payments, as provided in the bond proceedings. Obligations may be 44158
additionally secured by covenants of the institution to make, fix, 44159
adjust, collect, and apply such charges, rates, fees, rentals, and 44160
other items of available receipts as will produce pledged 44161
available receipts sufficient to meet bond service charges, 44162
reserve, and other requirements provided for in the bond 44163
proceedings. Notwithstanding this and any other sections of the 44164
Revised Code, the holders or owners of the obligations shall not 44165
be given the right and shall have no right to have excises or 44166
taxes levied by the general assembly for the payment of bond 44167
service charges thereon, and each such obligation shall bear on 44168
its face a statement to that effect and to the effect that the 44169
right to such payment is limited to the available receipts and 44170
special funds pledged to such purpose under the bond proceedings. 44171

All pledged available receipts and funds and the proceeds of 44172
obligations are trust funds and, subject to the provisions of this 44173
section and the applicable bond proceedings, shall be held, 44174
deposited, invested, reinvested, disbursed, applied, and used to 44175
such extent, in such manner, at such times, and for such purposes, 44176
as are provided in the bond proceedings. 44177

(D) The bond proceedings for obligations shall provide for 44178
the purpose thereof and the principal amount or maximum principal 44179
amount, and provide for or authorize the manner of determining the 44180
principal maturity or maturities, the sale price including any 44181
permitted discount, the interest rate or rates, which may be a 44182

variable rate or rates, or the maximum interest rate, the date of 44183
the obligations and the date or dates of payment of interest 44184
thereon, their denominations, the manner of sale thereof, and the 44185
establishment within or without the state of a place or places of 44186
payment of bond service charges. The bond proceedings also shall 44187
provide for a pledge of and lien on available receipts of the 44188
institution of higher education as provided in division (C) of 44189
this section, and a pledge of and lien on such fund or funds 44190
provided in the bond proceedings arising from available receipts, 44191
which pledges and liens may provide for parity with obligations 44192
theretofore or thereafter issued by the institution. The available 44193
receipts so pledged and thereafter received by the institution and 44194
the funds so pledged are immediately subject to the lien of such 44195
pledge without any physical delivery thereof or further act, and 44196
the lien of any such pledge is valid and binding against all 44197
parties having claims of any kind against the institution, 44198
irrespective of whether such parties have notice thereof, and 44199
shall create a perfected security interest for all purposes of 44200
Chapter 1309. of the Revised Code, without the necessity for 44201
separation or delivery of funds or for the filing or recording of 44202
the bond proceedings by which such pledge is created or any 44203
certificate, statement, or other document with respect thereto; 44204
and the pledge of such available receipts and funds shall be 44205
effective and the money therefrom and thereof may be applied to 44206
the purposes for which pledged without necessity for any act of 44207
appropriation. 44208

(E) The bond proceedings may contain additional provisions 44209
customary or appropriate to the financing or to the obligations or 44210
to particular obligations, including: 44211

(1) The acquisition, construction, reconstruction, equipment, 44212
furnishing, improvement, operation, alteration, enlargement, 44213
maintenance, insurance, and repair of facilities, and the duties 44214

of the institution of higher education with reference thereto; 44215

(2) The terms of the obligations, including provisions for 44216
their redemption prior to maturity at the option of the 44217
institution of higher education at such price or prices and under 44218
such terms and conditions as are provided in the bond proceedings; 44219

(3) Limitations on the purposes to which the proceeds of the 44220
obligations may be applied; 44221

(4) The rates or rentals or other charges for the use of or 44222
right to use the facilities financed by the obligations, or other 44223
properties the revenues or receipts from which are pledged to the 44224
obligations, and rules for assuring use and occupancy thereof, 44225
including limitations upon the right to modify such rates, 44226
rentals, other charges, or regulations; 44227

(5) The use and expenditure of the pledged available receipts 44228
in such manner and to such extent as shall be determined, which 44229
may include provision for the payment of the expenses of 44230
operation, maintenance, and repair of facilities so that such 44231
expenses, or part thereof, shall be paid or provided as a charge 44232
prior or subsequent to the payment of bond service charges and any 44233
other payments required to be made by the bond proceedings; 44234

(6) Limitations on the issuance of additional obligations; 44235

(7) The terms of any trust agreement or indenture securing 44236
the obligations or under which the same may be issued; 44237

(8) The deposit, investment, and application of funds, and 44238
the safeguarding of funds on hand or on deposit without regard to 44239
Chapter 131. or 135. of the Revised Code, and any bank or trust 44240
company or other financial institution that acts as depository of 44241
any moneys under the bond proceedings shall furnish such 44242
indemnifying bonds or pledge such securities as required by the 44243
bond proceedings or otherwise by the institution of higher 44244
education; 44245

(9) The binding effect of any or every provision of the bond 44246
proceedings upon such officer, board, commission, authority, 44247
agency, department, or other person or body as may from time to 44248
time have the authority under law to take such actions as may be 44249
necessary to perform all or any part of the duty required by such 44250
provision; 44251

(10) Any provision that may be made in a trust agreement or 44252
indenture; 44253

(11) Any other or additional agreements with respect to the 44254
facilities of the institution of higher education, their 44255
operation, the available receipts and funds pledged, and insurance 44256
of facilities and of the institution, its officers and employees. 44257

(F) Such obligations may have the seal of the institution of 44258
higher education or a facsimile thereof affixed thereto or printed 44259
thereon and shall be executed by such officers as are designated 44260
in the bond proceedings, which execution may be by facsimile 44261
signatures. Any obligations may be executed by an officer who, on 44262
the date of execution, is the proper officer although on the date 44263
of such obligations such person was not the proper officer. In 44264
case any officer whose signature or a facsimile of whose signature 44265
appears on any such obligation ceases to be such officer before 44266
delivery thereof, such signature or facsimile is nevertheless 44267
valid and sufficient for all purposes as if the person had 44268
remained such officer until such delivery; and in case the seal of 44269
the institution has been changed after a facsimile of the seal has 44270
been imprinted on such obligations, such facsimile seal continues 44271
to be sufficient as to such obligations and obligations issued in 44272
substitution or exchange therefor. 44273

(G) All such obligations are negotiable instruments and 44274
securities under Chapter 1308. of the Revised Code, subject to the 44275
provisions of the bond proceedings as to registration. The 44276
obligations may be issued in coupon or in registered form, or 44277

both. Provision may be made for the registration of any 44278
obligations with coupons attached thereto as to principal alone or 44279
as to both principal and interest, their exchange for obligations 44280
so registered, and for the conversion or reconversion into 44281
obligations with coupons attached thereto of any obligations 44282
registered as to both principal and interest, and for reasonable 44283
charges for such registration, exchange, conversion, and 44284
reconversion. 44285

(H) Pending preparation of definitive obligations, the 44286
institution of higher education may issue interim receipts or 44287
certificates which shall be exchanged for such definitive 44288
obligations. 44289

(I) Such obligations may be secured additionally by a trust 44290
agreement or indenture between the institution of higher education 44291
and a corporate trustee, which may be any trust company or bank 44292
having the powers of a trust company within or without this state 44293
but authorized to exercise trust powers within this state. Any 44294
such agreement or indenture may contain the resolution authorizing 44295
the issuance of the obligations, any provisions that may be 44296
contained in the bond proceedings as authorized by this section, 44297
and other provisions which are customary or appropriate in an 44298
agreement or indenture of such type, including: 44299

(1) Maintenance of each pledge, trust agreement, and 44300
indenture, or other instrument comprising part of the bond 44301
proceedings until the institution of higher education has fully 44302
paid the bond service charges on the obligations secured thereby, 44303
or provision therefor has been made; 44304

(2) In the event of default in any payments required to be 44305
made by the bond proceedings, or any other agreement of the 44306
institution of higher education made as a part of the contract 44307
under which the obligations were issued, enforcement of such 44308
payments or agreement by mandamus, the appointment of a receiver, 44309

suit in equity, action at law, or any combination of the 44310
foregoing; 44311

(3) The rights and remedies of the holders of obligations and 44312
of the trustee, and provisions for protecting and enforcing them, 44313
including limitations on rights of individual holders of 44314
obligations; 44315

(4) The replacement of any obligations that become mutilated 44316
or are destroyed, lost, or stolen; 44317

(5) Such other provisions as the trustee and the institution 44318
of higher education agree upon, including limitations, conditions, 44319
or qualifications relating to any of the foregoing. 44320

(J) Each duty of the institution of higher education and its 44321
officers or employees, undertaken pursuant to the bond proceedings 44322
or any related agreement or lease made under authority of law, is 44323
hereby established as a duty of such institution, and of each such 44324
officer or employee having authority to perform such duty, 44325
specially enjoined by law resulting from an office, trust, or 44326
station within the meaning of section 2731.01 of the Revised Code. 44327
The persons who are at the time the members of the board of 44328
trustees or the managing directors of the institution or its 44329
officers or employees are not liable in their personal capacities 44330
on such obligations, or lease, or other agreement of the 44331
institution. 44332

(K) The authority to issue obligations includes authority to: 44333

(1) Issue obligations in the form of bond anticipation notes 44334
and to renew them from time to time by the issuance of new notes. 44335
Such notes are payable solely from the available receipts and 44336
funds that may be pledged to the payment of such bonds, or from 44337
the proceeds of such bonds or renewal notes, or both, as the 44338
institution of higher education provides in its resolution 44339
authorizing such notes. Such notes may be additionally secured by 44340

covenants of the institution to the effect that it will do such or 44341
all things necessary for the issuance of such bonds or renewal 44342
notes in appropriate amount, and either exchange such bonds or 44343
renewal notes therefor or apply the proceeds thereof to the extent 44344
necessary, to make full payment of the bond service charges on 44345
such notes at the time or times contemplated, as provided in such 44346
resolution. Subject to the provisions of this division, all 44347
references to obligations in this section apply to such 44348
anticipation notes. 44349

(2) Issue obligations to refund, including funding and 44350
retirement of, obligations previously issued to pay costs of 44351
facilities. Such obligations may be issued in amounts sufficient 44352
for payment of the principal amount of the obligations to be so 44353
refunded, any redemption premiums thereon, principal maturities of 44354
any obligations maturing prior to the redemption of any other 44355
obligations on a parity therewith to be so refunded, interest 44356
accrued or to accrue to the maturity date or dates of redemption 44357
of such obligations, and any expenses incurred or to be incurred 44358
in connection with such refunding or the issuance of the 44359
obligations. 44360

(L) Obligations are lawful investments for banks, societies 44361
for savings, savings and loan associations, deposit guarantee 44362
associations, trust companies, trustees, fiduciaries, insurance 44363
companies, including domestic for life and domestic not for life, 44364
trustees or other officers having charge of sinking and bond 44365
retirement or other special funds of political subdivisions and 44366
taxing districts of this state, the commissioners of the sinking 44367
fund, the administrator of workers' compensation in accordance 44368
with the investment policy approved by the bureau of workers' 44369
compensation board of directors pursuant to section 4121.12 of the 44370
Revised Code, the state teachers retirement system, the public 44371
employees retirement system, the school employees retirement 44372

system, and the Ohio police and fire pension fund, notwithstanding 44373
any other provisions of the Revised Code or rules adopted pursuant 44374
thereto by any state agency with respect to investments by them, 44375
and are also acceptable as security for the deposit of public 44376
moneys. 44377

(M) All facilities purchased, acquired, constructed, or owned 44378
by an institution of higher education, or financed in whole or in 44379
part by obligations issued by an institution, and used for the 44380
purposes of the institution or other publicly owned and controlled 44381
college or university, is public property used exclusively for a 44382
public purpose, and such property and the income therefrom is 44383
exempt from all taxation and assessment within this state, 44384
including ad valorem and excise taxes. The obligations, the 44385
transfer thereof, and the income therefrom, including any profit 44386
made on the sale thereof, are at all times free from taxation 44387
within the state. The transfer of tangible personal property by 44388
lease under authority of this section or section 3345.07, 3345.11, 44389
3354.121, 3355.091, 3357.112, or 3358.10 of the Revised Code is 44390
not a sale as used in Chapter 5739. of the Revised Code. 44391

(N) The authority granted by this section is cumulative with 44392
the authority granted to institutions of higher education under 44393
Chapter 154. of the Revised Code, and nothing in this section 44394
impairs or limits the authority granted by Chapter 154. of the 44395
Revised Code. In any lease, agreement, or commitment made by an 44396
institution of higher education under Chapter 154. of the Revised 44397
Code, it may agree to restrict or subordinate any pledge it may 44398
thereafter make under authority of this section. 44399

(O) Title to lands acquired under this section and sections 44400
3345.07 and 3345.11 of the Revised Code by a state university or 44401
college shall be taken in the name of the state. 44402

(P) Except where costs of facilities are to be paid in whole 44403
or in part from funds appropriated by the general assembly, 44404

section 125.81 of the Revised Code and the requirement for 44405
certification with respect thereto under section 153.04 of the 44406
Revised Code do not apply to such facilities. 44407

(Q) A state university or college may sell or lease lands or 44408
interests in land owned by it or by the state for its use, or 44409
facilities authorized to be acquired or constructed by it under 44410
section 3345.07 or 3345.11 of the Revised Code, to permit the 44411
purchasers or lessees thereof to acquire, construct, equip, 44412
furnish, reconstruct, alter, enlarge, remodel, renovate, 44413
rehabilitate, improve, maintain, repair, or maintain and operate 44414
thereon and to provide by lease or otherwise to such institution, 44415
facilities authorized in section 3345.07 or 3345.11 of the Revised 44416
Code. Such land or interests therein shall be sold for such 44417
appraised value, or leased, and on such terms as the board of 44418
trustees determines. All deeds or other instruments relating to 44419
such sales or leases shall be executed by such officer of the 44420
state university or college as the board of trustees designates. 44421
The state university or college shall hold, invest, or use the 44422
proceeds of such sales or leases for the same purposes for which 44423
proceeds of borrowings may be used under sections 3345.07 and 44424
3345.11 of the Revised Code. 44425

(R) An institution of higher education may pledge available 44426
receipts, to the extent permitted by division (C) of this section 44427
with respect to obligations, to secure the payments to be made by 44428
it under any lease, lease with option to purchase, or 44429
lease-purchase agreement authorized under this section or section 44430
3345.07, 3345.11, 3354.121, 3355.091, 3357.112, or 3358.10 of the 44431
Revised Code. 44432

Sec. 3345.32. (A) As used in this section: 44433

(1) "State university or college" means the institutions 44434
described in section 3345.27 of the Revised Code and the 44435

northeastern Ohio universities college of medicine. 44436

(2) "Resident" has the meaning specified by rule of the 44437
chancellor of the Ohio board of regents. 44438

(3) "Statement of selective service status" means a statement 44439
certifying one of the following: 44440

(a) That the individual filing the statement has registered 44441
with the selective service system in accordance with the "Military 44442
Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as 44443
amended; 44444

(b) That the individual filing the statement is not required 44445
to register with the selective service for one of the following 44446
reasons: 44447

(i) The individual is under eighteen or over twenty-six years 44448
of age. 44449

(ii) The individual is on active duty with the armed forces 44450
of the United States other than for training in a reserve or 44451
national guard unit. 44452

(iii) The individual is a nonimmigrant alien lawfully in the 44453
United States in accordance with section 101 (a)(15) of the 44454
"Immigration and Nationality Act," 8 U.S.C. 1101, as amended. 44455

(iv) The individual is not a citizen of the United States and 44456
is a permanent resident of the Trust Territory of the Pacific 44457
Islands or the Northern Mariana Islands. 44458

(4) "Institution of higher education" means any eligible 44459
institution approved by the United States department of education 44460
pursuant to the "Higher Education Act of 1965," 79 Stat. 1219, as 44461
amended, or any institution whose students are eligible for 44462
financial assistance under any of the programs described by 44463
division (E) of this section. 44464

(B) The chancellor shall, by rule, specify the form of 44465

statements of selective service status to be filed in compliance 44466
with divisions (C) to (F) of this section. Each statement of 44467
selective service status shall contain a section wherein a male 44468
student born after December 31, 1959, certifies that the student 44469
has registered with the selective service system in accordance 44470
with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. 44471
App. 453, as amended. For those students not required to register 44472
with the selective service, as specified in divisions (A)(2)(b)(i) 44473
to (iv) of this section, a section shall be provided on the 44474
statement of selective service status for the certification of 44475
nonregistration and for an explanation of the reason for the 44476
exemption. The chancellor may require that such statements be 44477
accompanied by documentation specified by rule of the chancellor. 44478

(C) A state university or college that enrolls in any course, 44480
class, or program a male student born after December 31, 1959, who 44481
has not filed a statement of selective service status with the 44482
university or college shall, regardless of the student's 44483
residency, charge the student any tuition surcharge charged 44484
students who are not residents of this state. 44485

(D) No male born after December 31, 1959, shall be eligible 44486
to receive any loan, grant, scholarship, or other financial 44487
assistance for educational expenses granted under section 3315.33, 44488
3333.12, 3333.122, 3333.21, 3333.22, 3333.26, ~~3333.27~~, 3333.391, 44489
5910.03, 5910.032, or 5919.34 of the Revised Code, financed by an 44490
award under the choose Ohio first scholarship program established 44491
under section 3333.61 of the Revised Code, or financed by an award 44492
under the Ohio co-op/internship program established under section 44493
3333.72 of the Revised Code, unless that person has filed a 44494
statement of selective service status with that person's 44495
institution of higher education. 44496

(E) If an institution of higher education receives a 44497

statement from an individual certifying that the individual has 44498
registered with the selective service system in accordance with 44499
the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 44500
453, as amended or that the individual is exempt from registration 44501
for a reason other than that the individual is under eighteen 44502
years of age, the institution shall not require the individual to 44503
file any further statements. If it receives a statement certifying 44504
that the individual is not required to register because the 44505
individual is under eighteen years of age, the institution shall 44506
require the individual to file a new statement of selective 44507
service status each time the individual seeks to enroll for a new 44508
academic term or makes application for a new loan or loan 44509
guarantee or for any form of financial assistance for educational 44510
expenses, until it receives a statement certifying that the 44511
individual has registered with the selective service system or is 44512
exempt from registration for a reason other than that the 44513
individual is under eighteen years of age. 44514

Sec. 3349.242. Any agreement authorized by section 3349.241 44515
of the Revised Code may provide for the amounts of such 44516
participation by such school district or districts in the 44517
development, maintenance, and operation of such municipal 44518
university, but no funds granted to school districts under Chapter 44519
3306. or 3317. of the Revised Code shall be used for such 44520
purposes. By the terms of any such agreement the school district 44521
or districts and their residents shall be entitled to the 44522
educational advantages of said municipal university at the same 44523
rate of tuition, fees, and other charges as are provided for the 44524
residents of the municipal corporation in which such municipal 44525
university is situated. 44526

Sec. 3354.24. (A) The provisions of this section prevail over 44527
conflicting provisions of this chapter; however, except as 44528

otherwise provided in this section, the eastern gateway community college district and its board of trustees shall comply with the provisions of this chapter. 44529
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(B) The territory of Columbiana, Mahoning, and Trumbull counties is hereby added to the territory of the community college district of Jefferson county, creating a new community college district to replace the former community college district of Jefferson county. The district created under this section shall be known as and operate under the name of "eastern gateway community college district," and its charter shall be amended to this name. The Jefferson county campus is hereby part of the eastern gateway community college district and shall remain in operation unless otherwise specified by the board of trustees of the community college. 44532
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The eastern gateway community college district is divided into two taxing subdistricts, one consisting of the territory of Jefferson county, and the other consisting of the territories of Columbiana, Mahoning, and Trumbull counties. 44543
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(C) On the effective date of this section as enacted by H.B. 1 of the 128th general assembly, the government of the eastern gateway community college district shall be vested in a board of eleven trustees to be appointed by the governor, with the advice and consent of the senate. The board of trustees of the former community college district of Jefferson county is abolished on that date. 44547
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The governor shall appoint the members of the board of trustees of the eastern gateway community college district as successors to the board of trustees of Jefferson community college as follows: Three members of the board of trustees shall be residents of Jefferson county. (The initial Jefferson county members shall be members of the board of trustees of the former 44554
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community college district of Jefferson county, as it existed 44560
before the effective date of this section.) Eight members of the 44561
board of trustees shall be residents of Columbiana, Mahoning, and 44562
Trumbull counties. 44563

The initial board of trustees shall be appointed within 44564
ninety days after the effective date of this section for terms as 44565
follows: Of the trustees who are residents of Jefferson county, 44566
one trustee shall be appointed for a one-year term, one trustee 44567
shall be appointed for a three-year term, and one trustee shall be 44568
appointed for a five-year term. Of the trustees who are residents 44569
of Columbiana, Mahoning, and Trumbull counties, one trustee shall 44570
be appointed for a one-year term, two trustees shall be appointed 44571
for two-year terms, two trustees shall be appointed for three-year 44572
terms, two trustees shall be appointed for four-year terms, and 44573
one trustee shall be appointed for a five-year term. 44574

At the conclusion of each initial term, the term of office of 44575
each trustee shall be five years, each term ending on the same day 44576
of the same month of the year as did the term that it succeeds. 44577

Each trustee shall hold office from the date of the trustee's 44578
appointment until the end of the term for which the trustee was 44579
appointed. Any trustee appointed to fill a vacancy occurring 44580
before the expiration of the term for which the trustee's 44581
predecessor was appointed shall hold office for the remainder of 44582
that term. Any trustee shall continue in office subsequent to the 44583
expiration date of the trustee's term until the trustee's 44584
successor takes office, or until a period of sixty days has 44585
elapsed, whichever occurs first. 44586

If a vacancy occurs and the Jefferson county tax levy is no 44587
longer in place or a conversion under division (H) of this section 44588
has occurred, the governor shall fill the vacancy with a person 44589
residing within the eastern gateway community college district. 44590

(D) The board of trustees of the eastern gateway community college district shall continue to comply with division (G) of section 3354.09 of the Revised Code regarding tuition for students who are residents of Ohio but not residents of the district, and for students who are nonresidents of Ohio. The tuition rate shall be based on the student's county of residence and shall apply to all eastern gateway community college district classes in all district locations. Except as provided in division (F)(3) of this section, students who are residents of Columbiana, Mahoning, or Trumbull county shall continue to be charged tuition at the same rate as Ohio residents who are not residents of the district.

(E)(1) Except as provided in divisions (E)(2) and (3) of this section, each member of the board of trustees shall have full voting rights on all matters that come before the board.

(2) The three trustees representing Jefferson county shall have sole authority to vote on the following matters:

(a) The Jefferson county tax levy;

(b) The expenditure of revenue from that tax levy;

(c) Levy-subsidized tuition rates.

(3) The voting restrictions under division (E)(2) of this section apply until the electors of the Columbiana, Mahoning, and Trumbull county taxing subdistrict approve a tax levy under division (F)(3) of this section that is equivalent to the tax levy approved by the electors of Jefferson county for the support of the former community college district of Jefferson county on the effective date of this section. For the purposes of this division, the tax levy is an equivalent tax levy if either:

(a) In the first tax year for which the tax is collected, it yields revenue per capita equal to or greater than the yield per capita of levies of the community college district in effect that year in Jefferson county, as jointly determined by the county

auditors of Jefferson, Columbiana, Mahoning, and Trumbull 44622
counties; or 44623

(b) In the first tax year for which the tax is collected, the 44624
effective rate of the tax is equal to or greater than the 44625
effective tax rate of levies of the community college district in 44626
effect that tax year in Jefferson county, as jointly determined by 44627
the county auditors of Jefferson, Columbiana, Mahoning, and 44628
Trumbull counties. 44629

As used in this division, "effective tax rate" means the 44630
quotient obtained by dividing the total taxes charged and payable 44631
for a taxing subdistrict for a tax year after the reduction 44632
prescribed by section 319.301 of the Revised Code but before the 44633
reduction prescribed by section 319.302 or 323.152 of the Revised 44634
Code, by the taxable value for the taxing subdistrict for that tax 44635
year. 44636

(F)(1) For each taxing subdistrict of the eastern gateway 44637
community college district, the board of trustees may propose to 44638
levy a tax in accordance with the procedures prescribed in section 44639
3354.12 of the Revised Code, except the following terms used in 44640
that section shall have the meanings given them in this section: 44641

(a) "District" and "community college district" mean the 44642
appropriate taxing subdistrict defined in this section; 44643

(b) "Board of trustees of the community college district" 44644
means the board of trustees for the entire eastern gateway 44645
community college district. That board of trustees may propose 44646
separate levies for either of the two taxing subdistricts. 44647

(c) "Tax duplicate" means the tax duplicate of only the 44648
appropriate taxing subdistrict and not the tax duplicate of the 44649
entire eastern gateway community college district. 44650

(2) The board of trustees may propose to levy a tax on 44651
taxable property in Jefferson county to be voted on by the 44652

electors of Jefferson county as provided in division (F)(1) of 44653
this section. An affirmative vote by a majority of the electors of 44654
the subdistrict voting on the question is necessary for passage. 44655
Any money raised by a tax levied by the former community college 44656
district of Jefferson county or a subsequent tax levied in 44657
Jefferson county in accordance with division (F)(1) of this 44658
section shall be used solely for the benefit of Jefferson county 44659
residents attending the eastern gateway community college in the 44660
form of student tuition subsidies, student scholarships, and 44661
instructional facilities, equipment, and support services located 44662
within Jefferson county, or for any purpose approved by the 44663
electors. Such amounts shall be deposited into a separate fund of 44664
the taxing subdistrict, and shall be budgeted separately. 44665

(3) The board of trustees may propose to levy a tax on 44666
taxable property in Columbiana, Mahoning, and Trumbull counties to 44667
be voted on by the electors of the counties as provided in 44668
division (F)(1) of this section. An affirmative vote by a majority 44669
of the electors of the subdistrict voting on the question is 44670
necessary for passage. Any amounts raised by such a tax in the tax 44671
subdistrict shall be used solely for the benefit of residents of 44672
the subdistrict attending the eastern gateway community college in 44673
the form of student tuition subsidies, student scholarships, and 44674
instructional facilities, equipment, and support services located 44675
within Columbiana, Mahoning, and Trumbull counties, or for any 44676
purpose approved by the electors. Amounts collected shall be 44677
deposited into a separate fund from all other revenues collected 44678
by each taxing subdistrict. 44679

The board of trustees may adjust the rate of tuition charged 44680
to each taxing subdistrict's residents to an amount commensurate 44681
with the amount of tax the board of trustees dedicates for 44682
instructional and general services provided to the residents of 44683
the subdistrict. 44684

(G) The board of trustees of the eastern gateway community college district may issue bonds in accordance with section 3354.11 of the Revised Code, but the board may limit the question of approval of the issue of those bonds to the electors of only one of the two taxing subdistricts, in which case the board also may limit the use of the property or improvements to the residents of that subdistrict.

(H) If the tax levy in Jefferson county expires, is not renewed, or is not approved by the electors of Jefferson county and the other taxing subdistrict does not levy a tax for the purposes of this section, the board of trustees of the eastern gateway community college district shall submit a proposal to the chancellor of the board of regents to convert to a state community college and, upon the chancellor's approval of the proposal, enter into a transition agreement with the chancellor following the procedures set forth in section 3358.05 of the Revised Code for a technical college district.

Sec. 3365.01. As used in this chapter: 44702

(A) "College" means any state-assisted college or university described in section 3333.041 of the Revised Code, any nonprofit institution holding a certificate of authorization pursuant to Chapter 1713. of the Revised Code, any private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, and any institution holding a certificate of registration from the state board of career colleges and schools and program authorization for an associate or bachelor's degree program issued under section 3332.05 of the Revised Code.

(B) "School district," except as specified in division (G) of this section, means any school district to which a student is admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of

the Revised Code and does not include a joint vocational or cooperative education school district.

(C) "Parent" has the same meaning as in section 3313.64 of the Revised Code.

(D) "Participant" means a student enrolled in a college under the post-secondary enrollment options program established by this chapter.

(E) "Secondary grade" means the ninth through twelfth grades.

(F) "School foundation payments" means the amount required to be paid to a school district for a fiscal year under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code.

(G) "Tuition base" means, ~~with respect to a participant's school district, the sum of the formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012, as defined in section 3317.02~~ of the Revised Code.

~~The participant's "school district" in the case of a participant enrolled in a community school shall be the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.~~

(H) "Educational program" means enrollment in one or more school districts, in a nonpublic school, or in a college under division (B) of section 3365.04 of the Revised Code.

(I) "Nonpublic school" means a chartered or nonchartered school for which minimum standards are prescribed by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.

(J) "School year" means the year beginning on the first day of July and ending on the thirtieth day of June.

(K) "Community school" means any school established pursuant

to Chapter 3314. of the Revised Code that includes secondary 44746
grades. 44747

(L) "STEM school" means a science, technology, engineering, 44748
and mathematics school established under Chapter 3326. of the 44749
Revised Code. 44750

Sec. 3365.04. The rules adopted under section 3365.02 of the 44751
Revised Code shall provide for students to enroll in courses under 44752
either of the following options: 44753

(A) The student may elect at the time of enrollment to be 44754
responsible for payment of all tuition and the cost of all 44755
textbooks, materials, and fees associated with the course. The 44756
college shall notify the student about payment of tuition and fees 44757
in the customary manner followed by the college. A student 44758
electing this option also shall elect, at the time of enrollment, 44759
whether to receive only college credit or high school credit and 44760
college credit for the course. 44761

(1) The student may elect to receive only college credit for 44762
the course. Except as provided in section 3365.041 of the Revised 44763
Code, if the student successfully completes the course, the 44764
college shall award the student full credit for the course, but 44765
the board of education, community school governing authority, STEM 44766
school, or nonpublic participating school shall not award the high 44767
school credit. 44768

(2) The student may elect to receive both high school credit 44769
and college credit for the course. Except as provided in section 44770
3365.041 of the Revised Code, if the student successfully 44771
completes the course, the college shall award the student full 44772
credit for the course and the board of education, community school 44773
governing authority, STEM school, or nonpublic school shall award 44774
the student high school credit. 44775

(B) The student may elect at the time of enrollment for each 44776
course to have the college reimbursed under section 3365.07 of the 44777
Revised Code or as provided in alternative funding agreements 44778
entered into under rules adopted under section 3365.12 of the 44779
Revised Code. Except as provided in section 3365.041 of the 44780
Revised Code, if the student successfully completes the course, 44781
the college shall award the student full credit for the course, 44782
the board of education, community school governing authority, STEM 44783
school, or nonpublic school shall award the student high school 44784
credit, and the college shall be reimbursed in accordance with 44785
section 3365.07 of the Revised Code or alternative funding 44786
agreements entered into under rules adopted under section 3365.12 44787
of the Revised Code. 44788

When determining a school district's formula ADM under 44789
section 3317.03 of the Revised Code, the time a participant is 44790
attending courses under division (A) of this section shall be 44791
considered as time the participant is not attending or enrolled in 44792
school anywhere, and the time a participant is attending courses 44793
under division (B) of this section shall be considered as time the 44794
participant is attending or enrolled in the district's schools. 44795

Sec. 3365.041. (A) When a school district superintendent, the 44796
governing authority of a community school, or the chief 44797
administrative officer of a STEM school expels a student under 44798
division (B) of section 3313.66 of the Revised Code, the district 44799
superintendent, governing authority, or chief administrative 44800
officer shall send a written notice of the expulsion to any 44801
college in which the expelled student is enrolled under section 44802
3365.03 of the Revised Code at the time the expulsion is imposed. 44803
The notice shall indicate the date the expulsion is scheduled to 44804
expire. The notice also shall indicate whether the district board 44805
of education, community school governing authority, or the STEM 44806
school has adopted a policy under section 3313.613 of the Revised 44807

Code to deny high school credit for post-secondary courses taken 44808
during an expulsion. If the expulsion is extended under division 44809
(F) of section 3313.66 of the Revised Code, the district 44810
superintendent, community school governing authority, or STEM 44811
school chief administrative officer shall notify the college of 44812
the extension. 44813

(B) A college may withdraw its acceptance under section 44814
3365.03 of the Revised Code of a student who is expelled from 44815
school under division (B) of section 3313.66 of the Revised Code. 44816
As provided in section 3365.03 of the Revised Code, regardless of 44817
whether the college withdraws its acceptance of the student for 44818
the college term in which the student is expelled, the student is 44819
ineligible to enroll in a college under that section for 44820
subsequent college terms during the period of the expulsion, 44821
unless the student enrolls in another school district or community 44822
school, or a participating nonpublic school during that period. 44823

If a college withdraws its acceptance of an expelled student 44824
who elected either option of division (A)(1) or (2) of section 44825
3365.04 of the Revised Code, the college shall refund tuition and 44826
fees paid by the student in the same proportion that it refunds 44827
tuition and fees to students who voluntarily withdraw from the 44828
college at the same time in the term. 44829

If a college withdraws its acceptance of an expelled student 44830
who elected the option of division (B) of section 3365.04 of the 44831
Revised Code, the school district, community school, or STEM 44832
school shall not award high school credit for the college courses 44833
in which the student was enrolled at the time the college withdrew 44834
its acceptance, and any reimbursement under section 3365.07 of the 44835
Revised Code or through alternative funding agreements entered 44836
into under rules adopted under section 3365.12 of the Revised Code 44837
for the student's attendance prior to the withdrawal shall be the 44838
same as would be paid for a student who voluntarily withdrew from 44839

the college at the same time in the term. If the withdrawal 44840
results in the college's receiving no reimbursement, the college 44841
may require the student to return or pay for the textbooks and 44842
materials it provided the student free of charge under section 44843
3365.08 of the Revised Code. 44844

(C) When a student who elected the option of division (B) of 44845
section 3365.04 of the Revised Code is expelled under division (B) 44846
of section 3313.66 of the Revised Code from a school district, 44847
community school, or STEM school that has adopted a policy under 44848
section 3313.613 of the Revised Code, that election is 44849
automatically revoked for all college courses in which the student 44850
is enrolled during the college term in which the expulsion is 44851
imposed. Any reimbursement under section 3365.07 of the Revised 44852
Code or through alternative funding agreements entered into under 44853
rules adopted under section 3365.12 of the Revised Code for the 44854
student's attendance prior to the expulsion shall be the same as 44855
would be paid for a student who voluntarily withdrew from the 44856
college at the same time in the term. If the revocation results in 44857
the college's receiving no reimbursement, the college may require 44858
the student to return or pay for the textbooks and materials it 44859
provided the student free of charge under section 3365.08 of the 44860
Revised Code. 44861

No later than five days after receiving an expulsion notice 44862
from the superintendent of a district, the governing authority of 44863
a community school, or the chief administrative officer of a STEM 44864
school that has adopted a policy under section 3313.613 of the 44865
Revised Code, the college shall send a written notice to the 44866
expelled student that the student's election of division (B) of 44867
section 3365.04 of the Revised Code is revoked. If the college 44868
elects not to withdraw its acceptance of the student, the student 44869
shall pay all applicable tuition and fees for the college courses 44870
and shall pay for the textbooks and materials that the college 44871

provided under section 3365.08 of the Revised Code. 44872

Sec. 3365.07. (A) The rules adopted under section 3365.02 of 44873
the Revised Code shall specify a method for each of the following: 44874

(1) Determining, with respect to any participant, the 44875
percentage of a full-time educational program constituted by the 44876
participant's total educational program. That percentage shall be 44877
the participant's full-time equivalency percentage for purposes of 44878
the computation required by division (B)(1) of this section. 44879

(2) In the case of a participant who is not enrolled in a 44880
participating nonpublic school, determining the percentage of a 44881
participant's school day during which the participant is 44882
participating in each of the following: 44883

(a) Programs provided by the city, local, or exempted village 44884
school district, a community school, or a STEM school; 44885

(b) Programs provided by a joint vocational school district; 44886

(c) Programs provided by a college under division (B) of 44887
section 3365.04 of the Revised Code. 44888

The sum of divisions (A)(2)(a) to (c) of this section shall equal 44889
one hundred per cent. 44890

(3) In the case of a participant who is not enrolled in a 44891
participating nonpublic school, determining the percentage of a 44892
participant's enrollment that shall be deemed to be enrollment in 44893
a joint vocational school district and the percentage that shall 44894
be deemed to be enrollment in a city, local, or exempted village 44895
school district. The sum of such percentages shall equal one 44896
hundred per cent. 44897

(4) In the case of a participant who is enrolled in a 44898
participating nonpublic school, determining the percentage of a 44899
participant's school day during which the participant is 44900
participating in programs provided by a college under division (B) 44901

of section 3365.04 of the Revised Code. 44902

(B) Each July, unless provided otherwise in an alternative 44903
funding agreement entered into under rules adopted under section 44904
3365.12 of the Revised Code, the department of education shall pay 44905
each college for any participant enrolled in the college in the 44906
prior school year under division (B) of section 3365.04 of the 44907
Revised Code an amount computed as follows: 44908

(1) Multiply the tuition base by the participant's full-time 44909
equivalency percentage and multiply the resulting amount by a 44910
percentage equal to the percentage of the participant's school day 44911
apportioned to the college under division (A)(2)(c) or (4) of this 44912
section, as applicable. 44913

(2) Pay the college the lesser of: 44914

(a) The amount computed under division (B)(1) of this 44915
section; 44916

(b) The actual costs that would have been the responsibility 44917
of the participant had the participant elected to enroll under 44918
division (A) of section 3365.04 of the Revised Code, as verified 44919
by the department, of tuition, textbooks, materials, and fees 44920
directly related to any courses elected by the participant during 44921
the prior school year under division (B) of section 3365.04 of the 44922
Revised Code. 44923

(C) The department shall not reimburse any college for any 44924
course taken by a participant under division (A) of section 44925
3365.04 of the Revised Code. 44926

(D) If the participant was not enrolled in a participating 44927
nonpublic school, the amount paid under division (B) of this 44928
section for each participant shall be subtracted from the school 44929
foundation payments made to the participant's school district or, 44930
if the participant was enrolled in a community school or a STEM 44931
school, from the payments made to the participant's school under 44932

section 3314.08 or 3326.33 of the Revised Code. If the participant 44933
was enrolled in a joint vocational school district, a portion of 44934
the amount shall be subtracted from the payments to the joint 44935
vocational school district and a portion shall be subtracted from 44936
the payments to the participant's city, local, or exempted village 44937
school district. The amount of the payment subtracted from the 44938
city, local, or exempted village school district shall be computed 44939
as follows: 44940

(1) Add the following: 44941

(a) The percentage of the participant's enrollment in the 44942
school district, determined under division (A)(3) of this section; 44943
and 44944

(b) Twenty-five per cent times the percentage of the 44945
participant's enrollment in the joint vocational school district, 44946
determined under division (A)(3) of this section. 44947

(2) Multiply the sum obtained under division (D)(1) of this 44948
section by the amount computed under division (B)(2) of this 44949
section. 44950

The balance of the payment shall be subtracted from the joint 44951
vocational district's school foundation payments. 44952

(E) If the participant was enrolled in a participating 44953
nonpublic school, the amount paid under division (B) of this 44954
section shall be subtracted from moneys set aside by the general 44955
assembly for such purpose from funds appropriated for the purposes 44956
of section 3317.06 of the Revised Code. 44957

Sec. 3365.08. (A) A college that expects to receive or 44958
receives reimbursement under section 3365.07 of the Revised Code 44959
or through alternative funding agreements entered into under rules 44960
adopted under section 3365.12 of the Revised Code shall furnish to 44961
a participant all textbooks and materials directly related to a 44962

course taken by the participant under division (B) of section 44963
3365.04 of the Revised Code. No college shall charge such 44964
participant for tuition, textbooks, materials, or other fees 44965
directly related to any such course. 44966

(B) No student enrolled under this chapter in a course for 44967
which credit toward high school graduation is awarded shall 44968
receive direct financial aid through any state or federal program. 44969

(C) If a school district provides transportation for resident 44970
school students in grades eleven and twelve under section 3327.01 44971
of the Revised Code, a parent of a pupil enrolled in a course 44972
under division (A)(2) or (B) of section 3365.04 of the Revised 44973
Code may apply to the board of education for full or partial 44974
reimbursement for the necessary costs of transporting the student 44975
between the secondary school the student attends and the college 44976
in which the student is enrolled. Reimbursement may be paid solely 44977
from funds received by the district under ~~division (D) of section~~ 44978
~~3317.022~~ 3306.12 of the Revised Code. The state board of education 44979
shall establish guidelines, based on financial need, under which a 44980
district may provide such reimbursement. 44981

(D) If a community school provides or arranges transportation 44982
for its pupils in grades nine through twelve under section 44983
3314.091 of the Revised Code, a parent of a pupil of the community 44984
school who is enrolled in a course under division (A)(2) or (B) of 44985
section 3365.04 of the Revised Code may apply to the governing 44986
authority of the community school for full or partial 44987
reimbursement of the necessary costs of transporting the student 44988
between the community school and the college. The governing 44989
authority may pay the reimbursement in accordance with the state 44990
board's rules adopted under division (C) of this section solely 44991
from funds paid to it under section 3314.091 of the Revised Code. 44992

Sec. 3365.09. Section 3365.07 ~~and~~ divisions (A) and (C) of 44993
section 3365.08, and agreements entered into under rules adopted 44994
under section 3365.12 of the Revised Code do not apply to any 44995
college course in which a student is enrolled if during the term 44996
such student is enrolled in the college course the student is also 44997
a full-time student in the student's district, community school, 44998
STEM school, or nonpublic school. The rules adopted under section 44999
3365.02 of the Revised Code shall prescribe a method for 45000
determining whether a student is enrolled full-time in the 45001
student's district, community school, STEM school, or nonpublic 45002
school. 45003

Sec. 3365.10. As used in this section, the "base amount" for 45004
any school year is one million dollars. "Full-time equivalency 45005
percentage" and "percentage of the school day" enrolled in college 45006
shall be determined under the rules described by divisions (A)(1) 45007
and (4) of section 3365.07 of the Revised Code or the rules 45008
adopted under section 3365.12 of the Revised Code. 45009

(A) Each nonpublic school student who wishes to become a 45010
participant in any school year shall send to the department of 45011
education a copy of ~~his~~ the student's acceptance from a college 45012
and an application. The application shall be made on forms 45013
provided by the state board and shall include information about 45014
the student's proposed participation, including the school year in 45015
which ~~he~~ the student wishes to participate; the semesters or terms 45016
the student wishes to enroll during such year; the student's 45017
expected full-time equivalency percentage for each such semester 45018
or term; and the percentage of the school day each such semester 45019
or term that the student expects to be enrolled in programs 45020
provided by a college under division (B) of section 3365.04 of the 45021
Revised Code. The department shall mark each application with the 45022
date and time of receipt. 45023

(B) Calculations involving applications under this division 45024
shall be made in the order in which the applications are received. 45025

Upon receipt of an application under division (A) of this 45026
section, the department shall calculate the amount the college 45027
would be paid under division (B) of section 3365.07 of the Revised 45028
Code or through alternative funding agreements entered into under 45029
rules adopted under section 3365.12 of the Revised Code for the 45030
student's expected participation. ~~The~~ For calculations made under 45031
division (B) of section 3365.07 of the Revised Code, the 45032
department shall subtract each such calculated amount from the 45033
base amount for that year, or the amount remaining for that year 45034
after the subtraction from the base amount of amounts previously 45035
calculated under this division as a result of prior applications 45036
for participation in that year, whichever is the lesser amount. 45037

(C) If such a subtraction under division (B) of this section 45038
results in a positive number, the department shall notify the 45039
applicant within three weeks of the receipt of ~~his~~ the application 45040
that ~~he~~ such applicant may participate in the post-secondary 45041
enrollment options program to the extent indicated in the 45042
application. 45043

(D) If such a subtraction under division (B) of this section 45044
results in a negative number, the department shall, within one 45045
week of the receipt of such application, notify the applicant, the 45046
applicant's nonpublic school, and the college accepting the 45047
applicant that funds will not be available for the applicant's 45048
participation in the program during the year for which the 45049
application was made. The department shall also notify all 45050
applicants whose applications for that year are subsequently 45051
received, their nonpublic schools, and the colleges accepting them 45052
of the same fact. 45053

(E) No applicant receiving notification under division (D) of 45054
this section may become a participant under division (B) of 45055

section 3365.04 of the Revised Code for the year for which ~~he~~ the 45056
applicant applied and no college shall be paid under division (B) 45057
of section 3365.07 of the Revised Code or through alternative 45058
funding agreements entered into under rules adopted under section 45059
3365.12 of the Revised Code for participation by any such 45060
applicant in such year. 45061

Sec. 3365.12. The superintendent of public instruction and 45062
the chancellor of the Ohio board of regents jointly may adopt 45063
rules in accordance with Chapter 119. of the Revised Code 45064
permitting a board of education of a school district or joint 45065
vocational school district, governing authority of a community 45066
school, governing body of a STEM school, or governing authority of 45067
a participating nonpublic school to enter into an agreement with a 45068
college or university to use an alternate funding formula to 45069
calculate, or an alternate method to transmit, the amount the 45070
college or university would be paid for a student participating in 45071
a program under this chapter, including the program known as 45072
seniors to sophomores. 45073

Rules adopted under this section may include, but need not be 45074
limited to, any of the following alternative funding options: 45075

(A) Direct payment of funds necessary to support students 45076
participating in a program under this chapter, including the 45077
seniors to sophomores program, by the school district, joint 45078
vocational school district, community school, STEM school, or any 45079
combination thereof, to the college or university in which the 45080
student enrolled; 45081

(B) Alternate funding formulas to calculate the amount of 45082
money to be paid to colleges for participants; 45083

(C) A negotiated amount to be paid, as agreed by the school 45084
district, joint vocational school district, community school, or 45085
STEM school and the college or university. 45086

Sec. 3375.79. There is hereby created in the state treasury 45087
the Bill and Melinda Gates foundation grant fund consisting of 45088
Bill and Melinda Gates foundation grants awarded to the state 45089
library of Ohio. The state library board shall use the fund for 45090
the improvement of public library services, interlibrary 45091
cooperation, or other library purposes. All investment earnings of 45092
the fund shall be credited to the fund. 45093

Sec. 3701.024. (A)(1) Under a procedure established in rules 45094
adopted under section 3701.021 of the Revised Code, the department 45095
of health shall determine the amount each county shall provide 45096
annually for the program for medically handicapped children, based 45097
on a proportion of the county's total general property tax 45098
duplicate, not to exceed one-tenth of a mill, and charge the 45099
county for any part of expenses incurred under the program for 45100
diagnostic and treatment services on behalf of medically 45101
handicapped children having legal settlement in the county that is 45102
not paid from federal funds or through the medical assistance 45103
program established under section 5111.01 of the Revised Code. The 45104
department shall not charge the county for expenses exceeding the 45105
difference between the amount determined under division (A)(1) of 45106
this section and any amounts retained under divisions (A)(2) and 45107
(3) of this section. 45108

All amounts collected by the department under division (A)(1) 45109
of this section shall be deposited into the state treasury to the 45110
credit of the medically handicapped children-county assessment 45111
fund, which is hereby created. The fund shall be used by the 45112
department to comply with sections 3701.021 to 3701.028 of the 45113
Revised Code. 45114

(2) The department, in accordance with rules adopted under 45115
section 3701.021 of the Revised Code, may allow each county to 45116
retain up to ten per cent of the amount determined under division 45117

(A)(1) of this section to provide funds to city or general health districts of the county with which the districts shall provide service coordination, public health nursing, or transportation services for medically handicapped children.

(3) In addition to any amount retained under division (A)(2) of this section, the department, in accordance with rules adopted under section 3701.021 of the Revised Code, may allow counties that it determines have significant numbers of potentially eligible medically handicapped children to retain an amount equal to the difference between:

(a) Twenty-five per cent of the amount determined under division (A)(1) of this section;

(b) Any amount retained under division (A)(2) of this section.

Counties shall use amounts retained under division (A)(3) of this section to provide funds to city or general health districts of the county with which the districts shall conduct outreach activities to increase participation in the program for medically handicapped children.

(4) Prior to any increase in the millage charged to a county, the public health council shall hold a public hearing on the proposed increase and shall give notice of the hearing to each board of county commissioners that would be affected by the increase at least thirty days prior to the date set for the hearing. Any county commissioner may appear and give testimony at the hearing. Any increase in the millage any county is required to provide for the program for medically handicapped children shall be determined, and notice of the amount of the increase shall be provided to each affected board of county commissioners, no later than the first day of June of the fiscal year next preceding the fiscal year in which the increase will take effect.

(B) Each board of county commissioners shall establish a medically handicapped children's fund and shall appropriate thereto an amount, determined in accordance with division (A)(1) of this section, for the county's share in providing medical, surgical, and other aid to medically handicapped children residing in such county and for the purposes specified in divisions (A)(2) and (3) of this section. Each county shall use money retained under divisions (A)(2) and (3) of this section only for the purposes specified in those divisions.

Sec. 3701.045. (A) The department of health, in consultation with the children's trust fund board established under section 3109.15 of the Revised Code and any bodies acting as child fatality review boards on ~~the effective date of this section~~ October 5, 2000, shall adopt rules in accordance with Chapter 119. of the Revised Code that establish a procedure for child fatality review boards to follow in conducting a review of the death of a child. The rules shall do all of the following:

(1) Establish the format for the annual reports required by section 307.626 of the Revised Code;

(2) Establish guidelines for a child fatality review board to follow in compiling statistics for annual reports so that the reports do not contain any information that would permit any person's identity to be ascertained from a report;

(3) Establish guidelines for a child fatality review board to follow in creating and maintaining the comprehensive database of child deaths required by section 307.623 of the Revised Code, including provisions establishing uniform record-keeping procedures;

(4) Establish guidelines for reporting child fatality review data to the department of health or a national child death review database, either of which must maintain the confidentiality of

information that would permit a person's identity to be 45180
ascertained; 45181

(5) Establish guidelines, materials, and training to help 45182
educate members of child fatality review boards about the purpose 45183
of the review process and the confidentiality of the information 45184
described in section 307.629 of the Revised Code and to make them 45185
aware that such information is not a public record under section 45186
149.43 of the Revised Code. 45187

(B) On or before the thirtieth day of September of each year, 45188
the department of health and the children's trust fund board 45189
jointly shall prepare and publish a report organizing and setting 45190
forth the data from the department of health child death review 45191
database or the national child death review database, data in all 45192
the reports provided by child fatality review boards in their 45193
annual reports for the previous calendar year, ~~and recommending~~ 45194
recommendations for any changes to law and policy that might 45195
prevent future deaths. The department and the children's trust 45196
fund board jointly shall provide a copy of the report to the 45197
governor, the speaker of the house of representatives, the 45198
president of the senate, the minority leaders of the house of 45199
representatives and the senate, each county or regional child 45200
fatality review board, and each county or regional family and 45201
children first council. 45202

Sec. 3701.07. (A) The public health council shall adopt rules 45203
in accordance with Chapter 119. of the Revised Code defining and 45204
classifying hospitals and dispensaries and providing for the 45205
reporting of information by hospitals and dispensaries. Except as 45206
otherwise provided in the Revised Code, the rules providing for 45207
the reporting of information shall not require inclusion of any 45208
confidential patient data or any information concerning the 45209
financial condition, income, expenses, or net worth of the 45210

facilities other than that financial information already contained 45211
in those portions of the medicare or medicaid cost report that is 45212
necessary for the department of health to certify the per diem 45213
cost under section 3701.62 of the Revised Code. The rules may 45214
require the reporting of information in the following categories: 45215

(1) Information needed to identify and classify the 45216
institution; 45217

(2) Information on facilities and type and volume of services 45218
provided by the institution; 45219

(3) The number of beds listed by category of care provided; 45220

(4) The number of licensed or certified professional 45221
employees by classification; 45222

(5) The number of births that occurred at the institution the 45223
previous calendar year; 45224

(6) Any other information that the council considers relevant 45225
to the safety of patients served by the institution. 45226

Every hospital and dispensary, public or private, annually 45227
shall register with and report to the department of health. 45228
Reports shall be submitted in the manner prescribed in rules 45229
adopted under this division. 45230

(B) Every governmental entity or private nonprofit 45231
corporation or association whose employees or representatives are 45232
defined as residents' rights advocates under divisions (E)(1) and 45233
(2) of section 3721.10 or division (A)(10) of section 3722.01 of 45234
the Revised Code shall register with the department of health on 45235
forms furnished by the director of health and shall provide such 45236
reasonable identifying information as the director may prescribe. 45237

The department shall compile a list of the governmental 45238
entities, corporations, or associations registering under this 45239
division and shall update the list annually. Copies of the list 45240

shall be made available to nursing home administrators as defined 45241
in division (C) of section 3721.10 of the Revised Code and to 45242
adult care facility managers as defined in section 3722.01 of the 45243
Revised Code. 45244

~~(C) Every governmental entity or private nonprofit 45245
corporation or association whose employees or representatives act 45246
as residents' rights advocates for community alternative homes 45247
pursuant to section 3724.08 of the Revised Code shall register 45248
with the department of health on forms furnished by the director 45249
of health and shall provide such reasonable identifying 45250
information as the director may prescribe. 45251~~

~~The department shall compile a list of the governmental 45252
entities, corporations, and associations registering under this 45253
division and shall update the list annually. Copies of the list 45254
shall be made available to operators or residence managers of 45255
community alternative homes as defined in section 3724.01 of the 45256
Revised Code. 45257~~

Sec. 3701.344. As used in this section and sections 3701.345, 45258
3701.346, and 3701.347 of the Revised Code: 45259

(A) "Private water system" means any water system for the 45260
provision of water for human consumption, if such system has fewer 45261
than fifteen service connections and does not regularly serve an 45262
average of at least twenty-five individuals daily at least sixty 45263
days out of the year. A private water system includes any well, 45264
spring, cistern, pond, or hauled water and any equipment for the 45265
collection, transportation, filtration, disinfection, treatment, 45266
or storage of such water extending from and including the source 45267
of the water to the point of discharge from any pressure tank or 45268
other storage vessel; to the point of discharge from the water 45269
pump where no pressure tank or other storage vessel is present; 45270
or, in the case of multiple service connections serving more than 45271

one dwelling, to the point of discharge from each service 45272
connection. A private "Private water system" does not include the 45273
water service line extending from the point of discharge to a 45274
structure. 45275

(B) Notwithstanding section 3701.347 of the Revised Code and 45276
subject to division (C) of this section, rules adopted by the 45277
public health council regarding private water systems shall 45278
provide for the following: 45279

(1) Except as otherwise provided in this division, boards of 45280
health of city or general health districts shall be given the 45281
exclusive power to establish fees in accordance with section 45282
3709.09 of the Revised Code for administering and enforcing such 45283
rules. Such fees shall establish a different rate for 45284
administering and enforcing the rules relative to private water 45285
systems serving single-family dwelling houses and nonsingle-family 45286
dwelling houses. Except for an amount established by the public 45287
health council, pursuant to division (B)(5) of this section, for 45288
each new private water system installation, no portion of any fee 45289
for administering and enforcing such rules shall be returned to 45290
the department of health. If the director of health determines 45291
that a board of health of a city or general health district is 45292
unable to administer and enforce a private water system program in 45293
the district, the director shall administer and enforce such a 45294
program in the district and establish fees for such administration 45295
and enforcement. 45296

(2) Boards of health of city or general health districts 45297
shall be given the exclusive power to determine the number of 45298
inspections necessary for determining the safe drinking 45299
characteristics of a private water system. 45300

(3) Private water systems contractors, as a condition of 45301
doing business in this state, shall annually register with, and 45302
comply with surety bonding requirements of, the department of 45303

health. No such contractor shall be permitted to register if ~~he~~ 45304
the contractor fails to comply with all applicable rules adopted 45305
by the public health council and the board of health of the city 45306
or general health district. The annual registration fee for 45307
private water systems contractors shall be sixty-five dollars. The 45308
public health council, by rule adopted in accordance with Chapter 45309
119. of the Revised Code, may increase the annual registration 45310
fee. Before January 1, 1993, the fee shall not be increased by 45311
more than fifty per cent of the amount prescribed by this section. 45312

(4) Boards of health of city or general health districts 45313
subject to such rules of the public health council shall have the 45314
option of determining whether bacteriological examinations shall 45315
be performed at approved laboratories of the state or at approved 45316
private laboratories. 45317

(5) The public health council may establish fees for each new 45318
private water system installation, which shall be collected by the 45319
appropriate ~~city or general health district~~ board of health and 45320
~~returned transmitted~~ to the ~~department~~ director of health pursuant 45321
to section 3709.092 of the Revised Code. 45322

(6) All fees ~~collected~~ received by the director of health 45323
under divisions (B)(1), (3), and (5) of this section shall be 45324
deposited in the state treasury to the credit of the general 45325
operations fund created in section 3701.83 of the Revised Code for 45326
use in the administration and enforcement of sections 3701.344 to 45327
3701.347 of the Revised Code and the rules pertaining to private 45328
water systems adopted under those sections or section 3701.34 of 45329
the Revised Code. 45330

(C) To the extent that rules adopted under division (B) of 45331
this section require health districts to follow specific 45332
procedures or use prescribed forms, no such procedure or form 45333
shall be implemented until it is approved by majority vote of an 45334
approval board of health commissioners, hereby created. Members of 45335

the board shall be the officers of the association of Ohio health 45336
commissioners, or any successor organization, and membership on 45337
the board shall be coterminous with holding an office of the 45338
association. No health district is required to follow a procedure 45339
or use a form required by a rule adopted under division (B) of 45340
this section without the approval of the board. 45341

(D) A board of health shall collect well log filing fees on 45342
behalf of the division of water in the department of natural 45343
resources in accordance with section 1521.05 of the Revised Code 45344
and rules adopted under it. The fees shall be submitted to the 45345
division quarterly as provided in those rules. 45346

Sec. 3701.611. (A) The governor shall create the help me grow 45347
advisory council in accordance with 20 U.S.C. 1441, which shall 45348
serve as the state interagency coordinating council, as described 45349
in 20 U.S.C. 1441. Members of the council shall reasonably 45350
represent the population of this state. The governor shall appoint 45351
one of its members to serve as chairperson of the council, or the 45352
governor may delegate appointment of the chairperson to the 45353
council. No member of the council representing the department of 45354
health shall serve as chairperson. 45355

(B) The council shall meet at least once in each quarter of 45356
the calendar year. The chairperson may call additional meetings if 45357
necessary. 45358

(C) A member of the council shall not vote on any matter that 45359
is likely to provide a direct financial benefit to that member or 45360
otherwise be a conflict of interest. 45361

(D) The governor may reimburse members of the council for 45362
actual and necessary expenses incurred in the performance of their 45363
official duties, including child care for the parent 45364
representatives described in 20 U.S.C. 1441(b)(1)(A). The governor 45365
also may compensate members of the council who are not employed or 45366

who must forfeit wages from other employment when performing 45367
official council business. 45368

(E) The department of health shall serve as the "lead 45369
agency," as described by 20 U.S.C. 1435(a)(10). 45370

(F) The help me grow advisory council shall do all of the 45371
following: 45372

(1) Advise and assist the department of health in the 45373
performance of the responsibilities described in 20 U.S.C. 45374
1435(a)(10), including the following: 45375

(a) Identification of the sources of fiscal and other support 45376
for services for early intervention programs; 45377

(b) Assignment of financial responsibility to the appropriate 45378
agency, in accordance with 20 U.S.C. 1437(a)(2); 45379

(c) Promotion of formal interagency agreements that define 45380
the financial responsibility of each agency for paying for early 45381
intervention services and procedures for resolving disputes; 45382

(2) Advise and assist the department of health in the 45383
preparation and amendment of applications related to the 45384
department of health's responsibilities described in 20 U.S.C. 45385
1435(a)(10); 45386

(3) Advise and assist the department of education regarding 45387
the transition of toddlers with disabilities to preschool and 45388
other appropriate services; 45389

(4) Prepare and submit an annual report to the governor, 45390
before the thirtieth day of September, on the status of early 45391
intervention programs for infants and toddlers with disabilities 45392
and their families operated within this state during the most 45393
recent fiscal year. 45394

(G) The help me grow advisory council may advise and assist 45395
the department of health and the department of education regarding 45396

the provision of appropriate services for children age five and younger. The council may advise appropriate agencies about the integration of services for infants and toddlers with disabilities, and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services.

Sec. 3701.78. (A) There is hereby created the commission on minority health, consisting of ~~eighteen~~ nineteen members. The governor shall appoint to the commission nine members from among health researchers, health planners, and health professionals. The speaker of the house of representatives shall appoint to the commission two members of the house of representatives, not more than one of whom is a member of the same political party, and the president of the senate shall appoint to the commission two members of the senate, not more than one of whom is a member of the same political party. The directors of health, mental health, mental retardation and developmental disabilities, alcohol and drug addiction services, and job and family services, or their designees, and the superintendent of public instruction, or the superintendent's designee, shall be members of the commission. The commission shall elect a chairperson from among its members. Of the members appointed by the governor, five shall be appointed to initial terms of one year, and four shall be appointed to initial terms of two years. Thereafter, all members appointed by the governor shall be appointed to terms of two years. All members of the commission appointed by the speaker of the house of representatives or the president of the senate shall be nonvoting members of the commission and be appointed within thirty days after the commencement of the first regular session of each general assembly, and shall serve until the expiration of the session of the general assembly during which they were appointed. Members of the commission shall serve without compensation, but

shall be reimbursed for the actual and necessary expenses they 45429
incur in the performance of their official duties. 45430

(B) The commission shall promote health and the prevention of 45431
disease among members of minority groups. Each year the commission 45432
shall distribute grants from available funds to community-based 45433
health groups to be used to promote health and the prevention of 45434
disease among members of minority groups. As used in this 45435
division, "minority group" means any of the following economically 45436
disadvantaged groups: Blacks, American Indians, Hispanics, and 45437
Orientals. The commission shall adopt and maintain rules pursuant 45438
to Chapter 119. of the Revised Code to provide for the 45439
distribution of these grants. No group shall qualify to receive a 45440
grant from the commission unless it receives at least twenty per 45441
cent of its funds from sources other than grants distributed under 45442
this section. 45443

(C) The commission may appoint such employees as it considers 45444
necessary to carry out its duties under this section. The 45445
department of health shall provide office space for the 45446
commission. 45447

(D) The commission shall meet at the call of its chairperson 45448
to conduct its official business. A majority of the voting members 45449
of the commission constitute a quorum. The votes of at least eight 45450
voting members of the commission are necessary for the commission 45451
to take any official action or to approve the distribution of 45452
grants under this section. 45453

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the 45454
Revised Code: 45455

(A) "Applicant" means any person that submits an application 45456
for a certificate of need and who is designated in the application 45457
as the applicant. 45458

(B) "Person" means any individual, corporation, business trust, estate, firm, partnership, association, joint stock company, insurance company, government unit, or other entity.	45459 45460 45461
(C) "Certificate of need" means a written approval granted by the director of health to an applicant to authorize conducting a reviewable activity.	45462 45463 45464
(D) "Health service area" means a geographic region designated by the director of health under section 3702.58 of the Revised Code.	45465 45466 45467
(E) "Health service" means a clinically related service, such as a diagnostic, treatment, rehabilitative, or preventive service.	45468 45469
(F) "Health service agency" means an agency designated to serve a health service area in accordance with section 3702.58 of the Revised Code.	45470 45471 45472
(G) "Health care facility" means:	45473
(1) A hospital registered under section 3701.07 of the Revised Code;	45474 45475
(2) A nursing home licensed under section 3721.02 of the Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code;	45476 45477 45478
(3) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;	45479 45480 45481 45482
(4) A freestanding dialysis center;	45483
(5) A freestanding inpatient rehabilitation facility;	45484
(6) An ambulatory surgical facility;	45485
(7) A freestanding cardiac catheterization facility;	45486
(8) A freestanding birthing center;	45487

(9) A freestanding or mobile diagnostic imaging center; 45488

(10) A freestanding radiation therapy center. 45489

A health care facility does not include the offices of 45490
private physicians and dentists whether for individual or group 45491
practice, residential facilities licensed under section 5123.19 of 45492
the Revised Code, or an institution for the sick that is operated 45493
exclusively for patients who use spiritual means for healing and 45494
for whom the acceptance of medical care is inconsistent with their 45495
religious beliefs, accredited by a national accrediting 45496
organization, exempt from federal income taxation under section 45497
501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 45498
U.S.C.A. 1, as amended, and providing twenty-four hour nursing 45499
care pursuant to the exemption in division (E) of section 4723.32 45500
of the Revised Code from the licensing requirements of Chapter 45501
4723. of the Revised Code. 45502

(H) "Medical equipment" means a single unit of medical 45503
equipment or a single system of components with related functions 45504
that is used to provide health services. 45505

(I) "Third-party payer" means a health insuring corporation 45506
licensed under Chapter 1751. of the Revised Code, a health 45507
maintenance organization as defined in division (K) of this 45508
section, an insurance company that issues sickness and accident 45509
insurance in conformity with Chapter 3923. of the Revised Code, a 45510
state-financed health insurance program under Chapter 3701., 45511
4123., or 5111. of the Revised Code, or any self-insurance plan. 45512

(J) "Government unit" means the state and any county, 45513
municipal corporation, township, or other political subdivision of 45514
the state, or any department, division, board, or other agency of 45515
the state or a political subdivision. 45516

(K) "Health maintenance organization" means a public or 45517
private organization organized under the law of any state that is 45518

qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9. 45519
45520

(L) "Existing health care facility" means either of the following: 45521
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(1) A health care facility that is licensed or otherwise authorized to operate in this state in accordance with applicable law, including a county home or a county nursing home that is certified as of February 1, 2008, under Title XVIII or Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, is staffed and equipped to provide health care services, and is actively providing health services; 45523
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(2) A health care facility that is licensed or otherwise authorized to operate in this state in accordance with applicable law, including a county home or a county nursing home that is certified as of February 1, 2008, under Title XVIII or Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or that has beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds and has provided services for at least three hundred sixty-five consecutive days within the twenty-four months immediately preceding the date a certificate of need application is filed with the director of health. 45530
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(M) "State" means the state of Ohio, including, but not limited to, the general assembly, the supreme court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, institutions, and other instrumentalities of the state of Ohio. "State" does not include political subdivisions. 45541
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(N) "Political subdivision" means a municipal corporation, township, county, school district, and all other bodies corporate and politic responsible for governmental activities only in 45547
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geographic areas smaller than that of the state to which the 45550
sovereign immunity of the state attaches. 45551

(O) "Affected person" means: 45552

(1) An applicant for a certificate of need, including an 45553
applicant whose application was reviewed comparatively with the 45554
application in question; 45555

(2) The person that requested the reviewability ruling in 45556
question; 45557

(3) Any person that resides or regularly uses health care 45558
facilities within the geographic area served or to be served by 45559
the health care services that would be provided under the 45560
certificate of need or reviewability ruling in question; 45561

(4) Any health care facility that is located in the health 45562
service area where the health care services would be provided 45563
under the certificate of need or reviewability ruling in question; 45564

(5) Third-party payers that reimburse health care facilities 45565
for services in the health service area where the health care 45566
services would be provided under the certificate of need or 45567
reviewability ruling in question; 45568

(6) Any other person who testified at a public hearing held 45569
under division (B) of section 3702.52 of the Revised Code or 45570
submitted written comments in the course of review of the 45571
certificate of need application in question. 45572

(P) "Osteopathic hospital" means a hospital registered under 45573
section 3701.07 of the Revised Code that advocates osteopathic 45574
principles and the practice and perpetuation of osteopathic 45575
medicine by doing any of the following: 45576

(1) Maintaining a department or service of osteopathic 45577
medicine or a committee on the utilization of osteopathic 45578
principles and methods, under the supervision of an osteopathic 45579

physician; 45580

(2) Maintaining an active medical staff, the majority of 45581
which is comprised of osteopathic physicians; 45582

(3) Maintaining a medical staff executive committee that has 45583
osteopathic physicians as a majority of its members. 45584

(Q) "Ambulatory surgical facility" has the same meaning as in 45585
section 3702.30 of the Revised Code. 45586

(R) ~~Except as otherwise provided in division (T) of this 45587
section, and until the termination date specified in section 45588
3702.511 of the Revised Code, "reviewable activity" means any of 45589
the following:~~ 45590

~~(1) The addition by any person of any of the following health 45591
services, regardless of the amount of operating costs or capital 45592
expenditures:~~ 45593

~~(a) A heart, heart lung, lung, liver, kidney, bowel, 45594
pancreas, or bone marrow transplantation service, a stem cell 45595
harvesting and reinfusion service, or a service for 45596
transplantation of any other organ unless transplantation of the 45597
organ is designated by public health council rule not to be a 45598
reviewable activity;~~ 45599

~~(b) A cardiac catheterization service;~~ 45600

~~(c) An open heart surgery service;~~ 45601

~~(d) Any new, experimental medical technology that is 45602
designated by rule of the public health council.~~ 45603

~~(2) The acceptance of high risk patients, as defined in rules 45604
adopted under section 3702.57 of the Revised Code, by any cardiac 45605
catheterization service that was initiated without a certificate 45606
of need pursuant to division (R)(3)(b) of the version of this 45607
section in effect immediately prior to April 20, 1995;~~ 45608

~~(3)(a) The establishment, development, or construction of a 45609~~

new health care facility other than a new long term care facility	45610
or a new hospital;	45611
(b) The establishment, development, or construction of a new	45612
hospital or the relocation of an existing hospital;	45613
(c) The relocation of hospital beds, other than long term	45614
care, perinatal, or pediatric intensive care beds, into or out of	45615
a rural area.	45616
(4)(a) The replacement of an existing hospital;	45617
(b) The replacement of an existing hospital obstetric or	45618
newborn care unit or freestanding birthing center.	45619
(5)(a) The renovation of a hospital that involves a capital	45620
expenditure, obligated on or after June 30, 1995, of five million	45621
dollars or more, not including expenditures for equipment,	45622
staffing, or operational costs. For purposes of division (R)(5)(a)	45623
of this section, a capital expenditure is obligated:	45624
(i) When a contract enforceable under Ohio law is entered	45625
into for the construction, acquisition, lease, or financing of a	45626
capital asset;	45627
(ii) When the governing body of a hospital takes formal	45628
action to commit its own funds for a construction project	45629
undertaken by the hospital as its own contractor;	45630
(iii) In the case of donated property, on the date the gift	45631
is completed under applicable Ohio law.	45632
(b) The renovation of a hospital obstetric or newborn care	45633
unit or freestanding birthing center that involves a capital	45634
expenditure of five million dollars or more, not including	45635
expenditures for equipment, staffing, or operational costs.	45636
(6) Any change in the health care services, bed capacity, or	45637
site, or any other failure to conduct the reviewable activity in	45638
substantial accordance with the approved application for which a	45639

~~certificate of need was granted, if the change is made prior to 45640
the date the activity for which the certificate was issued ceases 45641
to be a reviewable activity; 45642~~

~~(7) Any of the following changes in perinatal bed capacity or 45643
pediatric intensive care bed capacity: 45644~~

~~(a) An increase in bed capacity; 45645~~

~~(b) A change in service or service level designation of 45646
newborn care beds or obstetric beds in a hospital or freestanding 45647
birthing center, other than a change of service that is provided 45648
within the service level designation of newborn care or obstetric 45649
beds as registered by the department of health; 45650~~

~~(c) A relocation of perinatal or pediatric intensive care 45651
beds from one physical facility or site to another, excluding the 45652
relocation of beds within a hospital or freestanding birthing 45653
center or the relocation of beds among buildings of a hospital or 45654
freestanding birthing center at the same site. 45655~~

~~(8) The expenditure of more than one hundred ten per cent of 45656
the maximum expenditure specified in a certificate of need; 45657~~

~~(9) Any transfer of a certificate of need issued prior to 45658
April 20, 1995, from the person to whom it was issued to another 45659
person before the project that constitutes a reviewable activity 45660
is completed, any agreement that contemplates the transfer of a 45661
certificate of need issued prior to that date upon completion of 45662
the project, and any transfer of the controlling interest in an 45663
entity that holds a certificate of need issued prior to that date. 45664
However, the transfer of a certificate of need issued prior to 45665
that date or agreement to transfer such a certificate of need from 45666
the person to whom the certificate of need was issued to an 45667
affiliated or related person does not constitute a reviewable 45668
transfer of a certificate of need for the purposes of this 45669
division, unless the transfer results in a change in the person 45670~~

~~that holds the ultimate controlling interest in the certificate of need.~~ 45671
45672

~~(10)(a) The acquisition by any person of any of the following medical equipment, regardless of the amount of operating costs or capital expenditure:~~ 45673
45674
45675

~~(i) A cobalt radiation therapy unit;~~ 45676

~~(ii) A linear accelerator;~~ 45677

~~(iii) A gamma knife unit.~~ 45678

~~(b) The acquisition by any person of medical equipment with a cost of two million dollars or more. The cost of acquiring medical equipment includes the sum of the following:~~ 45679
45680
45681

~~(i) The greater of its fair market value or the cost of its lease or purchase;~~ 45682
45683

~~(ii) The cost of installation and any other activities essential to the acquisition of the equipment and its placement into service.~~ 45684
45685
45686

~~(11) The addition of another cardiac catheterization laboratory to an existing cardiac catheterization service.~~ 45687
45688

~~(S) Except as provided in division (T)(S) of this section, "reviewable activity" also means any of the following activities, none of which are subject to a termination date:~~ 45689
45690
45691

(1) The establishment, development, or construction of a new long-term care facility; 45692
45693

(2) The replacement of an existing long-term care facility; 45694

(3) The renovation of a long-term care facility that involves a capital expenditure of two million dollars or more, not including expenditures for equipment, staffing, or operational costs; 45695
45696
45697
45698

(4) ~~Any~~ Either of the following changes in long-term care bed 45699

capacity: 45700

(a) An increase in bed capacity; 45701

(b) A relocation of beds from one physical facility or site 45702
to another, excluding the relocation of beds within a long-term 45703
care facility or among buildings of a long-term care facility at 45704
the same site; 45705

~~(c) A recategorization of hospital beds registered under 45706
section 3701.07 of the Revised Code from another registration 45707
category to skilled nursing beds or long term care beds. 45708~~

(5) Any change in the health services, bed capacity, or site, 45709
or any other failure to conduct the reviewable activity in 45710
substantial accordance with the approved application for which a 45711
certificate of need concerning long-term care beds was granted, if 45712
the change is made within five years after the implementation of 45713
the reviewable activity for which the certificate was granted; 45714

(6) The expenditure of more than one hundred ten per cent of 45715
the maximum expenditure specified in a certificate of need 45716
concerning long-term care beds; 45717

~~(7) Any transfer of a certificate of need that concerns 45718
long term care beds and was issued prior to April 20, 1995, from 45719
the person to whom it was issued to another person before the 45720
project that constitutes a reviewable activity is completed, any 45721
agreement that contemplates the transfer of such a certificate of 45722
need upon completion of the project, and any transfer of the 45723
controlling interest in an entity that holds such a certificate of 45724
need. However, the transfer of a certificate of need that concerns 45725
long term care beds and was issued prior to April 20, 1995, or 45726
agreement to transfer such a certificate of need from the person 45727
to whom the certificate was issued to an affiliated or related 45728
person does not constitute a reviewable transfer of a certificate 45729
of need for purposes of this division, unless the transfer results 45730~~

~~in a change in the person that holds the ultimate controlling interest in the certificate of need.~~ 45731
45732

~~(T)~~(S) "Reviewable activity" does not include any of the 45733
following activities: 45734

(1) Acquisition of computer hardware or software; 45735

(2) Acquisition of a telephone system; 45736

(3) Construction or acquisition of parking facilities; 45737

(4) Correction of cited deficiencies that are in violation of 45738
federal, state, or local fire, building, or safety laws and rules 45739
and that constitute an imminent threat to public health or safety; 45740

(5) Acquisition of an existing health care facility that does 45741
not involve a change in the number of the beds, by service, or in 45742
the number or type of health services; 45743

(6) Correction of cited deficiencies identified by 45744
accreditation surveys of the joint commission on accreditation of 45745
healthcare organizations or of the American osteopathic 45746
association; 45747

(7) Acquisition of medical equipment to replace the same or 45748
similar equipment for which a certificate of need has been issued 45749
if the replaced equipment is removed from service; 45750

(8) Mergers, consolidations, or other corporate 45751
reorganizations of health care facilities that do not involve a 45752
change in the number of beds, by service, or in the number or type 45753
of health services; 45754

(9) Construction, repair, or renovation of bathroom 45755
facilities; 45756

(10) Construction of laundry facilities, waste disposal 45757
facilities, dietary department projects, heating and air 45758
conditioning projects, administrative offices, and portions of 45759
medical office buildings used exclusively for physician services; 45760

(11) Acquisition of medical equipment to conduct research 45761
required by the United States food and drug administration or 45762
clinical trials sponsored by the national institute of health. Use 45763
of medical equipment that was acquired without a certificate of 45764
need under division ~~(T)~~(S)(11) of this section and for which 45765
premarket approval has been granted by the United States food and 45766
drug administration to provide services for which patients or 45767
reimbursement entities will be charged shall be a reviewable 45768
activity. 45769

(12) Removal of asbestos from a health care facility. 45770

Only that portion of a project that meets the requirements of 45771
this division ~~(T) of this section~~ is not a reviewable activity. 45772

~~(U)~~(T) "Small rural hospital" means a hospital that is 45773
located within a rural area, has fewer than one hundred beds, and 45774
to which fewer than four thousand persons were admitted during the 45775
most recent calendar year. 45776

~~(V)~~(U) "Children's hospital" means any of the following: 45777

(1) A hospital registered under section 3701.07 of the 45778
Revised Code that provides general pediatric medical and surgical 45779
care, and in which at least seventy-five per cent of annual 45780
inpatient discharges for the preceding two calendar years were 45781
individuals less than eighteen years of age; 45782

(2) A distinct portion of a hospital registered under section 45783
3701.07 of the Revised Code that provides general pediatric 45784
medical and surgical care, has a total of at least one hundred 45785
fifty registered pediatric special care and pediatric acute care 45786
beds, and in which at least seventy-five per cent of annual 45787
inpatient discharges for the preceding two calendar years were 45788
individuals less than eighteen years of age; 45789

(3) A distinct portion of a hospital, if the hospital is 45790
registered under section 3701.07 of the Revised Code as a 45791

children's hospital and the children's hospital meets all the 45792
requirements of division ~~(V)~~(U)(1) of this section. 45793

~~(W)~~(V) "Long-term care facility" means any of the following: 45794

(1) A nursing home licensed under section 3721.02 of the 45795
Revised Code or by a political subdivision certified under section 45796
3721.09 of the Revised Code; 45797

(2) The portion of any facility, including a county home or 45798
county nursing home, that is certified as a skilled nursing 45799
facility or a nursing facility under Title XVIII or XIX of the 45800
"Social Security Act"; 45801

(3) The portion of any hospital that contains beds registered 45802
under section 3701.07 of the Revised Code as skilled nursing beds 45803
or long-term care beds. 45804

~~(X)~~(W) "Long-term care bed" means a bed in a long-term care 45805
facility. 45806

~~(Y)~~ "Perinatal bed" means a bed in a hospital that is 45807
registered under section 3701.07 of the Revised Code as a newborn 45808
care bed or obstetric bed, or a bed in a freestanding birthing 45809
center. 45810

~~(Z)~~(X) "Freestanding birthing center" means any facility in 45811
which deliveries routinely occur, regardless of whether the 45812
facility is located on the campus of another health care facility, 45813
and which is not licensed under Chapter 3711. of the Revised Code 45814
as a level one, two, or three maternity unit or a limited 45815
maternity unit. 45816

~~(AA)~~(Y)(1) "Reviewability ruling" means a ruling issued by 45817
the director of health under division (A) of section 3702.52 of 45818
the Revised Code as to whether a particular proposed project is or 45819
is not a reviewable activity. 45820

(2) "Nonreviewability ruling" means a ruling issued under 45821

that division that a particular proposed project is not a 45822
reviewable activity. 45823

~~(BB)~~(Z)(1) "Metropolitan statistical area" means an area of 45824
this state designated a metropolitan statistical area or primary 45825
metropolitan statistical area in United States office of 45826
management and budget bulletin no. 93-17, June 30, 1993, and its 45827
attachments. 45828

(2) "Rural area" means any area of this state not located 45829
within a metropolitan statistical area. 45830

~~(CC)~~(AA) "County nursing home" has the same meaning as in 45831
section 5155.31 of the Revised Code. 45832

Sec. 3702.52. The director of health shall administer a state 45833
certificate of need program in accordance with sections 3702.51 to 45834
3702.62 of the Revised Code and rules adopted under those 45835
sections. 45836

(A) The director shall issue rulings on whether a particular 45837
proposed project is a reviewable activity. The director shall 45838
issue a ruling not later than forty-five days after receiving a 45839
request for a ruling accompanied by the information needed to make 45840
the ruling. If the director does not issue a ruling in that time, 45841
the project shall be considered to have been ruled not a 45842
reviewable activity. 45843

(B) The director shall review applications for certificates 45844
of need. Each application shall be submitted to the director on 45845
forms prescribed by the director, shall include all information 45846
required by rules adopted under division (B) of section 3702.57 of 45847
the Revised Code, and shall be accompanied by the application fee 45848
established in rules adopted under division (G) of that section. 45849

Application fees received by the director under this division 45850
shall be deposited into the state treasury to the credit of the 45851

certificate of need fund, which is hereby created. The director 45852
shall use the fund only to pay the costs of administering sections 45853
3702.11 to 3702.20, 3702.30, and 3702.51 to 3702.62 of the Revised 45854
Code and rules adopted under those sections. 45855

The director shall mail to the applicant a written notice 45856
that the application meets the criteria for a complete application 45857
specified in rules adopted under section 3702.57 of the Revised 45858
Code, or a written request for additional information, not later 45859
than thirty days after receiving an application or a response to 45860
an earlier request for information. The director shall not make 45861
more than two requests for additional information. 45862

The director may conduct a public informational hearing in 45863
the course of reviewing any application for a certificate of need, 45864
and shall conduct one if requested to do so by any affected person 45865
not later than fifteen days after the director mails the notice 45866
that the application is complete. The hearing shall be conducted 45867
in the community in which the activities authorized by the 45868
certificate of need would be carried out. Any affected person may 45869
testify at the hearing. The director may, with the health service 45870
agency's consent, designate a health service agency to conduct the 45871
hearing. 45872

Except during a public hearing or as necessary to comply with 45873
a subpoena issued under division ~~(F)~~(E) of this section, after a 45874
notice of completeness has been received, no person shall make 45875
revisions to information that was submitted to the director before 45876
the director mailed the notice of completeness or knowingly 45877
discuss in person or by telephone the merits of the application 45878
with the director. A person may supplement an application after a 45879
notice of completeness has been received by submitting clarifying 45880
information to the director. If one or more persons request a 45881
meeting in person or by telephone, the director shall make a 45882
reasonable effort to invite interested parties to the meeting or 45883

conference call. 45884

(C) All of the following apply to the process of granting or 45885
denying a certificate of need: 45886

(1) If the project proposed in a certificate of need 45887
application meets all of the applicable certificate of need 45888
criteria for approval under sections 3702.51 to 3702.62 of the 45889
Revised Code and the rules adopted under those sections, the 45890
director shall grant a certificate of need for all or part of the 45891
entire project that is the subject of the application ~~immediately~~ 45892
~~after both of the following conditions are met:~~ 45893

~~(a) The board of trustees of the health service agency of the 45894
health service area in which the reviewable activity is proposed 45895
to be conducted recommends, prior to the deadline specified in 45896
division (C)(4) of this section or any extension of it under 45897
division (C)(5) of this section, that the certificate of need be 45898
granted;~~ 45899

~~(b) The director does not receive any written objections to 45900
the application from any affected person by the thirtieth day 45901
after the director mails the notice of completeness by the 45902
applicable deadline specified in division (C)(4) of this section 45903
or any extension of it under division (C)(5) of this section. 45904~~

(2) ~~In the case of certificate of need applications under 45905
comparative review, if the projects proposed in the applications 45906
meet all of the applicable certificate of need criteria for 45907
approval under sections 3702.51 to 3702.62 of the Revised Code and 45908
the rules adopted under those sections, the director shall grant 45909
certificates of need for the entire projects that are the subject 45910
of the applications immediately after both of the following 45911
conditions are met:~~ 45912

~~(a) The board of trustees of the health service agency of 45913
each health service area in which the reviewable activities are 45914~~

~~proposed to be conducted recommends, prior to the deadline 45915
specified in division (C)(4) of this section or any extension of 45916
it under division (C)(5) of this section, that certificates of 45917
need be granted for each of the reviewable activities to be 45918
conducted in its health service area; 45919~~

~~(b) The director does not receive any written objections to 45920
any of the applications from any affected person by the thirtieth 45921
day after the director mails the last notice of completeness. 45922~~

~~The The director's grant of a certificate of need under 45923
division (C)(1) or (2) of this section does not affect, and sets 45924
no precedent for, the director's decision to grant or deny other 45925
applications for similar reviewable activities proposed to be 45926
conducted in the same or different health service areas. 45927~~

(3) If the director receives written objections to an 45928
application from any affected person by the thirtieth day after 45929
mailing the notice of completeness, regardless of the health 45930
service agency's recommendation, the director shall notify the 45931
applicant and assign a hearing examiner to conduct an adjudication 45932
hearing concerning the application in accordance with Chapter 119. 45933
of the Revised Code. In the case of applications under comparative 45934
review, if the director receives written objections to any of the 45935
applications from any affected person by the thirtieth day after 45936
the director mails the last notice of completeness, regardless of 45937
the health service agencies' recommendation, the director shall 45938
notify all of the applicants and appoint a hearing examiner to 45939
conduct a consolidated adjudication hearing concerning the 45940
applications in accordance with Chapter 119. of the Revised Code. 45941
The hearing examiner shall be employed by or under contract with 45942
the department of health. 45943

The adjudication hearings may be conducted in the health 45944
service area in which the reviewable activity is proposed to be 45945
conducted. Consolidated adjudication hearings for applications in 45946

comparative review may be conducted in the geographic region in 45947
which all of the reviewable activities will be conducted. The 45948
applicant, the director, and the affected persons that filed 45949
objections to the application shall be parties to the hearing. If 45950
none of the affected persons that submitted written objections to 45951
the application appears or prosecutes the hearing, the hearing 45952
examiner shall dismiss the hearing and the director shall grant a 45953
certificate of need for the entire project that is the subject of 45954
the application if the proposed project meets all of the 45955
applicable certificate of need criteria for approval under 45956
sections 3702.51 to 3702.62 of the Revised Code and the rules 45957
adopted under those sections. The affected persons bear the burden 45958
of proving by a preponderance of evidence that the project is not 45959
needed or that granting the certificate would not be in accordance 45960
with sections 3702.51 to 3702.62 of the Revised Code or the rules 45961
adopted under those sections. 45962

(4) Except as provided in ~~divisions~~ division (C)~~(1) and~~ 45963
~~(2)(5)~~ of this section, the director shall grant or deny 45964
certificate of need applications for which an adjudication hearing 45965
is not conducted under division (C)(3) of this section not later 45966
than sixty days after mailing the notice of completeness or, in 45967
the case of an application proposing addition of long-term care 45968
beds, not later than sixty days after such other time as is 45969
specified in rules adopted under section 3702.57 of the Revised 45970
Code. ~~The~~ Except as provided in division (C)(5) of this section, 45971
the director shall grant or deny certificate of need applications 45972
for which an adjudication hearing is conducted under division 45973
(C)(3) of this section not later than thirty days after the 45974
expiration of the time for filing objections to the report and 45975
recommendation of the hearing examiner under section 119.09 of the 45976
Revised Code. The director shall base decisions concerning 45977
applications for which an adjudication hearing is conducted under 45978
division (C)(3) of this section on the report and recommendations 45979

of the hearing examiner. 45980

(5) Except as otherwise provided in division (C)~~(1), (2), or~~ 45981
(6) of this section, the director or the applicant may extend the 45982
deadline prescribed in division (C)(4) of this section once, for 45983
no longer than thirty days, by written notice before the end of 45984
the ~~original thirty day period~~ deadline prescribed by division 45985
(C)(4) of this section. An extension by the director under 45986
division (C)(5) of this section shall apply to all applications 45987
that are in comparative review. 45988

(6) No applicant in a comparative review may extend the 45989
deadline specified in division (C)(4) of this section. 45990

~~(7) Except as provided in divisions (C)(1) and (2) of this~~ 45991
~~section, the director may grant a certificate of need for all or~~ 45992
~~part of the project that is the subject of an application.~~ If the 45993
director does not grant or deny the certificate by the applicable 45994
deadline specified in division (C)(4) of this section or any 45995
extension of it under division (C)(5) of this section, the 45996
certificate shall be considered to have been granted. 45997

(8) In granting a certificate of need, the director shall 45998
specify as the maximum capital expenditure the certificate holder 45999
may obligate under the certificate a figure equal to one hundred 46000
ten per cent of the approved project cost. 46001

(9) In granting a certificate of need, the director may grant 46002
the certificate with conditions that must be met by the holder of 46003
the certificate. 46004

(D) The director shall monitor the activities of persons 46005
granted certificates of need ~~concerning long term care beds~~ during 46006
the period beginning with the granting of the certificate of need 46007
and ending five years after implementation of the activity for 46008
which the certificate was granted. 46009

~~In the case of any other certificate of need, the director~~ 46010

~~shall monitor the activities of persons granted certificates of need during the period beginning with the granting of the certificate of need and ending when the activity for which the certificate was granted ceases to be a reviewable activity in accordance with section 3702.511 of the Revised Code.~~

(E) When reviewing applications for certificates of need or monitoring activities of persons granted certificates of need, the director may issue and enforce, in the manner provided in section 119.09 of the Revised Code, subpoenas duces tecum to compel the production of documents relevant to review of the application or monitoring of the activities. In addition, the director or the director's designee, which may include a health service agency, may visit the sites where the activities are or will be conducted.

(F) The director may withdraw certificates of need.

(G) The director shall conduct, on a regular basis, health system data collection and analysis activities and prepare reports. The director shall make recommendations based upon these activities to the public health council concerning the adoption of appropriate rules under section 3702.57 of the Revised Code. All health care facilities and other health care providers shall submit to the director, upon request, any information that is necessary to conduct reviews of certificate of need applications and to develop recommendations for criteria for reviews, and that is prescribed by rules adopted under division (H) of section 3702.57 of the Revised Code.

(H) Any decision to grant or deny a certificate of need shall consider the special needs and circumstances resulting from moral and ethical values and the free exercise of religious rights of health care facilities administered by religious organizations, and the special needs and circumstances of ~~children's hospitals,~~ inner city ~~hospitals,~~ and ~~small rural hospitals~~ communities.

Sec. 3702.524. (A) Except as provided in division (B) ~~or (C)~~ 46043
of this section, a certificate of need granted on or after April 46044
20, 1995, is not transferable prior to the completion of the 46045
reviewable activity for which it was granted. If any person 46046
holding a certificate of need issued on or after that date 46047
transfers the certificate of need to another person before the 46048
reviewable activity is completed, or enters into an agreement that 46049
contemplates the transfer of the certificate of need on the 46050
completion of the reviewable activity, the certificate of need is 46051
void. If the controlling interest in an entity that holds a 46052
certificate of need issued on or after that date is transferred 46053
prior to the completion of the reviewable activity, the 46054
certificate of need is void. 46055

(B) Division (A) of this section does not prohibit the 46056
transfer of a certificate of need issued on or after April 20, 46057
1995, between affiliated or related persons, as defined in rules 46058
adopted under section 3702.57 of the Revised Code, if the transfer 46059
does not result in a change in the person that holds the ultimate 46060
controlling interest, as defined in the rules, in the certificate 46061
of need. 46062

The transfer of a health care facility after the completion 46063
of a reviewable activity for which a certificate of need was 46064
issued on or after April 20, 1995, is not a transfer of the 46065
certificate of need, unless the facility is transferred pursuant 46066
to an agreement entered into prior to the completion of the 46067
reviewable activity. 46068

~~(C) Division (A) of this section does not apply to a transfer 46069
of a certificate of need that meets all of the following 46070
conditions: 46071~~

~~(1) The certificate of need is transferred for no more than 46072
the amount of money the person transferring the certificate 46073~~

~~expended for reasonable and necessary expenses incurred in 46074
applying for and obtaining the certificate; 46075~~

~~(2) The person holding the certificate of need is unable to 46076
complete the reviewable activity for which it was issued due to 46077
circumstances beyond the person's control, including zoning 46078
restrictions, natural disasters, or comparable events; 46079~~

~~(3) The director, after reviewing documentation supplied by 46080
the person transferring the certificate of need, certifies in 46081
writing prior to the transfer that the transfer meets the 46082
conditions specified in divisions (C)(1) and (2) of this section. 46083~~

~~If the person that acquires a certificate of need under this 46084
division intends to implement the project other than in 46085
substantial compliance with the approved application for the 46086
certificate, that change is a reviewable activity for which the 46087
person must obtain another certificate of need. 46088~~

Sec. 3702.525. (A) Not later than twenty-four months after 46089
the date the director of health mails the notice that the 46090
certificate of need has been granted or, if the grant or denial of 46091
the certificate of need is appealed under section 3702.60 of the 46092
Revised Code, not later than twenty-four months after issuance of 46093
an order granting the certificate that is not subject to further 46094
appeal, each person holding a certificate of need granted on or 46095
after April 20, 1995, shall: 46096

(1) If the project for which the certificate of need was 46097
granted primarily involves construction and is to be financed 46098
primarily through external borrowing of funds, secure financial 46099
commitment for the stated purpose of developing the project and 46100
commence construction that continues uninterrupted except for 46101
interruptions or delays that are unavoidable due to reasons beyond 46102
the person's control, including labor strikes, natural disasters, 46103
material shortages, or comparable events; 46104

(2) If the project for which the certificate of need was granted primarily involves construction and is to be financed primarily internally, receive formal approval from the holder's board of directors or trustees or other governing authority to commit specified funds for implementation of the project and commence construction that continues uninterrupted except for interruptions or delays that are unavoidable due to reasons beyond the person's control, including labor strikes, natural disasters, material shortages, or comparable events;

(3) If the project for which the certificate of need was granted primarily involves acquisition of medical equipment, enter into a contract to purchase or lease the equipment and to accept the equipment at the site for which the certificate was granted;

(4) If the project for which the certificate of need was granted involves no capital expenditure or only minor renovations to existing structures, provide the health service or activity by the means specified in the approved application for the certificate;

(5) If the project for which the certificate of need was granted primarily involves leasing a building or space that requires only minor renovations to the existing space, execute a lease and provide the health service or activity by the means specified in the approved application for the certificate;

(6) If the project for which the certificate of need was granted primarily involves leasing a building or space that has not been constructed or requires substantial renovations to existing space, commence construction for the purpose of implementing the reviewable activity that continues uninterrupted except for interruptions or delays that are unavoidable due to reasons beyond the person's control, including labor strikes, natural disasters, material shortages, or comparable events.

(B) The twenty-four-month period specified in division (A) of this section shall not be extended by any means, including the ~~transfer of a certificate of need under division (C) of section 3702.524 of the Revised Code~~ or granting of a subsequent or replacement certificate of need. Each person holding a certificate of need granted on or after April 20, 1995, shall provide the director of health documentation of compliance with that division not later than the earlier of thirty days after complying with that division or five days after the twenty-four-month period expires. Not later than the earlier of fifteen days after receiving the documentation or fifteen days after the twenty-four-month period expires, the director shall send by certified mail a notice to the holder of the certificate of need specifying whether the holder has complied with division (A) of this section.

(C) Notwithstanding division (B) of this section, the twenty-four-month period specified in division (A) of this section shall be extended for an additional twenty-four months for any certificate of need granted for the purchase and relocation of licensed nursing home beds on February 26, 1999.

(D) A certificate of need granted on or after April 20, 1995, expires, regardless of whether the director sends a notice under division (B) of this section, if the holder fails to comply with division (A) or (C) of this section or to provide information under division (B) of this section as necessary for the director to determine compliance.

Sec. 3702.53. (A) No person shall carry out any reviewable activity unless a certificate of need for such activity has been granted under sections 3702.51 to 3702.62 of the Revised Code or the person is exempted by division ~~(T)~~(S) of section 3702.51 or section ~~3702.527, 3702.528, 3702.529,~~ 3702.5210~~,~~ or 3702.62 of the

Revised Code from the requirement that a certificate of need be 46167
obtained. No person shall carry out any reviewable activity if a 46168
certificate of need authorizing that activity has been withdrawn 46169
by the director of health under section 3702.52 or 3702.526 of the 46170
Revised Code. No person shall carry out a reviewable activity if 46171
the certificate of need authorizing that activity is void pursuant 46172
to section 3702.524 of the Revised Code or has expired pursuant to 46173
section 3702.525 of the Revised Code. 46174

(B) No person shall separate portions of any proposal for any 46175
reviewable activity to evade the requirements of sections 3702.51 46176
to 3702.62 of the Revised Code. 46177

(C) No person granted a certificate of need shall carry out 46178
the reviewable activity authorized by the certificate of need 46179
other than in substantial accordance with the approved application 46180
for the certificate of need. 46181

Sec. 3702.532. When the director of health determines that a 46182
person has violated section 3702.53 of the Revised Code, the 46183
director shall send a notice to the person by certified mail, 46184
return receipt requested, specifying the activity constituting the 46185
violation and the penalties imposed under section 3702.54, or 46186
3702.541, ~~or 3702.542~~ of the Revised Code. 46187

Sec. 3702.54. Except as provided in ~~sections~~ section 3702.541 46188
~~and 3702.542 and former section 3702.543~~ of the Revised Code, 46189
divisions (A) and (B) of this section apply when the director of 46190
health determines that a person has violated section 3702.53 of 46191
the Revised Code. 46192

(A) The director shall impose a civil penalty on the person 46193
in an amount equal to the greatest of the following: 46194

(1) Three thousand dollars; 46195

(2) Five per cent of the operating cost of the activity that 46196

constitutes the violation during the period of time it was 46197
conducted in violation of section 3702.53 of the Revised Code; 46198

(3) ~~Two~~ If a certificate of need was granted, two per cent of 46199
the total approved capital cost associated with implementation of 46200
the activity for which the certificate of need was granted. 46201

In no event, however, shall the penalty exceed two hundred 46202
fifty thousand dollars. 46203

(B)(1) Notwithstanding section 3702.52 of the Revised Code, 46204
the director shall refuse to accept for review any application for 46205
a certificate of need filed by or on behalf of the person, or any 46206
successor to the person or entity related to the person, for a 46207
period of not less than one year and not more than three years 46208
after the director mails the notice of the director's 46209
determination under section 3702.532 of the Revised Code or, if 46210
the determination is appealed under section 3702.60 of the Revised 46211
Code, the issuance of the order upholding the determination that 46212
is not subject to further appeal. In determining the length of 46213
time during which applications will not be accepted, the director 46214
may consider any of the following: 46215

(a) The nature and magnitude of the violation; 46216

(b) The ability of the person to have averted the violation; 46217

(c) Whether the person disclosed the violation to the 46218
director before the director commenced his investigation; 46219

(d) The person's history of compliance with sections 3702.51 46220
to 3702.62 and the rules adopted under section 3702.57 of the 46221
Revised Code; 46222

(e) Any community hardship that may result from refusing to 46223
accept future applications from the person. 46224

(2) Notwithstanding the one-year minimum imposed by division 46225
(B)(1) of this section, the director may establish a period of 46226

less than one year during which the director will refuse to accept 46227
certificate of need applications if, after reviewing all 46228
information available to the director, the director determines and 46229
expressly indicates in the notice mailed under section 3702.532 of 46230
the Revised Code that refusing to accept applications for a longer 46231
period would result in hardship to the community in which the 46232
person provides health services. The director's finding of 46233
community hardship shall not affect the granting or denial of any 46234
future certificate of need application filed by the person. 46235

Sec. 3702.544. Each person required by section 3702.54~~7~~ or 46236
3702.541~~, or 3702.542, or former section 3702.543~~ of the Revised 46237
Code to pay a civil penalty shall do so not later than sixty days 46238
after receiving the notice mailed under section 3702.532 of the 46239
Revised Code or, if the person appeals under section 3702.60 of 46240
the Revised Code the director of health's determination that a 46241
violation has occurred, not later than sixty days after the 46242
issuance of an order upholding the director's determination that 46243
is not subject to further appeal. The civil penalties shall be 46244
paid to the director. The director shall deposit them into the 46245
certificate of need fund created by section 3702.52 of the Revised 46246
Code. 46247

Sec. 3702.55. ~~Except as provided in section 3702.542 of the~~ 46248
~~Revised Code,~~ a A person that the director of health determines 46249
has violated section 3702.53 of the Revised Code shall cease 46250
conducting the activity that constitutes the violation or 46251
utilizing the equipment or facility resulting from the violation 46252
not later than thirty days after the person receives the notice 46253
mailed under section 3702.532 of the Revised Code or, if the 46254
person appeals the director's determination under section 3702.60 46255
of the Revised Code, thirty days after the person receives an 46256
order upholding the director's determination that is not subject 46257

to further appeal. ~~A person that applies for a certificate of need~~ 46258
~~as described in section 3702.542 of the Revised Code shall cease~~ 46259
~~conducting the activity or using the equipment or facility in~~ 46260
~~accordance with the timetable established by the director of~~ 46261
~~health under that section.~~ 46262

If any person determined to have violated section 3702.53 of 46263
the Revised Code fails to cease conducting an activity or using 46264
equipment or a facility as required by this section ~~or a timetable~~ 46265
~~established under section 3702.542 of the Revised Code,~~ or if the 46266
person continues to seek payment or reimbursement for services 46267
rendered or costs incurred in conducting the activity as 46268
prohibited by section 3702.56 of the Revised Code, in addition to 46269
the penalties imposed under section 3702.54, or 3702.541, ~~or~~ 46270
~~3702.542 or former section 3702.543~~ of the Revised Code: 46271

(A) The director of health may refuse to include any beds 46272
involved in the activity in the bed capacity of a hospital for 46273
purposes of registration under section 3701.07 of the Revised 46274
Code; 46275

(B) The director of health may refuse to license, or may 46276
revoke a license or reduce bed capacity previously granted to, a 46277
hospice care program under section 3712.04 of the Revised Code; a 46278
nursing home, rest home, or home for the aging under section 46279
3721.02 of the Revised Code; or any beds within any of those 46280
facilities that are involved in the activity; 46281

(C) A political subdivision certified under section 3721.09 46282
of the Revised Code may refuse to license, or may revoke a license 46283
or reduce bed capacity previously granted to, a nursing home, rest 46284
home, or home for the aging, or any beds within any of those 46285
facilities that are involved in the activity; 46286

(D) The director of mental health may refuse to license under 46287
section 5119.20 of the Revised Code, or may revoke a license or 46288

reduce bed capacity previously granted to, a hospital receiving 46289
mentally ill persons or beds within such a hospital that are 46290
involved in the activity; 46291

(E) The department of job and family services may refuse to 46292
enter into a provider agreement that includes a facility, beds, or 46293
services that result from the activity. 46294

Sec. 3702.57. (A) The public health council shall adopt rules 46295
establishing procedures and criteria for reviews of applications 46296
for certificates of need and issuance, denial, or withdrawal of 46297
certificates. 46298

~~(1) The rules shall require that, in addition to any other 46299
applicable review requirements of sections 3702.51 to 3702.62 of 46300
the Revised Code and rules adopted thereunder, any application for 46301
a certificate of need from an osteopathic hospital be reviewed on 46302
the basis of the need for and the availability in the community of 46303
services and hospitals for osteopathic physicians and their 46304
patients, and in terms of its impact on existing and proposed 46305
institutional training programs for doctors of osteopathy and 46306
doctors of medicine at the student, internship, and residency 46307
training levels. 46308~~

~~(2)~~ In adopting rules that establish criteria for reviews of 46309
applications of certificates of need, the council shall consider 46310
the availability of and need for long-term care beds to provide 46311
care and treatment to persons diagnosed as having traumatic brain 46312
injuries and shall prescribe criteria for reviewing applications 46313
that propose to add long-term care beds to provide care and 46314
treatment to persons diagnosed as having traumatic brain injuries. 46315

~~(3)~~(2) The criteria for reviews of applications for 46316
certificates of need shall relate to the need for the reviewable 46317
activity and shall pertain to all of the following matters: 46318

(a) The impact of the reviewable activity on the cost and 46319
quality of health services in the relevant geographic area, 46320
including, but not limited, to the historical and projected 46321
utilization of the services to which the application pertains and 46322
the effect of the reviewable activity on utilization of other 46323
providers of similar services; 46324

(b) The quality of the services to be provided as the result 46325
of the activity, as evidenced by the historical performance of the 46326
persons that will be involved in providing the services and by the 46327
provisions that are proposed in the application to ensure quality, 46328
including but not limited to adequate available personnel, 46329
available ancillary and support services, available equipment, 46330
size and configuration of physical plant, and relations with other 46331
providers; 46332

(c) The impact of the reviewable activity on the availability 46333
and accessibility of the type of services proposed in the 46334
application to the population of the relevant geographic area, and 46335
the level of access to the services proposed in the application 46336
that will be provided to medically underserved individuals such as 46337
recipients of public assistance and individuals who have no health 46338
insurance or whose health insurance is insufficient; 46339

(d) The activity's short- and long-term financial feasibility 46340
and cost-effectiveness, the impact of the activity on the 46341
applicant's costs and charges, and a comparison of the applicant's 46342
costs and charges with those of providers of similar services in 46343
the applicant's proposed service area; 46344

(e) The advantages, disadvantages, and costs of alternatives 46345
to the reviewable activity; 46346

(f) The impact of the activity on all other providers of 46347
similar services in the health service area or other relevant 46348
geographic area, including the impact on their utilization, market 46349

share, and financial status; 46350

(g) The historical performance of the applicant and related 46351
or affiliated parties in complying with previously granted 46352
certificates of need and any applicable certification, 46353
accreditation, or licensure requirements; 46354

(h) The relationship of the activity to the current edition 46355
of the state health resources plan issued under section 3702.521 46356
of the Revised Code; 46357

(i) The historical performance of the applicant and related 46358
or affiliated parties in providing cost-effective health care 46359
services; 46360

(j) The special needs and circumstances of the applicant or 46361
population proposed to be served by the proposed project, 46362
including research activities, prevalence of particular diseases, 46363
unusual demographic characteristics, cost-effective contractual 46364
affiliations, and other special circumstances; 46365

(k) The appropriateness of the zoning status of the proposed 46366
site of the activity; 46367

(l) The participation by the applicant in research conducted 46368
by the United States food and drug administration or clinical 46369
trials sponsored by the national institutes of health. 46370

~~(4)~~(3) The criteria for reviews of applications shall include 46371
a formula for determining each county's long-term care bed need 46372
for purposes of section 3702.593 of the Revised Code and may 46373
include other formulas for determining need for beds ~~and services~~. 46374
46375

~~(a) The criteria prescribing formulas shall not, either by~~ 46376
~~themselves or in conjunction with any established occupancy~~ 46377
~~guidelines, require, as a condition of being granted a certificate~~ 46378
~~of need, that a hospital reduce its complement of registered beds~~ 46379

~~or discontinue any service that is not related to the service or
project for which the certificate of need is sought.~~ 46380
46381

~~(b) With respect to applications to conduct reviewable
activities that are affected directly by the inpatient occupancy
of a health care facility, including addition, relocation, or
recategorization of beds or renovation or other construction
activities relating to inpatient services, the rules shall
prescribe criteria for determining whether the scope of the
proposed project is appropriate in light of the historical and
reasonably projected occupancy rates for the beds related to the
project.~~ 46382
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~~(c) Any rules prescribing criteria that establish ratios of
beds, services, or equipment to population shall specify the bases
for establishing the ratios or mitigating factors or exceptions to
the ratios.~~ 46391
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(B) The council shall adopt rules specifying all of the 46395
following: 46396

(1) Information that must be provided in applications for 46397
certificates of need, which shall include a plan for obligating 46398
the capital expenditure or implementing the proposed project on a 46399
timely basis in accordance with section 3702.525 of the Revised 46400
Code; 46401

(2) Procedures for reviewing applications for completeness of 46402
information; 46403

(3) Criteria for determining that the application is 46404
complete. 46405

(C) The council shall adopt rules specifying requirements 46406
that holders of certificates of need must meet in order for the 46407
certificates to remain valid and establishing definitions and 46408
requirements for obligation of capital expenditures and 46409
implementation of projects authorized by certificates of need. 46410

(D) The council shall adopt rules establishing criteria and 46411
procedures under which the director of health may withdraw a 46412
certificate of need if the holder fails to meet requirements for 46413
continued validity of the certificate. 46414

(E) The council shall adopt rules establishing procedures 46415
under which the department of health shall monitor project 46416
implementation activities of holders of certificates of need. The 46417
rules adopted under this division also may establish procedures 46418
for monitoring implementation activities of persons that have 46419
received nonreviewability rulings. 46420

(F) The council shall adopt rules establishing procedures 46421
under which the director of health shall review certificates of 46422
need whose holders exceed or appear likely to exceed an 46423
expenditure maximum specified in a certificate. 46424

(G) The council shall adopt rules establishing certificate of 46425
need application fees sufficient to pay the costs incurred by the 46426
department for administering sections 3702.51 to 3702.62 of the 46427
Revised Code and to pay health service agencies for the functions 46428
they perform under division (D)(5) of section 3702.58 of the 46429
Revised Code. Unless rules are adopted under this division 46430
establishing different application fees, the application fee for a 46431
project not involving a capital expenditure shall be three 46432
thousand dollars and the application fee for a project involving a 46433
capital expenditure shall be nine-tenths of one per cent of the 46434
capital expenditure proposed subject to a minimum of three 46435
thousand dollars and a maximum of twenty thousand dollars. 46436

(H) The council shall adopt rules specifying information that 46437
is necessary to conduct reviews of certificate of need 46438
applications and to develop recommendations for criteria for 46439
reviews that health care facilities and other health care 46440
providers are to submit to the director under division (G) of 46441
section 3702.52 of the Revised Code. 46442

(I) The council shall adopt rules defining "affiliated person," "related person," and "ultimate controlling interest" for purposes of section 3702.524 of the Revised Code. 46443
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(J) The council shall adopt rules prescribing requirements for holders of certificates of need to demonstrate to the director under section 3702.526 of the Revised Code that reasonable progress is being made toward completion of the reviewable activity and establishing standards by which the director shall determine whether reasonable progress is being made. 46446
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~~(K) The council shall adopt rules defining high risk cardiac catheterization patients. High risk patients shall include patients with significant ischemic syndromes or unstable myocardial infarction, patients who need intervention such as angioplasty or bypass surgery, patients who may require difficult or complex catheterization procedures such as transeptal assessment of valvular dysfunction, patients with critical aortic stenosis or congestive heart failure, and other patients specified by the council.~~ 46452
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~~(L)~~ The public health council shall adopt all rules under divisions (A) to ~~(K)~~(J) of this section in accordance with Chapter 119. of the Revised Code. The council may adopt other rules as necessary to carry out the purposes of sections 3702.51 to 3702.62 of the Revised Code. 46461
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Sec. 3702.59. ~~(A) Notwithstanding any conflicting provision of sections 3702.51 to 3702.62 of the Revised Code, other than the provisions of sections 3702.5210, 3702.5211, 3702.5212, and 3702.5213 of the Revised Code, both of the following apply under the certificate of need program:~~ 46466
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~~(1) Divisions (B) to (E) of this section apply to the review of certificate of need applications during the period beginning July 1, 1993, and ending June 30, 2009.~~ 46471
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~~(2) Beginning July 1, 2009, the director of health shall not accept for review under section 3702.52 of the Revised Code any application for a certificate of need to recategorize hospital beds as described in section 3702.522 of the Revised Code.~~

~~(B)(1) Except as provided in division (B)(2) of this section, the director of health shall neither grant nor deny any application for a certificate of need submitted prior to July 1, 1993, if the application was for any of the following and the director had not issued a written decision concerning the application prior to that date:~~

~~(a) Approval of beds in a new health care facility or an increase of beds in an existing health care facility, if the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code;~~

~~(b) Approval of beds in a new county home or new county nursing home as defined in section 5155.31 of the Revised Code, or an increase of beds in an existing county home or existing county nursing home, if the beds are proposed to be certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;~~

~~(c) Recategorization of hospital beds as described in section 3702.522 of the Revised Code, an increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as long term care beds or skilled nursing facility beds, or a recategorization of hospital beds that would result in an increase of beds registered pursuant to that section as long term care beds or skilled nursing facility beds.~~

~~On July 1, 1993, the director shall return each such application to the applicant and, notwithstanding section 3702.52 of the Revised Code regarding the uses of the certificate of need~~

~~fund, shall refund to the applicant the application fee paid under 46505
that section. Applications returned under division (B)(1) of this 46506
section may be resubmitted in accordance with section 3702.52 of 46507
the Revised Code no sooner than July 1, 2009. 46508~~

~~(2) The director shall continue to review and shall issue a 46509
decision regarding any application submitted prior to July 1, 46510
1993, to increase beds for either of the purposes described in 46511
division (B)(1)(a) or (b) of this section if the proposed increase 46512
in beds is attributable solely to a replacement or relocation of 46513
existing beds within the same county. The director shall authorize 46514
under such an application no additional beds beyond those being 46515
replaced or relocated. 46516~~

~~(C)(1) Except as provided in division (C)(2) of this section, 46517
the director, during the period beginning July 1, 1993, and ending 46518
June 30, 2009, shall not accept for review under section 3702.52 46519
of the Revised Code any application for a certificate of need for 46520
any of the purposes described in divisions (B)(1)(a) to (c) of 46521
this section. 46522~~

~~(2)(a) The director of health shall accept for review any 46523
application for either of the purposes described in division 46524
(B)(1)(a) or (b) of this section if the proposed increase in beds 46525
is attributable solely to a replacement or relocation of existing 46526
beds from an existing health care facility within the same county. 46527
The director shall authorize under such an application no 46528
additional beds beyond those being replaced or relocated 46529
certificate of need applications as provided in sections 3702.592 46530
and 3702.593 of the Revised Code. 46531~~

~~(B) The director shall not approve an application for a 46532
certificate of need for addition of long-term care beds to an 46533
existing health care facility by relocation of beds or for the 46534
development of a new health care facility by relocation of beds 46535
unless all of the following conditions are met: 46536~~

~~(i)~~(1) The existing health care facility ~~to~~ in which the beds are being ~~relocated~~ placed has no waivers for life safety code deficiencies, no state fire code violations, and no state building code violations, or the project identified in the application proposes to correct all life safety code deficiencies for which a waiver has been granted, all state fire code violations, and all state building code violations at the existing health care facility ~~to~~ in which the beds are being ~~relocated~~ placed;

~~(ii)~~(2) During the sixty-month period preceding the filing of the application, no notice of proposed revocation of the facility's license was issued under section 3721.03 of the Revised Code to the operator of the existing facility ~~to~~ in which the beds are being ~~relocated~~ placed or to any health care facility owned or operated by the applicant or any principal participant in the same corporation or other business;

~~(iii)~~(3) Neither the existing health care facility ~~to~~ in which the beds are being ~~relocated~~ placed nor any health care facility owned or operated by the applicant or any principal participant in the same corporation or other business has had a long-standing pattern of violations of this chapter or Chapter 3721. of the Revised Code or deficiencies that caused one or more residents physical, emotional, mental, or psychosocial harm.

~~(b)~~(C) The director also shall accept for review any application for the conversion of infirmary beds to long-term care beds if the infirmary meets all of the following conditions:

~~(i)~~(1) Is operated exclusively by a religious order;

~~(ii)~~(2) Provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related;

~~(iii)~~(3) Was providing care exclusively to members of such a

religious order on January 1, 1994. 46568

~~(D) The director shall issue a decision regarding any case 46569
remanded by a court as the result of a decision issued by the 46570
director prior to July 1, 1993, to grant, deny, or withdraw a 46571
certificate of need for any of the purposes described in divisions 46572
(B)(1)(a) to (c) of this section. 46573~~

~~(E) The director shall not project the need for beds listed 46574
in division (B)(1) of this section for the period beginning July 46575
1, 1993, and ending June 30, 2009 At no time shall individuals 46576
other than those described in division (C)(2) of this section be 46577
admitted to a facility to use beds for which a certificate of need 46578
is approved under this division. 46579~~

Sec. 3702.592. (A) The director of health shall accept, for 46580
review under section 3702.52 of the Revised Code, certificate of 46581
need applications for any of the following purposes if the 46582
proposed increase in beds is attributable solely to a replacement 46583
or relocation of existing beds from an existing health care 46584
facility within the same county: 46585

(1) Approval of beds in a new health care facility or an 46586
increase of beds in an existing health care facility if the beds 46587
are proposed to be licensed as nursing home beds under Chapter 46588
3721. of the Revised Code; 46589

(2) Approval of beds in a new county home or new county 46590
nursing home, or an increase of beds in an existing county home or 46591
existing county nursing home if the beds are proposed to be 46592
certified as skilled nursing facility beds under the medicare 46593
program, Title XVIII of the "Social Security Act," 49 Stat. 286 46594
(1965), 42 U.S.C. 1395, as amended, or nursing facility beds under 46595
the medicaid program, Title XIX of the "Social Security Act," 49 46596
Stat. 286 (1965), 42 U.S.C. 1396, as amended; 46597

(3) An increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as long-term care beds; 46598
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(4) An increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as special skilled nursing beds that were originally authorized by and operate in accordance with section 3702.522 of the Revised Code. 46600
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(B) The director shall accept applications described in division (A) of this section at any time. 46604
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Sec. 3702.593. (A) At the times specified in this section, the director of health shall accept, for review under section 3702.52 of the Revised Code, certificate of need applications for any of the following purposes if the proposed increase in beds is attributable solely to relocation of existing beds from an existing health care facility in a county with excess beds to a health care facility in a county in which there are fewer long-term care beds than the county's bed need: 46606
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(1) Approval of beds in a new health care facility or an increase of beds in an existing health care facility if the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code; 46614
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(2) Approval of beds in a new county home or new county nursing home, or an increase of beds in an existing county home or existing county nursing home if the beds are proposed to be certified as skilled nursing facility beds under the medicare program, Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C. 1395, as amended, or nursing facility beds under the medicaid program, Title XIX of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C. 1396, as amended; 46618
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(3) An increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as long-term care beds. 46626
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(B) For the purpose of implementing this section, the 46628
director shall do all of the following: 46629

(1) Determine the long-term care bed supply for each county, 46630
which shall consist of all of the following: 46631

(a) Nursing home beds licensed under Chapter 3721. of the 46632
Revised Code; 46633

(b) Beds certified as skilled nursing facility beds under the 46634
medicare program or nursing facility beds under the medicaid 46635
program; 46636

(c) Beds in a county home or county nursing home that are 46637
certified under section 5155.38 of the Revised Code as having been 46638
in operation on July 1, 1993, and are eligible for licensure as 46639
nursing home beds; 46640

(d) Beds held as approved long-term care beds under a 46641
certificate of need approved by the director. 46642

(2) Determine the long-term care bed occupancy rate for the 46643
state at the time the determination is made; 46644

(3) Not later than April 1, 2010, and every four years 46645
thereafter, for each county determine, using the formula developed 46646
in rules adopted under section 3702.57 of the Revised Code, and 46647
publish on the department of health's web site, the county's bed 46648
need by identifying the number of long-term beds that would be 46649
needed in the county for the statewide occupancy rate for a 46650
projected population aged sixty-five and older to be ninety-five 46651
per cent. 46652

(C) The director's consideration of a certificate of need 46653
that would increase the number of beds in a county shall be 46654
consistent with the county's bed need determined under division 46655
(B) of this section except as follows: 46656

(1) If a county's occupancy rate is less than eighty-five per 46657

cent, the county shall be considered to have no need for 46658
additional beds. 46659

(2) Even if a county is determined not to need any additional 46660
long-term care beds, the director may approve an increase in beds 46661
equal to up to ten per cent of the county's bed supply if the 46662
county's occupancy rate is greater than ninety-five per cent. 46663

(D) Applications made under this section shall be subject to 46664
comparative review. The period for each comparative review process 46665
shall be four years with the first period beginning July 1, 2010, 46666
and ending June 30, 2014. 46667

Certificate of need applications shall be accepted and 46668
reviewed from the first day of the period through the thirty-first 46669
day of March of the following year, which shall be the initial 46670
phase of the review period. If the director determines that there 46671
will be acceptance and review of additional certificate of need 46672
applications, the second phase of the review period shall begin on 46673
the first day of July of the second year of the review period. The 46674
second phase shall be limited to acceptance and review of 46675
applications for redistribution of beds made available pursuant to 46676
division (G)(2) of this section. During the period between the 46677
first and second phases of the review period, the director shall 46678
act in accordance with division (H) of this section. 46679

(E) The director shall consider certificate of need 46680
applications in accordance with all of the following: 46681

(1) The number of beds approved for a county shall include 46682
only beds available for relocation from another county and shall 46683
not exceed the bed need of the receiving county; 46684

(2) The director shall consider the existence of community 46685
resources serving persons who are age sixty-five or older or 46686
disabled that are demonstrably effective in providing alternatives 46687
to long-term care facility placement. 46688

(3) The director shall approve relocation of beds from a county only if, after the relocation, the number of beds remaining in the county will exceed the county's bed need by at least one hundred beds; 46689
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(4) The director shall approve relocation of beds from a health care facility only if, after the relocation, the number of beds within a fifteen mile radius of the facility is at least equal to the state bed need rate. 46693
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(F) In determining which applicants should receive preference in the comparative review process the director shall consider all of the following: 46697
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(1) Whether the beds will be part of a continuing care retirement community; 46700
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(2) Whether the beds will serve an underserved population, such as low-income individuals, individuals with disabilities, or individuals who are members of racial or ethnic minority groups; 46702
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(3) Whether the project in which the beds will be included will provide alternatives to institutional care, such as adult day-care, home health care, respite or hospice care, mobile meals, residential care, independent living, or congregate living services; 46705
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(4) Whether the health care facility's owner or operator will participate in medicaid waiver programs for alternatives to institutional care; 46710
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(5) Whether the project in which the beds will be included will reduce alternatives to institutional care by converting residential care beds or other alternative care beds to long-term care beds; 46713
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(6) Whether the facility in which the beds will be placed has positive resident and family satisfaction surveys; 46717
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(7) Whether the facility in which the beds will be placed has fewer than fifty long-term care beds; 46719
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(8) Whether the health care facility in which the beds will be placed is located within the service area of a hospital and is designed to accept patients for rehabilitation after an in-patient hospital stay; 46721
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(9) Whether the health care facility in which the beds will be placed is or proposes to become a nurse aide training and testing site; 46725
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(10) The rating, under the centers for medicare and medicaid services' five star nursing home quality rating system, of the health care facility in which the beds will be placed. 46728
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(G)(1) When a certificate of need application is approved during the initial phase of a review period, on completion of the project under which the beds are relocated, that number of beds shall cease to be operated in the health care facility from which they were relocated and, if the licensure or certification of those beds cannot be or is not transferred to the facility to which the beds are relocated, the licensure or certification shall be surrendered. 46731
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(2) In addition to the actions required by division (G)(1) of this section, the health care facility from which the beds were relocated shall reduce the number of beds operated in the facility by a number of beds equal to at least ten per cent of the number of beds relocated and shall surrender the licensure or certification of those beds. This reduction shall be made not later than the completion date of the project for which the beds were relocated. 46739
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(H)(1) Once approval of certificate of need applications in the first phase of a review period is complete, the director shall make a new determination of the bed need for each county by 46747
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reducing the county's bed need by the number of beds approved for relocation to the county. The new bed-need determination shall be made not later than the first day of April of the second year of the review period. 46750
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(2) The director may publish on the department's web site the remaining bed need for counties that will be considered for redistribution of beds that, in accordance with division (G)(2) of this section, have ceased or will cease to be operated. The director shall base the determination of whether to include a county on all of the following: 46754
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(a) The statewide number of beds that, in accordance with division (G)(2) of this section, have ceased or will cease to be operated; 46760
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(b) The county's remaining bed need; 46763

(c) The county's bed occupancy rate. 46764

(I) If the director publishes the remaining bed need for a county under division (H)(2) of this section, the director may, beginning on the first day of the second phase of the review period, accept certificate of need applications for redistribution to health care facilities in that county of beds that have ceased or will cease operation in accordance with division (G)(2) of this section. The total number of beds approved for redistribution in the second phase of a review period shall not exceed the number that have ceased or will cease operation in accordance with division (G)(2) of this section. Beds that are not approved for redistribution during the second phase of a review period shall not be available for redistribution at any future time. 46765
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Sec. 3702.60. (A) Any affected person may appeal a reviewability ruling issued on or after April 20, 1995, to the 46778
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director of health in accordance with Chapter 119. of the Revised 46780
Code, and the director shall provide an adjudication hearing in 46781
accordance with that chapter. An affected person may appeal the 46782
director's ruling in the adjudication hearing to the tenth 46783
district court of appeals. 46784

(B) The certificate of need applicant or another affected 46785
person may appeal to the director in accordance with Chapter 119. 46786
of the Revised Code a decision issued by the director on or after 46787
April 20, 1995, to grant or deny a certificate of need application 46788
for which an adjudication hearing was not conducted under section 46789
3702.52 of the Revised Code, and the director shall provide an 46790
adjudication hearing in accordance with that chapter. The 46791
certificate of need applicant or an affected person that was a 46792
party to and participated in an adjudication hearing conducted 46793
under this division or section 3702.52 of the Revised Code may 46794
appeal to the tenth district court of appeals the decision issued 46795
by the director following the adjudication hearing. No person may 46796
appeal to the director or a court the director's granting of a 46797
certificate of need prior to June 30, 1995, under the version of 46798
section 3702.52 of the Revised Code in effect immediately prior to 46799
that date due to failure to submit timely written objections, no 46800
person may appeal to the director or a court the director's 46801
granting of a certificate of need under division (C)(1) ~~or (2)~~ of 46802
section 3702.52 of the Revised Code. 46803

(C) The certificate of need holder may appeal to the director 46804
in accordance with Chapter 119. of the Revised Code a decision 46805
issued by the director under section 3702.52 or 3702.526 of the 46806
Revised Code on or after April 20, 1995, to withdraw a certificate 46807
of need, and the director shall provide an adjudication hearing in 46808
accordance with that chapter. The person may appeal the director's 46809
ruling in the adjudication hearing to the tenth district court of 46810
appeals. 46811

(D) Any person determined by the director to have violated section 3702.53 of the Revised Code may appeal that determination, or the penalties imposed under section 3702.54, or 3702.541, ~~or 3702.542 or former section 3702.543~~ of the Revised Code, to the director in accordance with Chapter 119. of the Revised Code, and the director shall provide an adjudication hearing in accordance with that chapter. The person may appeal the director's ruling in the adjudication hearing to the tenth district court of appeals.

(E) Each person appealing under this section to the director shall file with the director, not later than thirty days after the decision, ruling, or determination of the director was mailed, a notice of appeal designating the decision, ruling, or determination appealed from.

(F) Each person appealing under this section to the tenth district court of appeals shall file with the court, not later than thirty days after the date the director's adjudication order was mailed, a notice of appeal designating the order appealed from. The appellant also shall file notice with the director not later than thirty days after the date the order was mailed.

(1) Not later than thirty days after receipt of the notice of appeal, the director shall prepare and certify to the court the complete record of the proceedings out of which the appeal arises. The expense of preparing and transcribing the record shall be taxed as part of the costs of the appeal. In the event that the record or a part thereof is not certified within the time prescribed by this division, the appellant may apply to the court for an order that the record be certified.

(2) In hearing the appeal, the court shall consider only the evidence contained in the record certified to it by the director. The court may remand the matter to the director for the admission of additional evidence on a finding that the additional evidence is material, newly discovered, and could not with reasonable

diligence have been ascertained before the hearing before the 46844
director. Except as otherwise provided by statute, the court shall 46845
give the hearing on the appeal preference over all other civil 46846
matters, irrespective of the position of the proceedings on the 46847
calendar of the court. 46848

(3) The court shall affirm the director's order if it finds, 46849
upon consideration of the entire record and any additional 46850
evidence admitted under division (F)(2) of this section, that the 46851
order is supported by reliable, probative, and substantial 46852
evidence and is in accordance with law. In the absence of such a 46853
finding, it shall reverse, vacate, or modify the order. 46854

(4) If the court determines that the director committed 46855
material procedural error, the court shall remand the matter to 46856
the director for further consideration or action. 46857

(G) The court may award reasonable attorney's fees against 46858
the appellant if it determines that the appeal was frivolous. 46859
Sections 119.092, 119.093, and 2335.39 of the Revised Code do not 46860
apply to adjudication hearings under this section or section 46861
3702.52 of the Revised Code and judicial appeals under this 46862
section. 46863

(H) No person may intervene in an appeal brought under this 46864
section. 46865

Sec. 3702.61. In addition to the sanctions imposed under 46866
sections 3702.54, 3702.541, ~~3702.542~~, and 3702.55 ~~and former~~ 46867
~~section 3702.543~~ of the Revised Code, if any person violates 46868
section 3702.53 of the Revised Code, the attorney general may 46869
commence necessary legal proceedings in the court of common pleas 46870
of Franklin county to enjoin the person from such violation until 46871
the requirements of sections 3702.51 to 3702.62 of the Revised 46872
Code have been satisfied. At the request of the director of 46873
health, the attorney general shall commence any necessary 46874

proceedings. The court has jurisdiction to grant and, on a showing of a violation, shall grant appropriate injunctive relief.

Sec. 3702.87. The director of health shall designate, as dental health resource shortage areas, areas in this state that experience special dental health problems and dentist practice patterns that limit access to dental care. The designations shall be made by rule and may apply to a geographic area, one or more facilities within a particular area, or a population group within a particular area. The director shall consider for designation as a dental health resource shortage area, any area in this state that has been designated by the United States secretary of health and human services as a health professional shortage area under Title III of the "Public Health Service Act," 58 Stat. 682 (1944), 42 U.S.C. 201, as amended.

Sec. 3702.89. (A) An individual who ~~is~~ will not ~~receiving~~ national health service corps tuition or student have an outstanding obligation for dental service to the federal government, a state, or other entity at the time of participation in the dentist loan repayment assistance program and meets one of the following requirements may apply for participation in the dentist loan repayment program:

(1) The applicant is a dental student enrolled in the final year of dental college.

(2) The applicant is a dental resident in the final year of residency.

(3) The applicant ~~has been engaged in the~~ holds a valid license to practice of dentistry for not more than three years prior to submitting the application issued under Chapter 4715. of the Revised Code.

(B) An application for participation in the dentist loan

repayment program shall be submitted to the director of health on 46905
a form the director shall prescribe. The following information 46906
shall be included or supplied: 46907

(1) The applicant's name, permanent address or address at 46908
which the applicant is currently residing if different from the 46909
permanent address, and telephone number; 46910

(2) The dental college the applicant attended or is attending 46911
~~or attended~~, dates of attendance, and verification of attendance; 46912

(3) If the applicant has completed a dental residency program 46913
or is a dental resident, the facility or institution ~~at which~~ 46914
where the dental residency was completed or is being performed, 46915
and, if completed, the date of completion; 46916

(4) A summary and verification of the educational expenses 46917
for which the applicant seeks reimbursement under the program; 46918

(5) If the applicant is a dentist, verification of the 46919
applicant's license issued under Chapter 4715. of the Revised Code 46920
to practice dentistry and proof of good standing; 46921

(6) Verification of the applicant's United States citizenship 46922
or status as a legal alien. 46923

Sec. 3702.90. If funds are available in the dentist loan 46924
repayment fund created under section 3702.95 of the Revised Code 46925
and the general assembly has appropriated the funds for the 46926
program, the director of health shall approve an applicant for 46927
participation in the program on finding in accordance with the 46928
priorities established under section 3702.88 of the Revised Code 46929
that the applicant is eligible for participation and is needed in 46930
a dental health resource shortage area. 46931

On approving an application, the director shall notify and 46932
enter into discussions with the applicant. The object of the 46933
discussions is to facilitate recruitment of the applicant to a 46934

site within a dental health resource shortage area at which, 46935
according to the priorities established under section 3702.88 of 46936
the Revised Code, the applicant is needed. ~~The director may pay~~ 46937
~~the costs incurred by the applicant and the applicant's spouse for~~ 46938
~~travel, meals, and lodging in making one visit to one dental~~ 46939
~~health resource shortage area. The director may also refer an~~ 46940
~~applicant to the Ohio dental association for assistance in being~~ 46941
~~recruited to a site within a dental health resource shortage area~~ 46942
~~at which the applicant will agree to be placed.~~ 46943

If the director and applicant agree on the applicant's 46944
placement at a particular site within a dental health resource 46945
shortage area, the applicant shall sign and deliver to the 46946
director a letter of intent agreeing to that placement. 46947

Sec. 3702.91. (A) An individual who has signed a letter of 46948
intent under section 3702.90 of the Revised Code may enter into a 46949
contract with the director of health for participation in the 46950
dentist loan repayment program. ~~A lending institution~~ The 46951
dentist's employer or other funding source may also be a party to 46952
the contract. 46953

(B) The contract shall include all of the following 46954
obligations: 46955

(1) The individual agrees to provide dental services in the 46956
dental health resource shortage area identified in the letter of 46957
intent for at least ~~one year~~ two years. 46958

(2) When providing dental services in the dental health 46959
resource shortage area, the individual agrees to do all of the 46960
following: 46961

(a) Provide dental services for a minimum of forty hours per 46962
week; 46963

(b) Provide dental services without regard to a patient's 46964

ability to pay; 46965

(c) Meet the conditions prescribed by the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and the department of job and family services for participation in the medicaid program established under Chapter 5111. of the Revised Code and enter into a contract with the department to provide dental services to medicaid recipients. 46966
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(3) The department of health agrees, as provided in section 3702.85 of the Revised Code, to repay, so long as the individual performs the service obligation agreed to under division (B)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the individual for expenses described in section 3702.85 of the Revised Code ~~up to but not exceeding twenty thousand dollars per year of service.~~ 46972
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(4) The individual agrees to pay the department of health ~~the following as damages~~ an amount established by rules adopted under section 3702.86 of the Revised Code, if the individual fails to complete the service obligation agreed to under division (B)(1) of this section. 46979
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~~(a) If the failure occurs during the first two years of the service obligation, three times the total amount the department has agreed to repay under division (B)(3) of this section;~~ 46984
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~~(b) If the failure occurs after the first two years of the service obligation, three times the amount the department is still obligated to repay under division (B)(3) of this section.~~ 46987
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(C) The contract may include any other terms agreed upon by the parties, ~~including an assignment to the department of health of the individual's duty to pay the principal and interest of a government or other educational loan taken by the individual for expenses described in section 3702.85 of the Revised Code. If the department assumes the individual's duty to pay a loan, the~~ 46990
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~~contract shall set forth the total amount of principal and interest to be paid, an amortization schedule, and the amount of each payment to be made under the schedule.~~

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(D) Not later than the thirty-first day of January of each year, the department of health shall mail to each individual to whom or on whose behalf repayment is made under the dentist loan repayment program a statement showing the amount of principal and interest repaid by the department pursuant to the contract in the preceding year. The statement shall be sent by ordinary mail with address correction and forwarding requested in the manner prescribed by the United States postal service.

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Sec. 3702.92. There is hereby created the dentist loan repayment advisory board. The board shall consist of the following members:

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(A) ~~One member~~ Two members of the house of representatives, ~~one from each political party,~~ appointed by the speaker of the house of representatives;

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(B) ~~One member~~ Two members of the senate, one from each political party, appointed by the president of the senate;

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(C) A representative of the board of regents, appointed by the chancellor;

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(D) The director of health or an employee of the department of health designated by the director;

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(E) ~~Three~~ Four representatives of the dental profession, appointed by the governor from persons nominated by the Ohio dental association.

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Terms of office of the appointed members shall be two years, with each term commencing on the twenty-eighth day of January and ending on the twenty-seventh day of January of the second year after appointment. The governor ~~shall appoint the dental~~

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~~profession representatives not later than ninety days after 47026
October 29, 2003. The terms of all members shall commence 47027
ninety one days after October 29, 2003. Of the initial 47028
appointments made by the governor, two shall serve a term of one 47029
year and one shall serve a term of two years. The initial 47030
appointment made by the, speaker of the house of representatives 47031
shall be for a term of one year. The initial appointment made by 47032
the, and president of the senate shall be for a term of two years 47033
make each of their respective appointments not later than the 47034
twenty-seventh day of January of the year in which the term of the 47035
member being appointed is to commence. Each member shall hold 47036
office from the date of appointment until the end of the term for 47037
which the member was appointed, except that a legislative member 47038
ceases to be a member of the board on ceasing to be a member of 47039
the general assembly. No person shall be appointed to the board 47040
for more than two consecutive terms. 47041~~

Vacancies shall be filled in the manner prescribed for the 47042
original appointment. A member appointed to fill a vacancy 47043
occurring prior to the expiration of the term for which the 47044
member's predecessor was appointed shall hold office for the 47045
remainder of that term. A member shall continue in office 47046
subsequent to the expiration of the member's term until a 47047
successor takes office or until sixty days have elapsed, whichever 47048
occurs first. ~~No person shall be appointed to the board for more 47049
than two consecutive terms. Thereafter, terms of office shall be 47050
two years. Each member shall hold office from the date of 47051
appointment until the end of the term for which the member was 47052
appointed, except that a legislative member ceases to be a member 47053
of the board on ceasing to be a member of the general assembly. 47054~~

The governor, speaker, or president may remove a member for 47055
whom the governor, speaker, or president was the appointing 47056
authority, for misfeasance, malfeasance, or willful neglect of 47057

duty. 47058

The board shall designate a member to serve as chairperson of 47059
the board. 47060

The board shall meet at least once annually. The chairperson 47061
shall call special meetings as needed or upon the request of four 47062
members. 47063

~~Four~~ Six members of the board constitute a quorum to transact 47064
and vote on all business coming before the board. 47065

Members of the board shall serve without compensation, ~~but~~ 47066
~~may be reimbursed for reasonable and necessary expenses incurred~~ 47067
~~in the discharge of their duties.~~ 47068

The department of health shall provide the board with staff 47069
assistance as requested by the board. 47070

Sec. 3702.93. The dentist loan repayment advisory board shall 47071
determine the amounts that will be paid as loan repayments on 47072
behalf of participants in the dentist loan repayment program. ~~No~~ 47073
In the first and second years, no repayment shall exceed ~~twenty~~ 47074
twenty-five thousand dollars in any each year, ~~except that if. In~~ 47075
the third and fourth years, no repayment shall exceed thirty-five 47076
thousand dollars in each year. If, however, a repayment results in 47077
an increase in the participant's federal, state, or local income 47078
tax liability, the department of health, at the participant's 47079
request and with the approval of the director of health, may 47080
reimburse the participant for the increased tax liability, 47081
regardless of the amount of the repayment in that year. ~~Total~~ 47082
~~repayment on behalf of a participant shall not exceed eighty~~ 47083
~~thousand dollars over the time of participation in the program.~~ 47084

Sec. 3702.94. The dentist loan repayment advisory board, 47085
annually on or before the first day of March, shall submit a 47086
report to the governor and general assembly describing the 47087

operations of the dentist loan repayment program during the 47088
previous calendar year. The report shall include information about 47089
all of the following: 47090

(A) The number of requests received by the director of health 47091
that a particular area be designated as a dental health resource 47092
shortage area; 47093

(B) The areas that have been designated as dental health 47094
resource shortage areas and the priorities that have been assigned 47095
to them; 47096

(C) The number of applicants for participation in the dentist 47097
loan repayment program; 47098

(D) The number of dentists assigned to dental health resource 47099
shortage areas and the payments made on behalf of those dentists 47100
under the dentist loan repayment program; 47101

(E) The dental health resource shortage areas that have not 47102
been matched with all of the dentists they need; 47103

(F) The number of dentists failing to complete their service 47104
obligations, the amount of damages owed, and the amount of damages 47105
collected. 47106

Sec. 3703.01. (A) Except as otherwise provided in this 47107
section, the division of ~~industrial compliance~~ labor in the 47108
department of commerce shall do all of the following: 47109

(1) Inspect all nonresidential buildings within the meaning 47110
of section 3781.06 of the Revised Code; 47111

(2) Condemn all unsanitary or defective plumbing that is 47112
found in connection with those places; 47113

(3) Order changes in plumbing necessary to insure the safety 47114
of the public health. 47115

(B)(1)(a) The division of ~~industrial compliance~~ labor, boards 47116

of health of city and general health districts, and county 47117
building departments shall not inspect plumbing or collect fees 47118
for inspecting plumbing in particular types of buildings in any 47119
municipal corporation that is certified by the board of building 47120
standards under section 3781.10 of the Revised Code to exercise 47121
enforcement authority for plumbing in those types of buildings. 47122

(b) The division shall not inspect plumbing or collect fees 47123
for inspecting plumbing in particular types of buildings in any 47124
health district that employs one or more plumbing inspectors 47125
certified pursuant to division (D) of this section to enforce 47126
Chapters 3781. and 3791. of the Revised Code and the rules adopted 47127
pursuant to those chapters relating to plumbing in those types of 47128
buildings. 47129

(c) The division shall not inspect plumbing or collect fees 47130
for inspecting plumbing in particular types of buildings in any 47131
health district where the county building department is authorized 47132
to inspect those types of buildings pursuant to a contract 47133
described in division (C)(1) of this section. 47134

(d) The division shall not inspect plumbing or collect fees 47135
for inspecting plumbing in particular types of buildings in any 47136
health district where the board of health has entered into a 47137
contract with the board of health of another district to conduct 47138
inspections pursuant to division (C)(2) of this section. 47139

(2) No county building department shall inspect plumbing or 47140
collect fees for inspecting plumbing in any type of building in a 47141
health district unless the department is authorized to inspect 47142
that type of building pursuant to a contract described in division 47143
(C)(1) of this section. 47144

(3) No municipal corporation shall inspect plumbing or 47145
collect fees for inspecting plumbing in types of buildings for 47146
which it is not certified by the board of building standards under 47147

section 3781.10 of the Revised Code to exercise enforcement 47148
authority. 47149

(4) No board of health of a health district shall inspect 47150
plumbing or collect fees for inspecting plumbing in types of 47151
buildings for which it does not have a plumbing inspector 47152
certified pursuant to division (D) of this section. 47153

(C)(1) The board of health of a health district may enter 47154
into a contract with a board of county commissioners to authorize 47155
the county building department to inspect plumbing in buildings 47156
within the health district. The contract may designate that the 47157
department inspect either residential or nonresidential buildings, 47158
as those terms are defined in section 3781.06 of the Revised Code, 47159
or both types of buildings, so long as the department employs or 47160
contracts with a plumbing inspector certified pursuant to division 47161
(D) of this section to inspect the types of buildings the contract 47162
designates. The board of health may enter into a contract 47163
regardless of whether the health district employs any certified 47164
plumbing inspectors to enforce Chapters 3781. and 3791. of the 47165
Revised Code. 47166

(2) The board of health of a health district, regardless of 47167
whether it employs any certified plumbing inspectors to enforce 47168
Chapters 3781. and 3791. of the Revised Code, may enter into a 47169
contract with the board of health of another health district to 47170
authorize that board to inspect plumbing in buildings within the 47171
contracting board's district. The contract may designate the 47172
inspection of either residential or nonresidential buildings as 47173
defined in section 3781.06 of the Revised Code, or both types of 47174
buildings, so long as the board that performs the inspections 47175
employs a plumbing inspector certified pursuant to division (D) of 47176
this section to inspect the types of buildings the contract 47177
designates. 47178

(D) The superintendent of ~~industrial compliance~~ labor shall 47179

adopt rules prescribing minimum qualifications based on education, 47180
training, experience, or demonstrated ability, that the 47181
superintendent shall use in certifying or recertifying plumbing 47182
inspectors to do plumbing inspections for health districts and 47183
county building departments that are authorized to perform 47184
inspections pursuant to a contract under division (C)(1) of this 47185
section, and for continuing education of plumbing inspectors. 47186
Those minimum qualifications shall be related to the types of 47187
buildings for which a person seeks certification. 47188

(E) The superintendent may enter into reciprocal 47189
registration, licensure, or certification agreements with other 47190
states and other agencies of this state relative to plumbing 47191
inspectors if both of the following apply: 47192

(1) The requirements for registration, licensure, or 47193
certification of plumbing inspectors under the laws of the other 47194
state or laws administered by the other agency are substantially 47195
equal to the requirements the superintendent adopts under division 47196
(D) of this section for certifying plumbing inspectors. 47197

(2) The other state or agency extends similar reciprocity to 47198
persons certified under this chapter. 47199

(F) The superintendent may select and contract with one or 47200
more persons to do all of the following regarding examinations for 47201
certification of plumbing inspectors: 47202

(1) Prepare, administer, score, and maintain the 47203
confidentiality of the examination; 47204

(2) Maintain responsibility for all expenses required to 47205
comply with division (F)(1) of this section; 47206

(3) Charge each applicant a fee for administering the 47207
examination in an amount the superintendent authorizes; 47208

(4) Design the examination for certification of plumbing 47209

inspectors to determine an applicant's competence to inspect plumbing. 47210
47211

(G) Standards and methods prescribed in local plumbing regulations shall not be less than those prescribed in Chapters 3781. and 3791. of the Revised Code and the rules adopted pursuant to those chapters. 47212
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(H) Notwithstanding any other provision of this section, the division shall make a plumbing inspection of any building or other place that there is reason to believe is in a condition to be a menace to the public health. 47216
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Sec. 3703.03. In the administration of sections 3703.01 to ~~3703.09~~ 3703.08 of the Revised Code, the division of ~~industrial compliance~~ labor shall enforce rules governing plumbing adopted by the board of building standards under authority of sections 3781.10 and 3781.11 of the Revised Code, and register those persons engaged in or at the plumbing business. 47220
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Plans and specifications for all plumbing to be installed in or for buildings coming within such sections shall be submitted to and approved by the division before the contract for plumbing is let. 47226
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Sec. 3703.04. The superintendent of ~~industrial compliance~~ labor shall appoint such number of plumbing inspectors as is required. The inspectors shall be practical plumbers with at least seven years' experience, and skilled and well-trained in matters pertaining to sanitary regulations concerning plumbing work. 47230
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Sec. 3703.05. Plumbing inspectors employed by the division of ~~industrial compliance~~ labor assigned to the enforcement of sections 3703.01 to ~~3703.09~~ 3703.08 of the Revised Code may, between sunrise and sunset, enter any building where there is good 47235
47236
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and sufficient reason to believe that the sanitary condition of 47239
the premises endangers the public health, for the purpose of 47240
making an inspection to ascertain the condition of the premises. 47241

Sec. 3703.06. When any building is found to be in a sanitary 47242
condition or when changes which are ordered, under authority of 47243
this chapter, in the plumbing, drainage, or ventilation have been 47244
made, and after a thorough inspection and approval by the 47245
superintendent of ~~industrial compliance~~ labor, the superintendent 47246
shall issue a certificate, which shall be posted in a conspicuous 47247
place for the benefit of the public at large. Upon notification by 47248
the superintendent, the certificate shall be revoked for any 47249
violation of those sections. 47250

Sec. 3703.07. No plumbing work shall be done in any building 47251
or place coming within the jurisdiction of the division of 47252
~~industrial compliance~~ labor, except in cases of repairs or leaks 47253
in existing plumbing, until a permit has been issued by the 47254
division. 47255

Before granting such permit, an application shall be made by 47256
the owner of the property or by the person, firm, or corporation 47257
which is to do the work. The application shall be made on a form 47258
prepared by the division for the purpose, and each application 47259
shall be accompanied by a fee of twenty-seven dollars, and an 47260
additional fee of seven dollars for each trap, vented fixture, 47261
appliance, or device. Each application also shall be accompanied 47262
by a plan approval fee of eighteen dollars for work containing one 47263
through twenty fixtures; thirty-six dollars for work containing 47264
twenty-one through forty fixtures; and fifty-four dollars for work 47265
containing forty-one or more fixtures. 47266

Whenever a reinspection is made necessary by the failure of 47267
the applicant or plumbing contractor to have the work ready for 47268

inspection when so reported, or by reason of faulty or improper 47269
installation, the person shall pay a fee of forty-five dollars for 47270
each reinspection. 47271

All fees collected pursuant to this section shall be paid 47272
into the state treasury to the credit of the ~~industrial compliance~~ 47273
labor operating fund created in section 121.084 of the Revised 47274
Code. 47275

The superintendent of ~~industrial compliance~~ labor, by rule 47276
adopted in accordance with Chapter 119. of the Revised Code, may 47277
increase the fees required by this section and may establish fees 47278
to pay the costs of the division to fulfill its duties established 47279
by this chapter, including, but not limited to, fees for 47280
administering a program for continuing education for, and 47281
certifying and recertifying plumbing inspectors. The fees shall 47282
bear some reasonable relationship to the cost of administering and 47283
enforcing the provisions of this chapter. 47284

Sec. 3703.08. Any owner, agent, or manager of a building in 47285
which an inspection is made by the division of ~~industrial~~ 47286
~~compliance~~ labor, a board of health of a health district, or a 47287
certified department of building inspection of a municipal 47288
corporation or a county shall have the entire system of drainage 47289
and ventilation repaired, as the division, board of health, or 47290
department of building inspection directs by its order. After due 47291
notice to repair that work is given, the owner, agent, or manager 47292
shall notify the public authority that issued the order when the 47293
work is ready for its inspection. No person shall fail to have the 47294
work ready for inspection at the time specified in the notice. 47295
47296

Sec. 3703.10. All prosecutions and proceedings by the 47297
division of ~~industrial compliance~~ labor for the violation of 47298

sections 3703.01 to ~~3703.09~~ 3703.08 of the Revised Code, or for 47299
the violation of any of the orders or rules of the division under 47300
those sections, shall be instituted by the superintendent of 47301
~~industrial compliance~~ labor. All fines or judgments collected by 47302
the division shall be paid into the state treasury to the credit 47303
of the ~~industrial compliance~~ labor operating fund created by 47304
section 121.084 of the Revised Code. 47305

The superintendent, the board of health of a general or city 47306
health district, or any person charged with enforcing the rules of 47307
the division adopted under sections 3703.01 to ~~3703.09~~ 3703.08 of 47308
the Revised Code may petition the court of common pleas for 47309
injunctive or other appropriate relief requiring any person 47310
violating a rule adopted or order issued by the superintendent 47311
under those sections to comply with the rule or order. The court 47312
of common pleas of the county in which the offense is alleged to 47313
be occurring may grant injunctive or other appropriate relief. 47314

The superintendent may do all of the following: 47315

(A) Deny an applicant certification as a plumbing inspector; 47316

(B) Suspend or revoke the certification of a plumbing 47317
inspector; 47318

(C) Examine any certified plumbing inspector under oath; 47319

(D) Examine the records and books of any certified plumbing 47320
inspector if the superintendent finds the material to be examined 47321
relevant to a determination described in division (A), (B), or (C) 47322
of this section. 47323

Sec. 3703.21. (A) Within ninety days after ~~the effective date~~ 47324
~~of this section~~ September 16, 2004, the superintendent of ~~the~~ 47325
~~division of industrial compliance~~ labor shall appoint a backflow 47326
advisory board consisting of not more than ten members, who shall 47327
serve at the pleasure of the superintendent. The superintendent 47328

shall appoint a representative from the plumbing section of the 47329
division of ~~industrial compliance~~ labor, three representatives 47330
recommended by the plumbing administrator of the division of 47331
~~industrial compliance~~ labor, a representative of the drinking 47332
water program of the Ohio environmental protection agency, three 47333
representatives recommended by the director of environmental 47334
protection, and not more than two members who are not employed by 47335
the plumbing or water industry. 47336

The board shall advise the superintendent on matters 47337
pertaining to the training and certification of backflow 47338
technicians. 47339

(B) The superintendent shall adopt rules in accordance with 47340
Chapter 119. of the Revised Code to provide for the certification 47341
of backflow technicians. The rules shall establish all of the 47342
following requirements, specifications, and procedures: 47343

(1) Requirements and procedures for the initial certification 47344
of backflow technicians, including eligibility criteria and 47345
application requirements and fees; 47346

(2) Specifications concerning and procedures for taking 47347
examinations required for certification as a backflow technician, 47348
including eligibility criteria to take the examination and 47349
application requirements and fees for taking the examination; 47350

(3) Specifications concerning and procedures for renewing a 47351
certification as a backflow technician, including eligibility 47352
criteria, application requirements, and fees for renewal; 47353

(4) Specifications concerning and procedures for both of the 47354
following: 47355

(a) Approval of training agencies authorized to teach 47356
required courses to candidates for certification as backflow 47357
technicians or continuing education courses to certified backflow 47358

technicians; 47359

(b) Renewal of the approval described in division (B)(4)(a) 47360
of this section. 47361

(5) Education requirements that candidates for initial 47362
certification as backflow technicians must satisfy and continuing 47363
education requirements that certified backflow technicians must 47364
satisfy; 47365

(6) Grounds and procedures for denying, suspending, or 47366
revoking certification, or denying the renewal of certification, 47367
as a backflow technician; 47368

(7) Procedures for issuing administrative orders for the 47369
remedy of any violation of this section or any rule adopted 47370
pursuant to division (B) of this section, including, but not 47371
limited to, procedures for assessing a civil penalty authorized 47372
under division (D) of this section; 47373

(8) Any provision the superintendent determines is necessary 47374
to administer or enforce this section. 47375

(C) No individual shall engage in the installation, testing, 47376
or repair of any isolation backflow prevention device unless that 47377
individual possesses a valid certification as a backflow 47378
technician. This division does not apply with respect to the 47379
installation, testing, or repair of any containment backflow 47380
prevention device. 47381

(D) Whoever violates division (C) of this section or any rule 47382
adopted pursuant to division (B) of this section shall pay a civil 47383
penalty of not more than five thousand dollars for each day that 47384
the violation continues. The superintendent may, by order, assess 47385
a civil penalty under this division, or may request the attorney 47386
general to bring a civil action to impose the civil penalty in the 47387
court of common pleas of the county in which the violation 47388
occurred or where the violator resides. 47389

(E) Any action taken under a rule adopted pursuant to 47390
division (B)(6) of this section is subject to the appeal process 47391
of Chapter 119. of the Revised Code. An administrative order 47392
issued pursuant to rules adopted under division (B)(7) of this 47393
section and an appeal to that type of administrative order shall 47394
be executed in accordance with Chapter 119. of the Revised Code. 47395

(F) As used in this section: 47396

(1) "Isolation backflow prevention device" means a device for 47397
the prevention of the backflow of liquids, solids, or gases that 47398
is regulated by the building code adopted pursuant to section 47399
3781.10 of the Revised Code and rules adopted pursuant to this 47400
section. 47401

(2) "Containment backflow prevention device" means a device 47402
for the prevention of the backflow of liquids, solids, or gases 47403
that is installed by the supplier of, or as a requirement of, any 47404
public water system as defined in division (A) of section 6109.01 47405
of the Revised Code. 47406

Sec. 3703.99. Whoever violates sections 3703.01 to ~~3703.09~~ 47407
3703.08 of the Revised Code, or any rule the division of 47408
~~industrial compliance labor~~ is required to enforce under such 47409
sections, shall be fined not less than ten nor more than one 47410
hundred dollars or imprisoned for not less than ten nor more than 47411
ninety days, or both. No person shall be imprisoned under this 47412
section for the first offense, and the prosecution always shall be 47413
as for a first offense unless the affidavit upon which the 47414
prosecution is instituted contains the allegation that the offense 47415
is a second or repeated offense. 47416

Sec. 3704.14. (A) ~~The director of environmental protection~~ 47417
~~shall continue to implement an enhanced motor vehicle inspection~~ 47418
~~and maintenance program for a period of two years beginning on~~ 47419

January 1, 2006, and ending on December 31, 2007, in counties in 47420
which a motor vehicle inspection and maintenance program is 47421
federally mandated. The program shall be substantially similar to 47422
the enhanced program implemented in those counties under a 47423
contract that is scheduled to expire on December 31, 2005. The (1) 47424
If the director of environmental protection determines that 47425
implementation of a motor vehicle inspection and maintenance 47426
program is necessary for the state to effectively comply with the 47427
federal Clean Air Act after June 30, 2009, the director may 47428
provide for the implementation of the program in those counties in 47429
this state in which such a program is federally mandated. Upon 47430
making such a determination, the director of environmental 47431
protection may request the director of administrative services to 47432
extend the terms of the contract that was entered into under the 47433
authority of Section 7 of Am. Sub. H.B. 24 of the 127th general 47434
assembly. Upon receiving the request, the director of 47435
administrative services shall extend the contract, beginning on 47436
July 1, 2009, in accordance with this section. The contract shall 47437
be extended for a period of up to six months with the contractor 47438
who conducted the motor vehicle inspection and maintenance program 47439
under that contract. 47440

(2) Prior to the expiration of the contract extension that is 47441
authorized by division (A)(1) of this section, the director of 47442
environmental protection may request the director of 47443
administrative services to enter into a contract with a vendor to 47444
operate a motor vehicle inspection and maintenance program in each 47445
county in this state in which such a program is federally mandated 47446
through June 30, 2011, with an option for the state to renew the 47447
contract through June 30, 2012. The contract shall ensure that the 47448
motor vehicle inspection and maintenance program achieve at least 47449
the same ozone precursor reductions as achieved by the program 47450
operated under the authority of the contract that was extended 47451

under division (A)(1) of this section. The director of 47452
administrative services shall select a vendor through a 47453
competitive selection process in compliance with Chapter 125. of 47454
the Revised Code. 47455

(3) A motor vehicle inspection and maintenance program 47456
operated under this section shall comply with division (B) of this 47457
section. The director of environmental protection shall administer 47458
the motor vehicle inspection and maintenance program operated 47459
under this section. 47460

(B) The motor vehicle inspection and maintenance program 47461
authorized by this section, at a minimum, shall do all of the 47462
following: 47463

(1) Comply with the federal Clean Air Act; 47464

~~(2) Provide for the extension of a contract for a period of~~ 47465
~~two years, beginning on January 1, 2006, and ending on December~~ 47466
~~31, 2007, with the contractor who conducted the enhanced motor~~ 47467
~~vehicle inspection and maintenance program in those federally~~ 47468
~~mandated counties pursuant to a contract entered into under former~~ 47469
~~section 3704.14 of the Revised Code as that section existed prior~~ 47470
~~to its repeal and reenactment by Am. Sub. H.B. 66 of the 126th~~ 47471
~~General Assembly;~~ 47472

~~(3)~~ Provide for the issuance of inspection certificates; 47473

~~(4)~~(3) Provide for a new car exemption for motor vehicles 47474
four years old or newer and provide that a new motor vehicle is 47475
exempt for four years regardless of whether legal title to the 47476
motor vehicle is transferred during that period. 47477

~~(B)~~(C) The director shall not implement a motor vehicle 47478
inspection and maintenance program in any county other than a 47479
county in which a motor vehicle inspection and maintenance program 47480
is federally mandated. 47481

~~(C)~~(D) The director shall adopt rules in accordance with 47482
Chapter 119. of the Revised Code that the director determines are 47483
necessary to implement this section. The director may continue to 47484
implement and enforce rules pertaining to the ~~enhanced~~ motor 47485
vehicle inspection and maintenance program previously implemented 47486
under former section 3704.14 of the Revised Code as that section 47487
existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of 47488
the 126th general assembly, provided that the rules do not 47489
conflict with this section. 47490

~~(D)~~(E) There is hereby created in the state treasury the 47491
~~motor vehicle inspection and maintenance~~ auto emissions test fund, 47492
which shall consist of money received by the director from any 47493
fees ~~for inspections that are established in rules adopted, cash~~ 47494
transfers, state and local grants, and other contributions that 47495
are levied or received for the purpose of funding the program 47496
established under this section. The director shall use money in 47497
the fund solely for the implementation, supervision, 47498
administration, operation, and enforcement of the ~~enhanced~~ motor 47499
vehicle inspection and maintenance program established under this 47500
section. Money in the fund shall not be used for either of the 47501
following: 47502

(1) To pay for the inspection costs incurred by a motor 47503
vehicle dealer so that the dealer may provide inspection 47504
certificates to an individual purchasing a motor vehicle from the 47505
dealer when that individual resides in a county that is subject to 47506
the motor vehicle inspection and maintenance program; 47507

(2) To provide payment for more than one free passing 47508
emissions inspection or a total of three emissions inspections for 47509
a motor vehicle in any three-hundred-sixty-five day period. The 47510
owner or lessee of a motor vehicle is responsible for inspection 47511
fees that are related to emissions inspections beyond one free 47512
passing emissions inspection or three total emissions inspections 47513

in any three-hundred-sixty-five day period. Inspection fees that 47514
are charged by a contractor conducting emissions inspections under 47515
a motor vehicle inspection and maintenance program shall be 47516
approved by the director of environmental protection. 47517

~~(E)~~(F) The ~~enhanced~~ motor vehicle inspection and maintenance 47518
program established under this section expires ~~on December 31,~~ 47519
~~2007,~~ upon the termination of all contracts entered into under 47520
this section and shall not be ~~continued~~ implemented beyond ~~that~~ 47521
the final date on which termination occurs unless otherwise 47522
federally mandated. 47523

Sec. 3705.24. (A)(1) The public health council shall, in 47524
accordance with section 111.15 of the Revised Code, adopt rules 47525
prescribing fees for the following items or services provided by 47526
the state office of vital statistics: 47527

(a) Except as provided in division (A)(4) of this section: 47528

(i) A certified copy of a vital record or a certification of 47529
birth; 47530

(ii) A search by the office of vital statistics of its files 47531
and records pursuant to a request for information, regardless of 47532
whether a copy of a record is provided; 47533

(iii) A copy of a record provided pursuant to a request; 47534

(b) Replacement of a birth certificate following an adoption, 47535
legitimation, paternity determination or acknowledgement, or court 47536
order; 47537

(c) Filing of a delayed registration of a vital record; 47538

(d) Amendment of a vital record that is requested later than 47539
one year after the filing date of the vital record; 47540

(e) Any other documents or services for which the public 47541
health council considers the charging of a fee appropriate. 47542

(2) Fees prescribed under division (A)(1)(a) of this section 47543
shall not be less than ~~seven~~ twelve dollars. 47544

(3) Fees prescribed under division (A)(1) of this section 47545
shall be collected in addition to any fees required by sections 47546
3109.14 and 3705.242 of the Revised Code. 47547

(4) Fees prescribed under division (A) of this section shall 47548
not apply to certifications issued under division (H) of this 47549
section or copies provided under section 3705.241 of the Revised 47550
Code. 47551

(B) In addition to the fees prescribed under division (A) of 47552
this section or section 3709.09 of the Revised Code, the office of 47553
vital statistics or the board of health of a city or general 47554
health district shall charge a five-dollar fee for each certified 47555
copy of a vital record and each certification of birth. This fee 47556
shall be deposited in the general operations fund created under 47557
section 3701.83 of the Revised Code and be used to support the 47558
operations, the modernization, and the automation of the vital 47559
records program in this state. A board of health shall forward all 47560
fees collected under this division to the department of health not 47561
later than thirty days after the end of each calendar quarter. 47562
47563

(C) Except as otherwise provided in division (H) of this 47564
section, and except as provided in section 3705.241 of the Revised 47565
Code, fees collected by the director of health under sections 47566
3705.01 to 3705.29 of the Revised Code shall be paid into the 47567
state treasury to the credit of the general operations fund 47568
created by section 3701.83 of the Revised Code. Except as provided 47569
in division (B) or (I) of this section, money generated by the 47570
fees shall be used only for administration and enforcement of this 47571
chapter and the rules adopted under it. Amounts submitted to the 47572
department of health for copies of vital records or services in 47573
excess of the fees imposed by this section shall be dealt with as 47574

follows: 47575

(1) An overpayment of two dollars or less shall be retained 47576
by the department and deposited in the state treasury to the 47577
credit of the general operations fund created by section 3701.83 47578
of the Revised Code. 47579

(2) An overpayment in excess of two dollars shall be returned 47580
to the person who made the overpayment. 47581

(D) If a local registrar is a salaried employee of a city or 47582
a general health district, any fees the local registrar receives 47583
pursuant to section 3705.23 of the Revised Code shall be paid into 47584
the general fund of the city or the health fund of the general 47585
health district. 47586

Each local registrar of vital statistics, or each health 47587
district where the local registrar is a salaried employee of the 47588
district, shall be entitled to a fee for each birth, fetal death, 47589
death, or military service certificate properly and completely 47590
made out and registered with the local registrar or district and 47591
correctly copied and forwarded to the office of vital statistics 47592
in accordance with the population of the primary registration 47593
district at the last federal census. The fee for each birth, fetal 47594
death, death, or military service certificate shall be: 47595

(1) In primary registration districts of over two hundred 47596
fifty thousand, twenty cents; 47597

(2) In primary registration districts of over one hundred 47598
twenty-five thousand and less than two hundred fifty thousand, 47599
sixty cents; 47600

(3) In primary registration districts of over fifty thousand 47601
and less than one hundred twenty-five thousand, eighty cents; 47602

(4) In primary registration districts of less than fifty 47603
thousand, one dollar. 47604

(E) The director of health shall annually certify to the county treasurers of the several counties the number of birth, fetal death, death, and military service certificates registered from their respective counties with the names of the local registrars and the amounts due each registrar and health district at the rates fixed in this section. Such amounts shall be paid by the treasurer of the county in which the registration districts are located. No fees shall be charged or collected by registrars except as provided by this chapter and section 3109.14 of the Revised Code.

(F) A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section 3705.21 of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license.

(G) The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section 3705.21 of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in these cases.

(H) The fee for an heirloom certification of birth issued pursuant to division (B)(2) of section 3705.23 of the Revised Code shall be an amount prescribed by rule by the director of health plus any fee required by section 3109.14 of the Revised Code. In setting the amount of the fee, the director shall establish a surcharge in addition to an amount necessary to offset the expense of processing heirloom certifications of birth. The fee prescribed by the director of health pursuant to this division shall be deposited into the state treasury to the credit of the heirloom

certification of birth fund which is hereby created. Money 47637
credited to the fund shall be used by the office of vital 47638
statistics to offset the expense of processing heirloom 47639
certifications of birth. However, the money collected for the 47640
surcharge, subject to the approval of the controlling board, shall 47641
be used for the purposes specified by the family and children 47642
first council pursuant to section 121.37 of the Revised Code. 47643

(I) Four dollars of each fee collected by the director of 47644
health for an item or service described in division (A)(1)(a) of 47645
this section shall be transferred to the office of vital 47646
statistics. 47647

Sec. 3706.04. The Ohio air quality development authority may: 47648
47649

(A) Adopt bylaws for the regulation of its affairs and the 47650
conduct of its business; 47651

(B) Adopt an official seal; 47652

(C) Maintain a principal office and suboffices at such places 47653
within the state as it designates; 47654

(D) Sue and plead in its own name; be sued and impleaded in 47655
its own name with respect to its contracts or torts of its 47656
members, employees, or agents acting within the scope of their 47657
employment, or to enforce its obligations and covenants made under 47658
sections 3706.05, 3706.07, and 3706.12 of the Revised Code. Any 47659
such actions against the authority shall be brought in the court 47660
of common pleas of the county in which the principal office of the 47661
authority is located, or in the court of common pleas of the 47662
county in which the cause of action arose, provided such county is 47663
located within this state, and all summonses, exceptions, and 47664
notices of every kind shall be served on the authority by leaving 47665
a copy thereof at the principal office with the person in charge 47666

thereof or with the secretary-treasurer of the authority. 47667

(E) Make loans and grants to governmental agencies for the 47668
acquisition or construction of air quality projects by any such 47669
governmental agency and adopt rules and procedures for making such 47670
loans and grants; 47671

(F) Acquire, construct, reconstruct, enlarge, improve, 47672
furnish, equip, maintain, repair, operate, lease or rent to, or 47673
contract for operation by, a person or governmental agency, air 47674
quality projects, and establish rules for the use of such 47675
projects; 47676

(G) Make available the use or services of any air quality 47677
project to one or more persons, one or more governmental agencies, 47678
or any combination thereof; 47679

(H) Issue air quality revenue bonds and notes and air quality 47680
revenue refunding bonds of the state, payable solely from revenues 47681
as provided in section 3706.05 of the Revised Code, unless the 47682
bonds be refunded by refunding bonds, for the purpose of paying 47683
any part of the cost of one or more air quality projects or parts 47684
thereof; 47685

(I) Acquire by gift or purchase, hold, and dispose of real 47686
and personal property in the exercise of the powers of the 47687
authority and the performance of its duties under this chapter; 47688

(J) Acquire, in the name of the state, by purchase or 47689
otherwise, on such terms and in such manner as the authority finds 47690
proper, or by the exercise of the right of condemnation in the 47691
manner provided by section 3706.17 of the Revised Code, such 47692
public or private lands, including public parks, playgrounds, or 47693
reservations, or parts thereof or rights therein, rights-of-way, 47694
property, rights, easements, and interests as it finds necessary 47695
for carrying out this chapter, but excluding the acquisition by 47696
the exercise of the right of condemnation of any air quality 47697

facility owned by any person or governmental agency; and 47698
compensation shall be paid for public or private lands so taken; 47699

(K) Make and enter into all contracts and agreements and 47700
execute all instruments necessary or incidental to the performance 47701
of its duties and the execution of its powers under this chapter. 47702

(1) When the cost under any such contract or agreement, other 47703
than compensation for personal services, involves an expenditure 47704
of more than two thousand dollars, the authority shall make a 47705
written contract with the lowest responsive and responsible 47706
bidder, in accordance with section 9.312 of the Revised Code, 47707
after advertisement for not less than two consecutive weeks in a 47708
newspaper of general circulation in Franklin county, and in such 47709
other publications as the authority determines, which notice shall 47710
state the general character of the work and the general character 47711
of the materials to be furnished, the place where plans and 47712
specifications therefor may be examined, and the time and place of 47713
receiving bids; provided, that a contract or lease for the 47714
operation of an air quality project constructed and owned by the 47715
authority or an agreement for cooperation in the acquisition or 47716
construction of an air quality project pursuant to section 3706.12 47717
of the Revised Code or any contract for the construction of an air 47718
quality project that is to be leased by the authority to, and 47719
operated by, persons who are not governmental agencies and the 47720
cost of such project is to be amortized exclusively from rentals 47721
or other charges paid to the authority by persons who are not 47722
governmental agencies is not subject to the foregoing requirements 47723
and the authority may enter into such contract, lease, or 47724
agreement pursuant to negotiation and upon such terms and 47725
conditions and for such period as it finds to be reasonable and 47726
proper in the circumstances and in the best interests of proper 47727
operation or of efficient acquisition or construction of such 47728
project. 47729

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

(3) Each bid for a contract except as provided in division (K)(2) of this section shall contain the full name of every person interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance thereof secured.

(4) The authority may reject any and all bids.

(5) A bond with good and sufficient surety, approved by the authority, shall be required of every contractor awarded a contract except as provided in division (K)(2) of this section, in an amount equal to at least fifty per cent of the contract price, conditioned upon the faithful performance of the contract.

(L) Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys, and such other consultants and independent contractors as are necessary in its judgment to carry out this chapter, and fix the compensation thereof. All expenses thereof shall be payable solely from the proceeds of air quality revenue bonds or notes issued under this chapter, from revenues, or from funds appropriated for such purpose by the general assembly.

(M) Receive and accept from any federal agency, subject to the approval of the governor, grants for or in aid of the construction of any air quality project or for research and development with respect to air quality facilities, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and

contributions are made; 47761

(N) Engage in research and development with respect to air 47762
quality facilities; 47763

(O) Purchase fire and extended coverage and liability 47764
insurance for any air quality project and for the principal office 47765
and suboffices of the authority, insurance protecting the 47766
authority and its officers and employees against liability for 47767
damage to property or injury to or death of persons arising from 47768
its operations, and any other insurance the authority may agree to 47769
provide under any resolution authorizing its air quality revenue 47770
bonds or in any trust agreement securing the same; 47771

(P) Charge, alter, and collect rentals and other charges for 47772
the use or services of any air quality project as provided in 47773
section 3706.13 of the Revised Code; 47774

(Q) Develop energy initiatives, projects, and policy for the 47775
state in accordance with section 3706.35 of the Revised Code; 47776

(R) Provide coverage for its employees under Chapters 145., 47777
4123., and 4141. of the Revised Code; 47778

~~(R)~~(S) Do all acts necessary or proper to carry out the 47779
powers expressly granted in this chapter. 47780

Any instrument by which real property is acquired pursuant to 47781
this section shall identify the agency of the state that has the 47782
use and benefit of the real property as specified in section 47783
5301.012 of the Revised Code. 47784

Sec. 3706.35. The Ohio air quality development authority 47785
shall establish the energy strategy development program for the 47786
purpose of developing energy initiatives, projects, and policy for 47787
the state. Issues addressed by such initiatives, projects, and 47788
policy shall not be limited to those governed by this chapter. 47789

There is hereby created in the state treasury the energy 47790

strategy development fund. The fund shall consist of money 47791
credited to it and money obtained for advanced energy projects 47792
from federal or private grants, loans, or other sources. Money in 47793
the fund shall be used to carry out the purposes of the program. 47794
Interest earned on the money in the fund shall be credited to the 47795
general revenue fund. 47796

Sec. 3709.09. (A) The board of health of a city or general 47797
health district may, by rule, establish a uniform system of fees 47798
to pay the costs of any services provided by the board. 47799

The fee for issuance of a certified copy of a vital record or 47800
a certification of birth shall not be less than the fee prescribed 47801
for the same service under division (A)(1) of section 3705.24 of 47802
the Revised Code and shall include the fees required by division 47803
(B) of section 3705.24 and section 3109.14 of the Revised Code. 47804

Fees for services provided by the board for purposes 47805
specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 47806
3730.03, 3733.04, 3733.25, and 3749.04 of the Revised Code shall 47807
be established in accordance with rules adopted under division (B) 47808
of this section. The district advisory council, in the case of a 47809
general health district, and the legislative authority of the 47810
city, in the case of a city health district, may disapprove any 47811
fee established by the board of health under this division, and 47812
any such fee, as disapproved, shall not be charged by the board of 47813
health. 47814

(B) The public health council shall adopt rules under section 47815
111.15 of the Revised Code that establish fee categories and a 47816
uniform ~~methodologies~~ methodology for use in calculating the costs 47817
of services provided for purposes specified in sections 3701.344, 47818
3711.10, 3718.06, 3729.07, 3730.03, 3733.04, 3733.25, and 3749.04 47819
of the Revised Code. In adopting the rules, the public health 47820
council shall consider recommendations it receives from advisory 47821

boards established either by statute or the director of health for 47822
entities subject to the fees. 47823

~~(C) At least thirty days prior to establishing a~~ Except when 47824
a board of health establishes a fee by adopting a rule as an 47825
emergency measure, the board of health shall hold a public hearing 47826
regarding each proposed fee for a service provided by the board 47827
for a purpose specified in section 3701.344, 3711.10, 3718.06, 47828
3729.07, 3730.03, 3733.04, 3733.25, or 3749.04 of the Revised 47829
Code, ~~a board of health shall notify any entity that would be~~ 47830
~~affected by the proposed fee of the amount of the proposed fee. If~~ 47831
a public hearing is held, at least twenty days prior to the public 47832
hearing the board shall give written notice of the hearing to each 47833
entity affected by the proposed fee. The notice shall be mailed to 47834
the last known address of each entity and shall specify the date, 47835
time, and place of the hearing and the amount of the proposed fee. 47836
47837

(D) If a fee established under this section is not received 47838
by the end of the last day on which it is due, the board of health 47839
shall assess a penalty. The amount of the penalty shall be equal 47840
to the greater of the following amounts: 47841

(1) Twenty-five per cent of the fee; 47842

(2) Ten per cent of the fee multiplied by the number of weeks 47843
that have elapsed since the payment was due. 47844

(E) All rules adopted by a board of health under this section 47845
shall be adopted, recorded, and certified as are ordinances of 47846
municipal corporations and the record thereof shall be given in 47847
all courts the same effect as is given such ordinances, but the 47848
advertisements of such rules shall be by publication in one 47849
newspaper of general circulation within the health district. 47850
Publication shall be made once a week for two consecutive weeks 47851
and such rules shall take effect and be in force ten days from the 47852

date of the first publication. 47853

Sec. 3709.092. (A) A board of health of a city or general 47854
health district shall transmit to the director of health all fees 47855
or additional amounts that the public health council requires to 47856
be collected under sections 3701.344, 3718.06, 3729.07, 3733.04, 47857
3733.25, and 3749.04 of the Revised Code. The fees and amounts 47858
shall be transmitted according to the following schedule: 47859

(1) For fees and amounts received by the board on or after 47860
the first day of January but not later than the thirty-first day 47861
of March, transmit the fees and amounts not later than the 47862
fifteenth day of May; 47863

(2) For fees and amounts received by the board on or after 47864
the first day of April but not later than the thirtieth day of 47865
June, transmit the fees and amounts not later than the fifteenth 47866
day of August; 47867

(3) For fees and amounts received by the board on or after 47868
the first day of July but not later than the thirtieth day of 47869
September, transmit the fees and amounts not later than the 47870
fifteenth day of November; 47871

(4) For fees and amounts received by the board on or after 47872
the first day of October but not later than the thirty-first day 47873
of December, transmit the fees and amounts not later than the 47874
fifteenth day of February of the following year. 47875

(B) The director shall deposit the fees and amounts received 47876
under this section into the state treasury to the credit of the 47877
general operations fund created in section 3701.83 of the Revised 47878
Code. Each amount shall be used solely for the purpose for which 47879
it was collected. 47880

Sec. 3710.01. As used in this chapter: 47881

(A) "Asbestos" means the asbestiform varieties of chrysotile 47882
or serpentine, amosite or cummingtonitegrunerite, crocidolite or 47883
riebeckite, actinolite, tremolite, and anthophyllite. 47884

(B) "Asbestos hazard abatement activity" means any activity 47885
involving the removal, renovation, enclosure, repair, ~~or~~ 47886
encapsulation, or operation and maintenance of reasonably related 47887
friable asbestos-containing materials in an amount greater than 47888
~~fifty three~~ linear feet or ~~fifty three~~ square feet. "Asbestos 47889
~~hazard abatement activity" also includes any such activity~~ 47890
~~involving such asbestos-containing materials in an amount of fifty~~ 47891
~~linear or fifty square feet or less if, when combined with any~~ 47892
~~other reasonably related activity in terms of time and location of~~ 47893
~~the activity, the total amount is in an amount greater than fifty~~ 47894
~~linear or fifty square feet.~~ 47895

(C) "Asbestos hazard abatement contractor" means a business 47896
entity or public entity that engages in or intends to engage in 47897
asbestos hazard abatement ~~activities~~ projects and that employs or 47898
supervises one or more asbestos hazard abatement specialists for 47899
asbestos hazard abatement activities. "Asbestos hazard abatement 47900
contractor" does not mean an employee of an asbestos hazard 47901
abatement contractor, a general contractor who subcontracts to an 47902
asbestos hazard abatement contractor an asbestos hazard abatement 47903
~~activity~~ project, or any individual who engages in an asbestos 47904
hazard abatement ~~activity~~ project in ~~his~~ the individual's own 47905
home. 47906

(D) "Asbestos hazard abatement project" means one or more 47907
asbestos hazard abatement activities ~~that are~~ the sum total of 47908
which is in an amount greater than fifty linear feet or fifty 47909
square feet of friable asbestos-containing materials and that is 47910
conducted by one asbestos hazard abatement contractor ~~and that are~~ 47911
~~reasonably related to each other.~~ "Asbestos hazard abatement 47912
project" also includes any such activity involving such friable 47913

asbestos-containing materials in an amount of fifty linear feet or 47914
fifty square feet or less if, when combined with any other 47915
reasonably related activity in terms of time or location of the 47916
activity, the total amount is in an amount greater than fifty 47917
linear feet or fifty square feet. 47918

(E) "Asbestos hazard abatement specialist" means a person 47919
with responsibility for the oversight or supervision of asbestos 47920
hazard abatement activities, including asbestos hazard abatement 47921
project managers, hazard abatement project supervisors and 47922
foremen, and employees of school districts or other governmental 47923
or public entities who coordinate or directly supervise or oversee 47924
asbestos hazard abatement activities performed by school district, 47925
governmental, or other public employees in school district, 47926
governmental, or other public buildings. 47927

(F) "Asbestos hazard evaluation specialist" means a person 47928
responsible for the inspection, identification, detection, and 47929
assessment of asbestos-containing materials or suspect 47930
asbestos-containing materials, the determination of appropriate 47931
response actions, or the preparation of asbestos management plans 47932
for the purpose of protecting the public health from the hazards 47933
associated with exposure to asbestos, including the performance of 47934
air and bulk sampling. This category of specialists includes 47935
inspectors, management planners, health professionals, industrial 47936
hygienists, private consultants, or other individuals involved in 47937
asbestos risk identification or assessment or regulatory 47938
activities. 47939

(G) "Business entity" means a partnership, firm, association, 47940
corporation, sole proprietorship, or other business concern. 47941

(H) "Public entity" means the state or any of its political 47942
subdivisions or any agency or instrumentality of either. 47943

(I) "License" means a document issued by the department of 47944

health to a business entity or public entity affirming that the 47945
entity has met the requirements set forth in this chapter to 47946
engage in asbestos hazard abatement ~~activities~~ projects as an 47947
asbestos hazard abatement contractor. 47948

(J) "Certificate" means: 47949

(1) A document issued by the department to an individual 47950
affirming that the individual has successfully completed the 47951
training and other requirements set forth in this chapter to 47952
qualify as an asbestos hazard abatement specialist, an asbestos 47953
hazard evaluation specialist, an asbestos hazard abatement worker, 47954
an asbestos hazard abatement project designer, an asbestos hazard 47955
abatement air-monitoring technician, an approved asbestos hazard 47956
training provider, or other category of asbestos hazard specialist 47957
that the public health council establishes by rule; or 47958

(2) A document issued by a training institution in accordance 47959
with rules adopted by the public health council affirming that an 47960
individual has successfully completed the instruction required in 47961
all categories as provided in sections 3710.07 and 3710.10 of the 47962
Revised Code. 47963

(K) "Person" means any individual, business entity, 47964
governmental body, or other public or private entity. 47965

(L) "Encapsulate" means to coat, bind, or resurface 47966
asbestos-containing materials on walls, ceilings, pipes, or other 47967
structures to prevent friable asbestos from becoming airborne. 47968

(M) "Friable asbestos-containing material" means any material 47969
that contains more than one per cent asbestos ~~by weight~~ as 47970
determined using the methods specified in 40 C.F.R. Part 763, 47971
Subpart E, Appendix E, Section 1, "Polarized Light Microscopy," 47972
and that can be crumbled, pulverized, or reduced to powder, when 47973
dry, by hand pressure. "Friable asbestos-containing material" 47974
includes previously non-friable material after that material 47975

becomes damaged to the extent that, when dry, it may be crumbled, 47976
pulverized, or reduced to powder by hand pressure. 47977

(N) "Enclosure" means the permanent confinement of friable 47978
asbestos-containing materials with an airtight barrier in an area 47979
not used as an air plenum. 47980

(O) "Renovation" means the removal or stripping of friable 47981
asbestos-containing materials used on any pipe, duct, boiler, 47982
tank, reactor, turbine, furnace, or load supporting member. 47983

(P) "Asbestos hazard abatement worker" means the person 47984
responsible in a nonsupervisory capacity for the performance of an 47985
asbestos hazard abatement activity. 47986

(Q) "Asbestos hazard abatement project designer" means the 47987
person responsible for the oversight of an asbestos hazard 47988
abatement activity or the determination of the workscope, work 47989
sequence, or performance standards for an asbestos hazard 47990
abatement activity, including preparation of specifications, 47991
plans, and contract documents. 47992

(R) "Director" means the director of health or ~~his~~ the 47993
director's authorized representative. 47994

(S) "Clearance air sampling" means an air sampling performed 47995
after the completion of any asbestos hazard abatement ~~activity~~ 47996
project and prior to the reoccupation of the contained work area 47997
by the public and conducted for the purpose of protecting the 47998
public from the health hazards associated with exposure to friable 47999
asbestos-containing material. 48000

(T) "Asbestos hazard abatement air-monitoring technician" 48001
means the person who is responsible for environmental monitoring 48002
or work area clearance air sampling, including air monitoring 48003
performed to determine completion of response actions under the 48004
rules set forth in 40 C.F.R. 763 Subpart E, adopted by the United 48005
States environmental protection agency pursuant to the "Asbestos 48006

Hazard Emergency Response Act of 1986," Pub. L. 99-519, 100 Stat. 48007
2970. "Asbestos hazard abatement air-monitoring technician" does 48008
not mean an industrial hygienist ~~or industrial hygienist in~~ 48009
~~training~~, certified by the American board of industrial hygiene. 48010

Sec. 3710.04. (A) To qualify for an asbestos hazard abatement 48011
contractor's license, a business entity or public entity shall 48012
meet the requirements of this section. 48013

(B) Each employee or agent of the business entity or public 48014
entity applying for a license who will come in contact with 48015
asbestos or will be responsible for an asbestos hazard abatement 48016
~~project activity~~ shall do both of the following: 48017

(1) Be familiar with all applicable state and federal 48018
standards for asbestos hazard abatement projects; 48019

(2) Have successfully completed the course of instruction on 48020
asbestos hazard abatement activities, for their particular 48021
certification, approved by the department of health pursuant to 48022
section 3710.10 of the Revised Code, have passed an examination 48023
approved by the department, and demonstrate to the department that 48024
~~he~~ the employee or agent is capable of complying with all 48025
applicable standards of this state, the United States 48026
environmental protection agency, and the United States 48027
occupational safety and health administration. 48028

(C) A business entity or public entity applying for an 48029
asbestos hazard abatement contractor's license shall, in addition 48030
to the other requirements of this section, provide at least one 48031
asbestos hazard abatement specialist, certified pursuant to this 48032
chapter and the rules of the public health council adopted 48033
pursuant thereto, for each asbestos hazard abatement project, and 48034
demonstrate to the satisfaction of the department that ~~he~~ all of 48035
the following apply to the applicant: 48036

(1) ~~Has~~ The applicant has access to at least one asbestos 48037
disposal site approved by the Ohio environmental protection agency 48038
that is sufficient for the deposit of all asbestos waste that ~~he~~ 48039
the applicant will generate during the term of the license; 48040

(2) ~~Is~~ The applicant is sufficiently qualified to safely 48041
remove asbestos, demonstrated by reliability as an asbestos hazard 48042
abatement contractor, possesses a work program that prevents the 48043
contamination or recontamination of the environment and protects 48044
the public health from the hazards of exposure to asbestos, 48045
possesses evidence of certification of each individual employee or 48046
agent who will be responsible for others who may come in contact 48047
with friable asbestos-containing materials, possesses evidence of 48048
training of workers required by section 3710.07 of the Revised 48049
Code, and has prior successful experience in asbestos hazard 48050
abatement projects or equivalent qualifications as determined by 48051
rule by the public health council; 48052

(3) ~~Possesses~~ The applicant possesses a worker protection 48053
program consistent with requirements established by the public 48054
health council if the contractor is a public entity, and a worker 48055
protection program consistent with the requirements of the United 48056
States occupational safety and health administration if the 48057
contractor is a business entity; 48058

(4) ~~Is~~ The applicant is registered as a business entity with 48059
the secretary of state. 48060

(D) No applicant for licensure as an asbestos hazard 48061
abatement contractor, in order to meet the requirements of this 48062
chapter, shall list an employee of another contractor. 48063

(E) The business entity or public entity shall meet any other 48064
standards that the public health council, by rule, sets. 48065

(F) Nothing in this chapter or the rules adopted pursuant 48066
thereto relating to asbestos hazard abatement project designers 48067

shall be interpreted as authorizing or permitting an individual 48068
who is certified as an asbestos hazard abatement project designer 48069
to perform the services of a registered architect or professional 48070
engineer unless that person is registered under Chapter 4703. or 48071
4733. of the Revised Code to perform such services. 48072

Sec. 3710.05. (A) Except as otherwise provided in this 48073
chapter, no person shall engage in any asbestos hazard abatement 48074
activities in this state unless licensed or certified pursuant to 48075
this chapter. 48076

(B) To apply for licensure as an asbestos hazard abatement 48077
contractor or certification as an asbestos hazard abatement 48078
specialist, an asbestos hazard evaluation specialist, an asbestos 48079
hazard abatement project designer, or an asbestos hazard abatement 48080
air-monitoring technician, a person shall do all of the following: 48081

(1) Submit a completed application to the department of 48082
health, on a form provided by the department; 48083

(2) Pay the requisite fee as provided in division (D) of this 48084
section; 48085

(3) Submit any other information the public health council by 48086
rule requires. 48087

(C) The application form for a business entity or public 48088
entity applying for an asbestos hazard abatement contractor's 48089
license shall include all of the following: 48090

(1) A description of the protective clothing and respirators 48091
that the public entity will use to comply with rules adopted by 48092
the public health council and that the business entity will use to 48093
comply with requirements of the United States occupational safety 48094
and health administration; 48095

(2) A description of procedures the business entity or public 48096
entity will use for the selection, utilization, handling, removal, 48097

and disposal of clothing to prevent contamination or	48098
recontamination of the environment and to protect the public	48099
health from the hazards associated with exposure to asbestos;	48100
(3) The name and address of each asbestos disposal site that	48101
the business entity or public entity might use during the year;	48102
(4) A description of the site decontamination procedures that	48103
the business entity or public entity will use;	48104
(5) A description of the asbestos hazard abatement procedures	48105
that the business entity or public entity will use;	48106
(6) A description of the procedures that the business entity	48107
or public entity will use for handling waste containing asbestos;	48108
(7) A description of the air-monitoring procedures that the	48109
business entity or public entity will use to prevent contamination	48110
or recontamination of the environment and to protect the public	48111
health from the hazards of exposure to asbestos;	48112
(8) A description of the final clean-up procedures that the	48113
business entity or public entity will use;	48114
(9) A list of all partners, owners, and officers of the	48115
business entity along with their social security numbers;	48116
(10) The federal tax identification number of the business	48117
entity or the public entity.	48118
(D) The fees to be charged to each public entity and business	48119
entity and their employees and agents for licensure,	48120
certification, approval, and renewal of licenses, certifications,	48121
and approvals granted under this chapter, subject to division	48122
(A)(4) of section 3710.02 of the Revised Code, are <u>as follows</u> :	48123
(1) Seven hundred fifty dollars for asbestos hazard abatement	48124
contractors;	48125
(2) Two hundred dollars for asbestos hazard abatement project	48126
designers;	48127

(3) Fifty dollars for asbestos hazard abatement workers;	48128
(4) Two hundred dollars for asbestos hazard abatement specialists;	48129 48130
(5) Two hundred dollars for asbestos hazard evaluation specialists; and	48131 48132
(6) Nine hundred dollars for approval or renewal of asbestos hazard training providers.	48133 48134
(E) Notwithstanding division (A) of this section, no business entity which engages in asbestos hazard abatement activities <u>projects</u> solely at its own place of business is required to be licensed as an asbestos hazard abatement contractor provided that the business entity is required to and does comply with all applicable standards of the United States environmental protection agency and the United States occupational safety and health administration and provided further that all persons employed by the business entity on the activity <u>project</u> meet the requirements of this chapter.	48135 48136 48137 48138 48139 48140 48141 48142 48143 48144
Sec. 3710.051. No person <u>asbestos hazard abatement contractor</u> shall enter into an agreement to perform any aspect of an asbestos hazard abatement project unless the agreement is written and contains at least all of the following:	48145 48146 48147 48148
(A) A requirement that all persons working on the project are licensed or certified by the department of health as required by this chapter;	48149 48150 48151
(B) A requirement that all project clearance levels and sampling be in accordance with the public health council rules;	48152 48153
(C) A requirement that all clearance air-monitoring be conducted by asbestos hazard abatement air-monitoring technicians or asbestos hazard evaluation specialists certified by the department.	48154 48155 48156 48157

Sec. 3710.06. (A) Within fifteen business days after 48158
receiving an application, the department of health shall 48159
acknowledge receipt of the application and notify the applicant of 48160
any deficiency in the application. Within sixty calendar days 48161
after receiving a completed application, including all additional 48162
information requested by the department, the department shall 48163
issue a license or certificate or deny the application. The 48164
department shall issue only one license or certificate that is in 48165
effect at one time to a business entity and its principal officers 48166
and a public entity and its principal officers. 48167

(B)(1) The department shall deny an application if it 48168
determines that the applicant has not demonstrated the ability to 48169
comply fully with all applicable federal and state requirements 48170
and all requirements, procedures, and standards established by the 48171
public health council in this chapter. 48172

(2) The department shall deny any application for an asbestos 48173
hazard abatement contractor's license if the applicant or an 48174
officer or employee of the applicant has been convicted of a 48175
felony or found liable in a civil proceeding under any state or 48176
federal law designed to protect the environment. 48177

(3) The department shall send all denials of an application 48178
by certified mail to the applicant. If the department receives a 48179
timely request for a hearing from the applicant, as provided in 48180
division (D) of section 3710.13 of the Revised Code, the 48181
department shall hold a hearing in accordance with Chapter 119. of 48182
the Revised Code. 48183

(C) In an emergency that results from a sudden, unexpected 48184
event that is not a planned asbestos hazard abatement project, the 48185
department may waive the requirements for a license ~~or~~ 48186
~~certificate~~. For the purposes of this division, "emergency" 48187
includes operations necessitated by nonroutine failures of 48188

equipment or by actions of fire and emergency medical personnel 48189
pursuant to duties within their official capacities. Any person 48190
who performs an asbestos hazard abatement ~~activity~~ project under 48191
emergency conditions shall notify the director within three days 48192
after performance thereof. 48193

(D) Each license or certificate issued under this chapter 48194
expires one year after the date of issue, but each licensee or 48195
certificate holder may apply to the department for the extension 48196
of ~~his~~ the holder's license or certificate under the standard 48197
renewal procedures of Chapter 4745. of the Revised Code. 48198

To qualify for renewal of a license or certificate issued 48199
under this chapter, each licensee or certificate holder shall send 48200
the appropriate renewal fee set forth in division (D) of section 48201
3710.05 of the Revised Code or as adopted by rule by the public 48202
health council pursuant to division (A)(4) of section 3710.02 of 48203
the Revised Code. 48204

Certificate holders also shall successfully complete an 48205
annual renewal course approved by the department pursuant to 48206
section 3710.10 of the Revised Code. 48207

(E) The department may charge a fee in addition to those 48208
specified in division (D) of section 3710.05 of the Revised Code 48209
or in rule of the public health council pursuant to division 48210
(A)(4) of section 3710.02 of the Revised Code if the licensee or 48211
certificate holder applies for renewal after the expiration 48212
thereof or requests a reissuance of any license or certificate, 48213
provided that no such fee shall exceed the original fees by more 48214
than fifty per cent. 48215

Sec. 3710.07. (A) Prior to engaging in any asbestos hazard 48216
abatement project, an asbestos hazard abatement contractor shall 48217
do all of the following: 48218

(1) Prepare a written respiratory protection program as 48219
defined by the public health council pursuant to rule, and make 48220
the program available to the department of health, and workers at 48221
the job site if the contractor is a public entity or prepare a 48222
written respiratory protection program, consistent with 29 C.F.R. 48223
1910.134 and make the program available to the department, and 48224
workers at the job site if the contractor is a business entity; 48225

(2) Ensure that each worker who will be involved in any 48226
asbestos hazard abatement project has been examined within the 48227
preceding year and has been declared by a physician to be 48228
physically capable of working while wearing a respirator; 48229

(3) Ensure that each of the contractor's employees or agents 48230
who will come in contact with asbestos-containing materials or 48231
will be responsible for an asbestos hazard abatement project 48232
receives the appropriate certification or licensure required by 48233
this chapter and completes both of the following training courses: 48234

(a) An initial course approved by the department pursuant to 48235
section 3710.10 of the Revised Code, completed before engaging in 48236
any asbestos hazard abatement ~~project~~ activity; and 48237

(b) An annual review course approved by the department 48238
pursuant to section 3710.10 of the Revised Code. 48239

(B) After obtaining or renewing a license, an asbestos hazard 48240
abatement contractor shall notify the department, on a form 48241
approved by the director of health, at least ten days before 48242
beginning each asbestos hazard abatement project conducted during 48243
the term of the contractor's license. 48244

(C) In addition to any other fee imposed under this chapter, 48245
an asbestos hazard abatement contractor shall pay, at the time of 48246
providing notice under division (B) of this section, the 48247
department a fee of sixty-five dollars for each asbestos hazard 48248
abatement project conducted. 48249

Sec. 3710.08. (A) An asbestos hazard abatement contractor 48250
engaging in any asbestos hazard abatement project shall, during 48251
the course of the project: 48252

(1) Conduct each project in a manner that is in compliance 48253
with the requirements the director of environmental protection 48254
adopts pursuant to section 3704.03 of the Revised Code and the 48255
asbestos requirements of the United States occupational safety and 48256
health administration set forth in 29 C.F.R. ~~1926.58~~ 1926.1101; 48257

(2) Comply with all applicable rules adopted by the public 48258
health council pursuant to section 3710.02 of the Revised Code. 48259

(B) An asbestos hazard abatement contractor that is a public 48260
entity shall: 48261

(1) Provide workers with protective clothing and equipment 48262
and ensure that the workers involved in any asbestos hazard 48263
abatement project use the items properly. Protective clothing and 48264
equipment shall include: 48265

(a) Respirators approved by the national institute of 48266
occupational safety and health. These respirators shall be fit 48267
tested in accordance with requirements of the United States 48268
occupational safety and health administration set forth in 29 48269
C.F.R. ~~1926.58(h)~~ 1926.1101(h). At the request of an employee, the 48270
asbestos hazard abatement contractor shall provide the employee 48271
with a powered air purifying respirator, in which case, the 48272
testing requirements of division (B)(1)(a) of this section do not 48273
apply. 48274

(b) Items required by the public health council by rule as 48275
provided in division (A)(7) of section 3710.02 of the Revised 48276
Code. 48277

(2) Comply with all applicable standards of conduct and 48278
requirements adopted by the public health council and the director 48279

of health pursuant to section 3710.02 of the Revised Code. 48280

(C) An asbestos hazard abatement specialist engaging in any 48281
asbestos hazard abatement ~~project~~ activity shall, during the 48282
course of the ~~project~~ activity do all of the following: 48283

(1) Conduct each ~~project~~ activity in a manner that will meet 48284
decontamination procedures, project containment procedures, and 48285
asbestos fiber dispersal methods as provided in division (A)(6) of 48286
section 3710.02 of the Revised Code; 48287

(2) Ensure that workers utilize, handle, remove, and dispose 48288
of the disposable clothing provided by abatement contractors in a 48289
manner that will prevent contamination or recontamination of the 48290
environment and protect the public health from the hazards of 48291
exposure to asbestos; 48292

(3) Ensure that workers utilize protective clothing and 48293
equipment and comply with the applicable health and safety 48294
standards set forth in division (A) of this section ~~3710.08~~ of the 48295
~~Revised Code~~; 48296

(4) Ensure that there is no smoking, eating, or drinking in 48297
the work area; 48298

(5) Comply with all applicable standards of conduct and 48299
requirements adopted by the public health council and director of 48300
health pursuant to section 3710.02 of the Revised Code. 48301

(D) An asbestos hazard evaluation specialist engaged in the 48302
identification, detection, and assessment of asbestos-containing 48303
materials, the determination of appropriate response actions, or 48304
other activities associated with an abatement project or the 48305
preparation of management plans, shall comply with the applicable 48306
standards of conduct and requirements adopted by the public health 48307
council and the director of health pursuant to section 3710.02 of 48308
the Revised Code. 48309

(E) Every asbestos hazard abatement worker shall comply with all applicable standards adopted by the public health council pursuant to section 3710.02 of the Revised Code.

~~(F) The department may, on a case by case basis, approve an alternative to the worker protection requirements of divisions (A), (B), and (C) of this section for an asbestos hazard abatement project conducted by a public entity, provided that the asbestos hazard abatement contractor submits the alternative procedure to the department in writing and demonstrates to the satisfaction of the department that the proposed alternative procedure provides equivalent worker protection.~~

Sec. 3710.12. Subject to the hearing provisions of this chapter, the department of health may deny, suspend, or revoke any license or certificate, or renewal thereof, if the licensee or certificate holder:

(A) Fraudulently or deceptively obtains or attempts to obtain a license or certificate;

(B) Fails at any time to meet the qualifications for a license or certificate;

(C) Is violating or threatening to violate any provisions of one of the following:

(1) This chapter or the rules of the public health council or director of health adopted pursuant thereto;

(2) The "National Emission Standard for Hazardous Air Pollutants" regulations of the United States environmental protection agency as the regulations pertain to asbestos; ~~or~~

(3) The regulations of the United States occupational safety and health administration as the regulations pertain to asbestos;

(4) The regulations set forth in 40 C.F.R. Part 763 that were adopted by the United States environmental protection agency

pursuant to Title II of the "Toxic Substances Control Act," Pub. L. No. 94-469, 90 Stat. 2003, as amended by the "Asbestos Hazard Emergency Response Act of 1986," Pub. L. No. 99-519, 100 Stat. 2970.

Sec. 3710.13. (A) Except as otherwise provided in Chapter 119. of the Revised Code or this section, before the department of health takes any action under section 3710.12 of the Revised Code, it shall give the licensee or certificate holder against whom action is contemplated an opportunity for a hearing.

Except as otherwise provided in this section, the department shall give notice and hold the hearing in accordance with Chapter 119. of the Revised Code.

(B) The department, without notice or hearing and in accordance with the rules of the public health council, may issue an order requiring any action necessary to meet a public health emergency involving asbestos. Any person to whom an order is directed shall immediately comply with the order. Upon application to the director of health, the person shall be afforded a hearing as soon as possible, but no more than twenty days after receipt of the application by the director.

(C) If the director determines, pursuant to division (B) of this section, that a public health emergency exists, ~~he~~ the director may order, without a hearing, the denial, suspension, or revocation of any license or certificate issued under this chapter of the parties involved, provided that an opportunity for a hearing is provided to the affected party as soon as reasonably possible.

(D) All proceedings under this chapter are subject to Chapter 119. of the Revised Code, except that:

(1) Upon the request of a licensee or certificate holder, the

location of an adjudicatory hearing is the county seat of the 48370
county in which the licensee or certificate holder conducts 48371
business. 48372

(2) The director shall notify, by certified mail or personal 48373
delivery, a licensee or certificate holder that ~~he~~ the licensee or 48374
certificate holder is entitled to a hearing if ~~he~~ the licensee or 48375
certificate holder requests it, in writing, within ten business 48376
days of the time that ~~he~~ the licensee or certificate holder 48377
receives the notice. If the licensee or certificate holder 48378
requests such a hearing, the director shall set the hearing date 48379
no later than ten business days after the director receives the 48380
request. 48381

(3) The director shall not apply for or receive a 48382
postponement or continuation of an adjudication hearing. If a 48383
licensee or certificate holder requests a postponement or 48384
continuation of an adjudication hearing, the director only shall 48385
grant the request if the licensee or certificate holder 48386
demonstrates extreme hardship in complying with the hearing date. 48387
If the director grants a postponement or continuation on the 48388
grounds of extreme hardship, the director shall include in the 48389
record of the case, the nature and cause of the extreme hardship. 48390

(4) In lieu of an adjudicatory hearing required by this 48391
chapter, a licensee or certificate holder, by no later than the 48392
date set for a hearing pursuant to division (A)~~(3)~~(2) of this 48393
section, may by written request to the director, request that the 48394
matter be resolved by the licensee or certificate holder 48395
submitting documents, papers, and other written evidence to the 48396
director to support ~~his~~ the licensee's or certificate holder's 48397
claim. 48398

(5) If the director appoints a referee or an examiner to 48399
conduct a hearing, all of the following apply: 48400

(a) The examiner or referee shall serve, by certified mail 48401
and within three business days of the conclusion of the hearing, a 48402
copy of the written adjudication report and ~~his~~ the referee's or 48403
examiner's recommendations, on the director and the affected 48404
licensee or certificate holder or the licensee's or certificate 48405
holder's attorney or other representative of record. 48406

(b) The licensee or certificate holder, within three business 48407
days of receipt of the report under division (D)(5)(a) of this 48408
section, may file with the director written objections to the 48409
report and recommendations. 48410

(c) The director shall consider any objections received under 48411
division (D)(5)(b) of this section prior to approving, modifying, 48412
or disapproving the report and recommendations. Within six 48413
business days of receiving the report under division (D)(5)(a) of 48414
this section, the director shall serve ~~his~~ the director's order, 48415
by certified mail or personal delivery, on the affected licensee 48416
or certificate holder or the licensee's or certificate holder's 48417
attorney or other representative of record. 48418

(6) If the director conducts an adjudicatory hearing under 48419
this chapter, ~~he~~ the director shall serve ~~his~~ the director's 48420
decision, by certified mail or personal delivery and within three 48421
business days of the conclusion of the hearing, on the affected 48422
licensee or certificate holder or the licensee's or certificate 48423
holder's attorney or other representative of record. 48424

(7) If no hearing is held, the director shall issue an order, 48425
by certified mail or personal delivery and within three business 48426
days of the last date possible for a hearing, based upon the 48427
record available to ~~him~~ the director, to the affected licensee or 48428
certificate holder or the licensee's or certificate holder's 48429
attorney or other representative of record. 48430

(8) A licensee or certificate holder shall file a notice of 48431

appeal to an adverse adjudication decision within fifteen days 48432
after receipt of the director's order. 48433

Sec. 3710.141. The director of health may issue an order 48434
requiring any action necessary to meet a public health emergency 48435
involving asbestos. Any unlicensed or uncertified person to whom 48436
an order is directed shall comply immediately with the order. If 48437
immediate action to comply with the order and correct the 48438
emergency is not taken, the attorney general at the request of the 48439
director may commence a civil action for civil penalties and 48440
injunctions in accordance with section 3710.14 of the Revised 48441
Code. 48442

Sec. 3712.03. (A) In accordance with Chapter 119. of the 48443
Revised Code, the public health council shall adopt, and may amend 48444
and rescind, rules: 48445

(1) Providing for the licensing of persons or public agencies 48446
providing hospice care programs within this state by the 48447
department of health and for the suspension and revocation of 48448
licenses; 48449

(2) Establishing a license fee and license renewal fee ~~not~~ 48450
~~to, neither of which shall, except as provided in division (B) of~~ 48451
~~this section,~~ exceed ~~three~~ six hundred dollars. The fees shall 48452
cover the three-year period during which an existing license is 48453
valid as provided in division (B) of section 3712.04 of the 48454
Revised Code. 48455

(3) Establishing an inspection fee not to exceed, except as 48456
provided in division (B) of this section, one thousand seven 48457
hundred fifty dollars; 48458

(4) Establishing requirements for hospice care program 48459
facilities and services; 48460

(5) Providing for a waiver of the requirement for the 48461

provision of physical, occupational, or speech or language therapy 48462
contained in division (A)(2) of section 3712.01 of the Revised 48463
Code when the requirement would create a hardship because such 48464
therapy is not readily available in the geographic area served by 48465
the provider of a hospice care program; 48466

(6) Providing for the granting of licenses to provide hospice 48467
care programs to persons and public agencies that are accredited 48468
or certified to provide such programs by an entity whose standards 48469
for accreditation or certification equal or exceed those provided 48470
for licensure under this chapter and rules adopted under it; ~~and~~ 48471

(7) Establishing interpretive guidelines for each rule. 48472

(B) Subject to the approval of the controlling board, the 48473
public health council may establish fees in excess of the maximum 48474
amounts ~~provided by sections 3712.01 and 3712.03 to 3712.06 of the~~ 48475
~~Revised Code~~ specified in this section, provided that the fees do 48476
not exceed those amounts by greater than fifty per cent. 48477

(C) The department of health shall: 48478

(1) Grant, suspend, and revoke licenses for hospice care 48479
programs in accordance with this chapter and rules adopted under 48480
it; 48481

(2) Make such inspections as are necessary to determine 48482
whether hospice care program facilities and services meet the 48483
requirements of this chapter and rules adopted under it; and 48484

(3) Implement and enforce this chapter and rules adopted 48485
under it. 48486

Sec. 3713.01. As used in sections 3713.01 to 3713.10 of the 48487
Revised Code: 48488

(A) "Person" has the same meaning as used in division (C) of 48489
section 1.59 of the Revised Code and also means any limited 48490
company, limited liability partnership, joint stock company, or 48491

other association. 48492

(B) "Bedding" means any upholstered furniture, any mattress, 48493
upholstered spring, comforter, bolster, pad, cushion, pillow, 48494
mattress protector, quilt, and any other upholstered article, to 48495
be used for sleeping, resting, or reclining purposes, and any 48496
glider, hammock, or other substantially similar article that is 48497
wholly or partly upholstered. 48498

(C) "Secondhand" means any article, or material, or portion 48499
thereof of which prior use has been made in any manner whatsoever. 48500

(D) "Remade, repaired, or renovated articles not for sale" 48501
means any article that is remade, repaired, or renovated for and 48502
is returned to the owner for the owner's own use. 48503

(E) "Sale," "sell," or "sold" shall, in the corresponding 48504
tense, mean sell, offer to sell, or deliver or consign in sale, or 48505
possess with intent to sell, or deliver in sale. 48506

(F) "Upholstered furniture" means any article of furniture 48507
wholly or partly stuffed or filled with material and that is used 48508
or intended for use for sitting, resting, or reclining purposes. 48509

(G) "Stuffed toy" means any article intended for use as a 48510
plaything or for an educational or recreational purpose that is 48511
wholly or partially stuffed with material. 48512

(H) "Tag" or "label" means any material prescribed by the 48513
superintendent of ~~industrial compliance~~ labor to be attached to an 48514
article that contains information required under this chapter. 48515

Sec. 3713.02. (A) Except as provided in section 3713.05 of 48516
the Revised Code, no person shall import, manufacture, renovate, 48517
wholesale, or reupholster stuffed toys or articles of bedding in 48518
this state without first registering to do so with the 48519
superintendent of ~~industrial compliance~~ labor in accordance with 48520
section 3713.05 of the Revised Code. 48521

(B) No person shall manufacture, offer for sale, sell, 48522
deliver, or possess for the purpose of manufacturing, selling, or 48523
delivering, an article of bedding or a stuffed toy that is not 48524
labeled in accordance with section 3713.08 of the Revised Code. 48525

(C) No person shall manufacture, offer for sale, sell, 48526
deliver, or possess for the purpose of manufacturing, selling, or 48527
delivering, an article of bedding or a stuffed toy that is falsely 48528
labeled. 48529

(D) No person shall sell or offer for sale any secondhand 48530
article of bedding or any secondhand stuffed toy that has not been 48531
sanitized in accordance with section 3713.08 of the Revised Code. 48532

(E) The possession of any article of bedding or stuffed toy 48533
in the course of business by a person required to obtain 48534
registration under this chapter, or by that person's agent or 48535
servant shall be prima-facie evidence of the person's intent to 48536
sell the article of bedding or stuffed toy. 48537

Sec. 3713.03. The superintendent of ~~industrial compliance~~ 48538
labor in the department of commerce shall administer and enforce 48539
this chapter. 48540

Sec. 3713.04. (A) In accordance with Chapter 119. of the 48541
Revised Code, the superintendent of ~~industrial compliance~~ labor 48542
shall: 48543

(1) Adopt rules pertaining to the definition, name, and 48544
description of materials necessary to carry out this chapter; 48545

(2) Determine the testing standards, fees, and charges to be 48546
paid for making any test or analysis required pursuant to section 48547
3713.08 of the Revised Code. 48548

(B) In accordance with Chapter 119. of the Revised Code, the 48549
superintendent may adopt rules regarding the following: 48550

(1) Establishing an initial application fee or an annual registration renewal fee not more than fifty per cent higher than the fees set forth in section 4713.05 of the Revised Code;

(2) Establishing standards, on a reciprocal basis, for the acceptance of labels and laboratory analyses from other states where the labeling requirements and laboratory analysis standards are substantially equal to the requirements of this state, provided the other state extends similar reciprocity to labels and laboratory analysis conducted under this chapter;

(3) Any other rules necessary to administer and carry out this chapter.

(C) The superintendent may do any of the following:

(1) Issue administrative orders, conduct hearings, and take all actions necessary under the authority of Chapter 119. of the Revised Code for the administration of this chapter. The authority granted under this division shall include the authority to suspend, revoke, or deny registration under this chapter.

(2) Establish and maintain facilities within the department of commerce to make tests and analysis of materials used in the manufacture of bedding and stuffed toys. The superintendent also may designate established laboratories in various sections of the state that are qualified to make these tests. If the superintendent exercises this authority, the superintendent shall adopt rules to determine the fees and charges to be paid for making the tests or analyses authorized under this section.

(3) Exercise such other powers and duties as are necessary to carry out the purpose and intent of this chapter.

Sec. 3713.05. (A) Applications to register to import, manufacture, renovate, wholesale, make, or reupholster stuffed toys or bedding in this state shall be made in writing on forms

provided by the superintendent of ~~industrial compliance~~ labor. The 48581
application shall be accompanied by a registration fee of fifty 48582
dollars per person unless the applicant engages only in 48583
renovation, in which case the registration fee shall be 48584
thirty-five dollars. 48585

(B) Upon receipt of the application and the appropriate fee, 48586
the superintendent shall register the applicant and assign a 48587
registration number to the registrant. 48588

(C) Notwithstanding section 3713.02 of the Revised Code and 48589
division (A) of this section, the following are exempt from 48590
registration: 48591

(1) An organization described in section 501(c)(3) of the 48592
"Internal Revenue Code of 1986," and exempt from income tax under 48593
section 501(a) of that code and that is operated exclusively to 48594
provide recreation or social services; 48595

(2) A person who is not regularly engaged in the business of 48596
manufacturing, making, wholesaling, or importing stuffed toys but 48597
who manufactures or makes stuffed toys as a leisure pursuit and 48598
who sells one hundred or fewer stuffed toys within one calendar 48599
year; 48600

(3) A person who is not regularly engaged in the business of 48601
manufacturing, making, wholesaling, or importing quilts, 48602
comforters, pillows, or cushions, but who manufactures or makes 48603
these items as a leisure pursuit and who sells five or fewer 48604
quilts, ten or fewer comforters, or twenty or fewer pillows or 48605
cushions within one calendar year. 48606

(D) Notwithstanding division (C)(2) or (3) of this section, a 48607
person exempt under that division must attach a label to each 48608
stuffed toy that contains all of the following information: 48609

(1) The person's name and address; 48610

(2) A statement that the person is not registered by the 48611
state of Ohio; 48612

(3) A statement that the contents of the product have not 48613
been inspected. 48614

Sec. 3713.06. (A) Any person required to register under 48615
division (A) of section 3713.02 of the Revised Code who imports 48616
bedding or stuffed toys into this state for retail sale or use in 48617
this state and any person required to register under division (A) 48618
of section 3713.02 of the Revised Code who manufactures bedding or 48619
stuffed toys in this state for retail sale or use in this state 48620
shall submit a report to the superintendent of ~~industrial~~ 48621
~~compliance~~ labor, in a form and manner prescribed by the 48622
superintendent. The form shall be submitted once every six months 48623
and shall show the total number of items of bedding or stuffed 48624
toys imported into this state or manufactured in this state. Each 48625
report shall be accompanied by a fee of four cents for each item 48626
of bedding or stuffed toy imported into this state or manufactured 48627
in this state. 48628

(B) Every importer, manufacturer, or wholesaler of stuffed 48629
toys or articles of bedding, and every mobile home and 48630
recreational vehicle dealer, conversion van dealer, secondhand 48631
dealer, and auction house shall retain records, designated by the 48632
superintendent in rule, for the time period established in rule. 48633

(C) Every importer, manufacturer, or wholesaler of stuffed 48634
toys or articles of bedding, and every mobile home and 48635
recreational vehicle dealer, conversion van dealer, secondhand 48636
dealer, and auction house shall make sufficient investigation of 48637
its records to ensure that the information reported to the 48638
superintendent under division (A) of this section is accurate. 48639

Sec. 3713.07. (A) Registration obtained under this chapter 48640

expires annually on the last day of the month in the month that 48641
the registration was obtained. The superintendent of ~~industrial~~ 48642
~~compliance~~ labor shall renew the registration in accordance with 48643
Chapter 4745. of the Revised Code. 48644

(B) Failure on the part of any registrant to renew 48645
registration prior to its expiration, when notified as required in 48646
this section, shall not deprive the person of the right to renewal 48647
within the ninety days that follow expiration, but the fee to be 48648
paid for renewal after its expiration shall be one hundred dollars 48649
plus the standard registration fee for the registrant. 48650

(C) If a registrant fails to renew registration within ninety 48651
days of the date that it expired, the former registrant shall 48652
comply with the registration requirements under section 3713.05 of 48653
the Revised Code to obtain valid registration. 48654

Sec. 3713.08. (A) All persons required to register under 48655
division (A) of section 3713.02 of the Revised Code manufacturing, 48656
making, or wholesaling bedding or stuffed toys, or both, that are 48657
sold or offered for sale shall have the material content of their 48658
products tested and analyzed at an established laboratory 48659
designated by the superintendent of ~~industrial compliance~~ labor 48660
before the bedding or stuffed toys are sold or offered for sale. 48661

(B) Every stuffed toy or item of bedding sold or offered for 48662
sale shall have a label affixed to it that reports the contents of 48663
the stuffed toy or bedding material in conformity with 48664
requirements established by the superintendent, a registration 48665
number, and any other identifying information as required by the 48666
superintendent. 48667

(C) The seller of any secondhand articles of bedding or 48668
stuffed toys shall sanitize all items in accordance with rules 48669
established by the superintendent prior to the sale of or the 48670
offering for sale of any secondhand articles. 48671

(D) This section does not apply to any of the following:	48672
(1) Persons who meet the qualifications of division (C)(2) or	48673
(3) of section 3713.05 of the Revised Code;	48674
(2) The sale of furniture more than fifty years old;	48675
(3) The sale of furniture from the home of the owner directly	48676
to the purchaser.	48677
Sec. 3713.09. (A) The superintendent of industrial compliance	48678
<u>labor</u> may appoint inspectors and periodically inspect and	48679
investigate any establishment where bedding or stuffed toys are	48680
manufactured, made, remade, renovated, repaired, sanitized, sold,	48681
or offered for sale, or where previously used material is	48682
processed for use in the manufacture of bedding or stuffed toys.	48683
(1) Each inspector shall make a written report to the	48684
superintendent of each examination and inspection complete with	48685
the inspector's findings and recommendations. Inspectors may place	48686
"off sale" any article of bedding or stuffed toy offered for sale,	48687
or found in the possession of any person with the intent to sell,	48688
in violation of section 3713.02 of the Revised Code. Inspectors	48689
shall perform other duties related to inspection and examination	48690
as prescribed by the superintendent.	48691
(2) When articles are placed "off sale" under division (A)(1)	48692
of this section, they shall be tagged, and the tag shall not be	48693
removed except by an authorized representative of the division of	48694
industrial compliance <u>labor</u> after the violator demonstrates to the	48695
satisfaction of the superintendent proof of compliance with the	48696
requirements of section 3713.08 of the Revised Code.	48697
(B)(1) When an inspector has cause to believe that any	48698
bedding or stuffed toy is not tagged or labeled in accordance with	48699
section 3713.08 of the Revised Code, the inspector may open any	48700
seam of the bedding or stuffed toy in question to examine the	48701

material used or contained within it and take a reasonable amount 48702
of the material for testing and analysis and, if necessary, 48703
examine any and all purchase records in order to determine the 48704
contents or the kind of material used in the bedding or stuffed 48705
toy in question. An inspector may seize and hold evidence of any 48706
article of bedding, stuffed toy, or material manufactured, made, 48707
possessed, renovated, remade, or repaired, sold, or offered for 48708
sale contrary to this chapter. 48709

(2) Immediately after seizing articles believed to be in 48710
violation of this chapter, the inspector immediately shall report 48711
the seizure to the superintendent. The superintendent shall hold a 48712
hearing in accordance with Chapter 119. of the Revised Code or 48713
make a ruling in the matter. If the superintendent finds that the 48714
article of bedding, stuffed toy, or material is not in violation 48715
of this chapter, the superintendent shall order the item or items 48716
returned to the owner. If the superintendent finds a violation of 48717
this chapter, the superintendent may do either of the following: 48718

(a) Return the articles to the owner for proper treatment, 48719
tagging or labeling, or other action as ordered by the 48720
superintendent, subject to the requirement that the articles be 48721
reinspected at cost to the owner, prior to being sold or offered 48722
for sale; 48723

(b) Report the violation to the appropriate prosecuting 48724
attorney or city law director. 48725

(C) The superintendent, at reasonable times and upon 48726
reasonable notice, may examine or cause to be examined the records 48727
of any importer, manufacturer, or wholesaler of stuffed toys or 48728
articles of bedding, mobile home and recreational vehicle dealer, 48729
conversion van dealer, secondhand dealer, or auction house to 48730
determine compliance with this chapter. The superintendent may 48731
enter into contracts, pursuant to procedures prescribed by the 48732
superintendent, with persons to examine these records to determine 48733

compliance with this chapter. These persons may collect and remit 48734
to the superintendent any amounts due under this chapter. 48735

(D) Records audited pursuant to division (C) of this section 48736
are confidential and shall not be disclosed except as required by 48737
section 149.43 of the Revised Code, or as the superintendent finds 48738
necessary for the proper administration of this chapter. 48739

(E) In the case of any investigation or examination, or both, 48740
that requires investigation or examination outside of this state 48741
of any importer, manufacturer, or wholesaler of stuffed toys or 48742
articles of bedding, or of any mobile home or recreational vehicle 48743
dealer, conversion van dealer, secondhand dealer, or auction 48744
house, the superintendent may require the investigated or examined 48745
person to pay the actual expense of the investigation or 48746
examination. The superintendent shall provide an itemized 48747
statement of actual expenses to the investigated or examined 48748
person. 48749

(F) Whenever the superintendent has reason to believe, from 48750
the superintendent's own information, upon complaint, or 48751
otherwise, that any person has engaged in, is engaging in, or is 48752
about to engage in any practice prohibited by this chapter, or 48753
when the superintendent has reason to believe that it is necessary 48754
for public health and safety, the superintendent may do any of the 48755
following: 48756

(1) Investigate violations of this chapter, and for that 48757
purpose, may subpoena witnesses in connection with the 48758
investigation. The superintendent may make application to the 48759
appropriate court of common pleas for an order enjoining the 48760
violation of this chapter, and upon a showing by the 48761
superintendent that any registrant or person acting in a manner 48762
that requires registration has violated or is about to violate 48763
this chapter, an injunction, restraining order, or other order as 48764
may be appropriate shall be granted by the court. 48765

(2) Compel by subpoena the attendance of witnesses to testify 48766
in relation to any matter over which the superintendent has 48767
jurisdiction and that is the subject of inquiry and investigation 48768
by the superintendent, and require the production of any book, 48769
paper, or document pertaining to the matter. In case any person 48770
fails to file any statement or report, obey any subpoena, give 48771
testimony, or produce any books, records, or papers as required by 48772
a subpoena, the court of common pleas of any county in the state, 48773
upon application made to it by the superintendent, shall compel 48774
obedience by attachment proceedings for contempt. 48775

(3) Suspend or revoke the registration of any importer, 48776
manufacturer, or wholesaler of stuffed toys or articles of 48777
bedding, mobile home or recreational vehicle dealer, conversion 48778
van dealer, secondhand dealer, or auction house; 48779

(4) Submit evidence of the violation or violations to any 48780
city prosecutor, city director of law, or prosecuting attorney 48781
with authority to prosecute. If the city prosecutor, city director 48782
of law, or prosecuting attorney with authority to prosecute fails 48783
to prosecute, the superintendent shall submit the evidence to the 48784
attorney general who may proceed with the prosecution. 48785

Sec. 3713.10. All money collected under this chapter shall be 48786
deposited into the state treasury to the credit of the ~~industrial~~ 48787
~~compliance~~ labor operating fund created under section 121.084 of 48788
the Revised Code. 48789

Sec. 3714.07. (A)(1) For the purpose of assisting boards of 48790
health and the environmental protection agency in administering 48791
and enforcing this chapter and rules adopted under it, there is 48792
hereby levied on the disposal of construction and demolition 48793
debris at a construction and demolition debris facility that is 48794
licensed under this chapter or at a solid waste facility that is 48795

licensed under Chapter 3734. of the Revised Code a fee of thirty 48796
cents per cubic yard or sixty cents per ton, as applicable. 48797

(2) The owner or operator of a construction and demolition 48798
debris facility or a solid waste facility shall determine if cubic 48799
yards or tons will be used as the unit of measurement. In 48800
estimating the fee based on cubic yards, the owner or operator 48801
shall utilize either the maximum cubic yard capacity of the 48802
container, or the hauling volume of the vehicle, that transports 48803
the construction and demolition debris to the facility or the 48804
cubic yards actually logged for disposal by the owner or operator 48805
in accordance with rules adopted under section 3714.02 of the 48806
Revised Code. If basing the fee on tonnage, the owner or operator 48807
shall use certified scales to determine the tonnage of 48808
construction and demolition debris that is transported to the 48809
facility for disposal. 48810

(3) The owner or operator of a construction and demolition 48811
debris facility or a solid waste facility shall collect the fee 48812
levied under division (A) of this section as a trustee for the 48813
health district having jurisdiction over the facility, if that 48814
district is on the approved list under section 3714.09 of the 48815
Revised Code, or for the state. The owner or operator shall 48816
prepare and file with the appropriate board of health or the 48817
director of environmental protection monthly returns indicating 48818
the total volume or weight, as applicable, of construction and 48819
demolition debris received for disposal at the facility and the 48820
total amount of money required to be collected on the construction 48821
and demolition debris disposed of during that month. Not later 48822
than thirty days after the last day of the month to which the 48823
return applies, the owner or operator shall mail to the board of 48824
health or the director the return for that month together with the 48825
money required to be collected on the construction and demolition 48826
debris disposed of during that month or may submit the return and 48827

money electronically in a manner approved by the director. The 48828
owner or operator may request, in writing, an extension of not 48829
more than thirty days after the last day of the month to which the 48830
return applies. A request for extension may be denied. If the 48831
owner or operator submits the money late, the owner or operator 48832
shall pay a penalty of ten per cent of the amount of the money due 48833
for each month that it is late. 48834

(4) Of the money that is collected from a construction and 48835
demolition debris facility or a solid waste facility on a per 48836
cubic yard or per ton basis under this section, a board of health 48837
shall transmit three cents per cubic yard or six cents per ton, as 48838
applicable, to the director not later than forty-five days after 48839
the receipt of the money. The money retained by a board of health 48840
under this section shall be paid into a special fund, which is 48841
hereby created in each health district, and used solely to 48842
administer and enforce this chapter and rules adopted under it. 48843

The director shall transmit all money received from the 48844
boards of health of health districts under this section and all 48845
money from the disposal fee collected by the director under this 48846
section to the treasurer of state to be credited to the 48847
construction and demolition debris facility oversight fund, which 48848
is hereby created in the state treasury. The fund shall be 48849
administered by the director, and money credited to the fund shall 48850
be used exclusively for the administration and enforcement of this 48851
chapter and rules adopted under it. 48852

(B) The board of health of a health district or the director 48853
may enter into an agreement with the owner or operator of a 48854
construction and demolition debris facility or a solid waste 48855
facility for the quarterly payment of the money collected from the 48856
disposal fee. The board of health shall notify the director of any 48857
such agreement. Not later than forty-five days after receipt of 48858
the quarterly payment, the board of health shall transmit the 48859

amount established in division (A)(4) of this section to the 48860
director. The money retained by the board of health shall be 48861
deposited in the special fund of the district as required under 48862
that division. Upon receipt of the money from a board of health, 48863
the director shall transmit the money to the treasurer of state to 48864
be credited to the construction and demolition debris facility 48865
oversight fund. 48866

(C) If a construction and demolition debris facility or a 48867
solid waste facility is located within the territorial boundaries 48868
of a municipal corporation or the unincorporated area of a 48869
township, the municipal corporation or township may appropriate up 48870
to four cents per cubic yard or up to eight cents per ton of the 48871
disposal fee required to be paid by the facility under division 48872
(A) of this section for the same purposes that a municipal 48873
corporation or township may levy a fee under division (C) of 48874
section 3734.57 of the Revised Code. 48875

The legislative authority of the municipal corporation or 48876
township may appropriate the money from the fee by enacting an 48877
ordinance or adopting a resolution establishing the amount of the 48878
fee to be appropriated. Upon doing so, the legislative authority 48879
shall mail a certified copy of the ordinance or resolution to the 48880
board of health of the health district in which the construction 48881
and demolition debris facility or the solid waste facility is 48882
located or, if the facility is located in a health district that 48883
is not on the approved list under section 3714.09 of the Revised 48884
Code, to the director. Upon receipt of the copy of the ordinance 48885
or resolution and not later than forty-five days after receipt of 48886
money collected from the fee, the board or the director, as 48887
applicable, shall transmit to the treasurer or other appropriate 48888
officer of the municipal corporation or clerk of the township that 48889
portion of the money collected from the disposal fee by the owner 48890
or operator of the facility that is required by the ordinance or 48891

resolution to be paid to that municipal corporation or township. 48892

Money received by the treasurer or other appropriate officer 48893
of a municipal corporation under this division shall be paid into 48894
the general fund of the municipal corporation. Money received by 48895
the clerk of a township under this division shall be paid into the 48896
general fund of the township. The treasurer or other officer of 48897
the municipal corporation or the clerk of the township, as 48898
appropriate, shall maintain separate records of the money received 48899
under this division. 48900

The legislative authority of a municipal corporation or 48901
township may cease collecting money under this division by 48902
repealing the ordinance or resolution that was enacted or adopted 48903
under this division. 48904

The director shall adopt rules in accordance with Chapter 48905
119. of the Revised Code establishing requirements for prorating 48906
the amount of the fee that may be appropriated under this division 48907
by a municipal corporation or township in which only a portion of 48908
a construction and demolition debris facility is located within 48909
the territorial boundaries of the municipal corporation or 48910
township. 48911

(D) The board of county commissioners of a county in which a 48912
construction and demolition debris facility or a solid waste 48913
facility is located may appropriate up to three cents per cubic 48914
yard or up to six cents per ton of the disposal fee required to be 48915
paid by the facility under division (A) of this section for the 48916
same purposes that a solid waste management district may levy a 48917
fee under division (B) of section 3734.57 of the Revised Code. 48918

The board of county commissioners may appropriate the money 48919
from the fee by adopting a resolution establishing the amount of 48920
the fee to be appropriated. Upon doing so, the board of county 48921
commissioners shall mail a certified copy of the resolution to the 48922

board of health of the health district in which the construction 48923
and demolition debris facility or the solid waste facility is 48924
located or, if the facility is located in a health district that 48925
is not on the approved list under section 3714.09 of the Revised 48926
Code, to the director. Upon receipt of the copy of the resolution 48927
and not later than forty-five days after receipt of money 48928
collected from the fee, the board of health or the director, as 48929
applicable, shall transmit to the treasurer of the county that 48930
portion of the money collected from the disposal fee by the owner 48931
or operator of the facility that is required by the resolution to 48932
be paid to that county. 48933

Money received by a county treasurer under this division 48934
shall be paid into the general fund of the county. The county 48935
treasurer shall maintain separate records of the money received 48936
under this division. 48937

A board of county commissioners may cease collecting money 48938
under this division by repealing the resolution that was adopted 48939
under this division. 48940

(E)(1) This section does not apply to the disposal of 48941
construction and demolition debris at a solid waste facility that 48942
is licensed under Chapter 3734. of the Revised Code if there is no 48943
construction and demolition debris facility licensed under this 48944
chapter within thirty-five miles of the solid waste facility as 48945
determined by a facility's property boundaries. 48946

(2) This section does not apply to the disposal of 48947
construction and demolition debris at a solid waste facility that 48948
is licensed under Chapter 3734. of the Revised Code if the owner 48949
or operator of the facility chooses to collect fees on the 48950
disposal of the construction and demolition debris that are 48951
identical to the fees that are collected under Chapters 343. and 48952
3734. of the Revised Code on the disposal of solid wastes at that 48953
facility. 48954

(3) This section does not apply to the disposal of source 48955
separated materials that are exclusively composed of reinforced or 48956
nonreinforced concrete, asphalt, clay tile, building or paving 48957
brick, or building or paving stone at a construction and 48958
demolition debris facility that is licensed under this chapter 48959
when either of the following applies: 48960

(a) The materials are placed within the limits of 48961
construction and demolition debris placement at the facility as 48962
specified in the license issued to the facility under section 48963
3714.06 of the Revised Code, are not placed within the unloading 48964
zone of the facility, and are used as a fire prevention measure in 48965
accordance with rules adopted by the director under section 48966
3714.02 of the Revised Code. 48967

(b) The materials are not placed within the unloading zone of 48968
the facility or within the limits of construction and demolition 48969
debris placement at the facility as specified in the license 48970
issued to the facility under section 3714.06 of the Revised Code, 48971
but are used as fill material, either alone or in conjunction with 48972
clean soil, sand, gravel, or other clean aggregates, in legitimate 48973
fill operations for construction purposes at the facility or to 48974
bring the facility up to a consistent grade. 48975

Sec. 3714.073. (A) In addition to the fee levied under 48976
division (A)(1) of section 3714.07 of the Revised Code, beginning 48977
July 1, ~~2005~~ 2009, there is hereby levied on the disposal of 48978
construction and demolition debris at a construction and 48979
demolition debris facility that is licensed under this chapter or 48980
at a solid waste facility that is licensed under Chapter 3734. of 48981
the Revised Code the following fees: 48982

(1) A fee of ~~twelve~~ one dollar and ~~one-half~~ twenty-five cents 48983
per cubic yard or ~~twenty-five~~ two dollars and fifty cents per ton, 48984
as applicable, the proceeds of which shall be deposited in the 48985

state treasury to the credit of the soil and water conservation 48986
district assistance fund created in section 1515.14 of the Revised 48987
Code; 48988

(2) A fee of thirty-seven and one-half cents per cubic yard 48989
or seventy-five cents per ton, as applicable, the proceeds of 48990
which shall be deposited in the state treasury to the credit of 48991
the recycling and litter prevention fund created in section 48992
1502.02 of the Revised Code; 48993

(3) A fee of twenty-two and one-half cents per cubic yard or 48994
forty-five cents per ton, as applicable, the proceeds of which 48995
shall be deposited in the state treasury to the credit of the 48996
environmental protection fund created in section 3745.015 of the 48997
Revised Code. 48998

(B) The owner or operator of a construction and demolition 48999
debris facility or a solid waste facility, as a trustee of the 49000
state, shall collect the fees levied under this section and remit 49001
the money from the fees in the manner that is established in 49002
divisions (A)(2) and (3) of section 3714.07 of the Revised Code 49003
for the fee that is levied under division (A)(1) of that section 49004
and may enter into an agreement for the quarterly payment of the 49005
fees in the manner established in division (B) of that section for 49006
the quarterly payment of the fee that is levied under division 49007
(A)(1) of that section. 49008

(C) The money that is collected from a construction and 49009
demolition debris facility or a solid waste facility and remitted 49010
to a board of health or the director of environmental protection, 49011
as applicable, pursuant to this section shall be transmitted by 49012
the board or director to the treasurer of state not later than 49013
forty-five days after the receipt of the money to be credited to 49014
the soil and water conservation district assistance fund ~~or~~ the 49015
recycling and litter prevention fund, or the environmental 49016
protection fund, as applicable. 49017

(D) This section does not apply to the disposal of 49018
construction and demolition debris at a solid waste facility that 49019
is licensed under Chapter 3734. of the Revised Code if the owner 49020
or operator of the facility chooses to collect fees on the 49021
disposal of the construction and demolition debris that are 49022
identical to the fees that are collected under Chapters 343. and 49023
3734. of the Revised Code on the disposal of solid wastes at that 49024
facility. 49025

(E) This section does not apply to the disposal of source 49026
separated materials that are exclusively composed of reinforced or 49027
nonreinforced concrete, asphalt, clay tile, building or paving 49028
brick, or building or paving stone at a construction and 49029
demolition debris facility that is licensed under this chapter 49030
when either of the following applies: 49031

(1) The materials are placed within the limits of 49032
construction and demolition debris placement at the facility as 49033
specified in the license issued to the facility under section 49034
3714.06 of the Revised Code, are not placed within the unloading 49035
zone of the facility, and are used as a fire prevention measure in 49036
accordance with rules adopted by the director under section 49037
3714.02 of the Revised Code. 49038

(2) The materials are not placed within the unloading zone of 49039
the facility or within the limits of construction and demolition 49040
debris placement at the facility as specified in the license 49041
issued to the facility under section 3714.06 of the Revised Code, 49042
but are used as fill material, either alone or in conjunction with 49043
clean soil, sand, gravel, or other clean aggregates, in legitimate 49044
fill operations for construction purposes at the facility or to 49045
bring the facility up to a consistent grade. 49046

Sec. 3717.07. (A) For purposes of establishing a licensing 49047
fee under sections 3717.25 and 3717.45 of the Revised Code, all of 49048

the following apply: 49049

(1) The director of agriculture and the public health council 49050
shall adopt rules establishing a uniform methodologies methodology 49051
for use in calculating the costs of licensing retail food 49052
establishments in the categories specified by the director and. 49053

(2) The public health council shall adopt rules establishing 49054
a uniform methodology for use in calculating the costs of 49055
licensing food service operations in the categories specified by 49056
the council. ~~In~~ 49057

(3) In adopting the rules, the director of agriculture and 49058
the public health council shall consider any recommendations 49059
received from advisory boards or other entities representing the 49060
interests of retail food establishments and food service 49061
operations. 49062

(B) The rules shall include provisions that do all of the 49063
following: 49064

(1) Provide for calculations to be made according to fiscal 49065
years rather than licensing periods; 49066

(2) Limit the direct costs that may be attributed to the use 49067
of sanitarians by establishing appropriate statewide averages that 49068
may not be exceeded; 49069

(3) Limit the indirect costs that may be included in the 49070
calculation of fees to an amount that does not exceed thirty per 49071
cent of the cost of the licensing program; 49072

(4) Provide for a proportionate reduction in the fees to be 49073
charged if a licensor included anticipated costs in the 49074
immediately preceding calculation of licensing fees and the total 49075
amount of the anticipated costs was not incurred; 49076

(5) Provide for a proportionate reduction in the fees to be 49077
charged if it is discovered through an audit by the auditor of 49078

state or through any other means that the licensor has charged or 49079
is charging a licensing fee that exceeds the amount that should 49080
have been charged; 49081

(6) Provide for a twenty per cent reduction in the fees to be 49082
charged when the reduction is imposed as a penalty under division 49083
(C) of section 3717.071 of the Revised Code; 49084

(7) With regard to any fees charged for licensing vending 49085
machine locations, the rules shall prohibit a licensor from 49086
increasing fees by a percentage of increase over the previous 49087
year's fee that exceeds the percentage of increase in the consumer 49088
price index for all urban consumers (United States city average, 49089
all items), prepared by the United States department of labor, 49090
bureau of labor statistics, for the immediately preceding calendar 49091
year. 49092

Sec. 3717.23. (A) Each person or government entity seeking a 49093
retail food establishment license or the renewal of a license 49094
shall apply to the appropriate licensor on a form provided by the 49095
licensor. A licensor shall use a form prescribed and furnished to 49096
the licensor by the director of agriculture or a form prescribed 49097
by the licensor that has been approved by the director. The 49098
applicant shall include with the application all information 49099
necessary for the licensor to process the application, as 49100
requested by the licensor. 49101

An application for a retail food establishment license, other 49102
than an application for a mobile retail food establishment 49103
license, shall be submitted to the licensor for the health 49104
district in which the retail food establishment is located. An 49105
application for a mobile retail food establishment license shall 49106
be submitted to the licensor for the health district in which the 49107
applicant's business headquarters are located, or, if the 49108
headquarters are located outside this state, to the licensor for 49109

the district where the applicant will first operate in this state. 49110

(B) The licensor shall review all applications received. The 49111
licensor shall issue a license for a new retail food establishment 49112
when the applicant submits a complete application and the licensor 49113
determines that the applicant meets all other requirements of this 49114
chapter and the rules adopted under it for receiving the license. 49115
The licensor shall issue a renewed license on receipt of a 49116
complete renewal application. 49117

The licensor shall issue licenses for retail food 49118
establishments on forms prescribed and furnished by the director 49119
of agriculture. If the license is for a mobile retail food 49120
establishment, the licensor shall post the establishment's layout, 49121
equipment, and items to be sold on the back of the license. 49122

A mobile retail food establishment license issued by one 49123
licensor shall be recognized by all other licensors in this state. 49124

(C)(1) A retail food establishment license expires at the end 49125
of the licensing period for which the license is issued, except as 49126
follows: 49127

(a) A license issued to a new retail food establishment after 49128
the first day of December does not expire until the end of the 49129
licensing period next succeeding issuance of the license. 49130

(b) A temporary retail food establishment license expires at 49131
the end of the period for which it is issued. 49132

(2) All retail food establishment licenses remain valid until 49133
scheduled to expire unless earlier suspended or revoked under 49134
section 3717.29 or 3717.30 of the Revised Code. 49135

(D) A retail food establishment license may be renewed, 49136
except that a temporary retail food establishment license is not 49137
renewable. A person or government entity seeking license renewal 49138
shall submit an application for renewal to the licensor not later 49139

than the first day of March, except in the case of a mobile or 49140
seasonal retail food establishment, when the renewal application 49141
shall be submitted before commencing operation in a new licensing 49142
period. A licensor may renew a license prior to the first day of 49143
March or the first day of operation in a new licensing period, but 49144
not before the first day of February immediately preceding the 49145
licensing period for which the license is being renewed. 49146

If a person or government entity does not file a renewal 49147
application with the licensor postmarked on or before the first 49148
day of March or, in the case of a mobile or seasonal retail food 49149
establishment, the first day of operation in a new licensing 49150
period, the licensor shall assess a penalty if the licensor 49151
charges a license renewal fee. The amount of the penalty shall be 49152
the ~~lesser of fifty dollars or~~ greater of twenty-five per cent of 49153
the renewal fee charged for renewing the license, if the licensor 49154
~~charges renewal fees or ten per cent of the renewal fee multiplied~~ 49155
by the number of weeks that have elapsed since payment of the fee 49156
was due. If an applicant is subject to a penalty, the licensor 49157
shall not renew the license until the applicant pays the penalty. 49158

(E)(1) A licensor may issue not more than ten temporary 49159
retail food establishment licenses per licensing period to the 49160
same person or government entity to operate at different events 49161
within the licensor's jurisdiction. For each particular event, a 49162
licensor may issue only one temporary retail food establishment 49163
license to the same person or government entity. 49164

(2) A licensor may issue a temporary retail food 49165
establishment license to operate for more than five consecutive 49166
days if both of the following apply: 49167

(a) The establishment will be operated at an event organized 49168
by a county agricultural society or independent agricultural 49169
society organized under Chapter 1711. of the Revised Code. 49170

(b) The person who will receive the license is a resident of 49171
the county or one of the counties for which the agricultural 49172
society was organized. 49173

(3) A person may be granted only one temporary retail food 49174
establishment license per licensing period pursuant to division 49175
(E)(2) of this section. 49176

(F) The licensor may place restrictions or conditions on a 49177
retail food establishment license, based on the equipment or 49178
facilities of the establishment, limiting the types of food that 49179
may be stored, processed, prepared, manufactured, or otherwise 49180
held or handled for retail sale. Limitations pertaining to a 49181
mobile retail food establishment shall be posted on the back of 49182
the license. 49183

(G) The person or government entity holding a license for a 49184
retail food establishment shall display the license for that 49185
retail food establishment at all times at the licensed location. 49186

(H) With the assistance of the department of agriculture, the 49187
licensor, to the extent practicable, shall computerize the process 49188
for licensing retail food establishments. 49189

Sec. 3717.25. (A) A licensor may charge fees for issuing and 49190
renewing retail food establishment licenses. Any licensing fee 49191
charged shall be used solely for the administration and 49192
enforcement of the provisions of this chapter and the rules 49193
adopted under it applicable to retail food establishments. 49194

Any licensing fee charged under this section shall be based 49195
on the licensor's costs of regulating retail food establishments, 49196
as determined according to the uniform ~~methodologies~~ methodology 49197
established under section 3717.07 of the Revised Code. If the 49198
licensor is a board of health, a fee may be disapproved by the 49199
district advisory council in the case of a general health district 49200

or the legislative authority of the city in the case of a city 49201
health district. A disapproved fee shall not be charged by the 49202
board of health. 49203

~~At least thirty days prior to establishing~~ Except when a 49204
licensing fee is established as an emergency measure, the licensor 49205
shall hold a public hearing regarding the proposed fee. ~~At~~ If a 49206
public hearing is held, at least thirty ~~thirty~~ twenty days prior to the 49207
public hearing, the licensor shall give written notice of the 49208
hearing to each person or government entity holding a retail food 49209
establishment license that may be affected by the proposed fee. 49210
The notice shall be mailed to the last known address of the 49211
licensee and shall specify the date, time, and place of the 49212
hearing and the amount of the proposed fee. On request, the 49213
licensor shall provide the completed uniform methodology used in 49214
the calculation of the licensor's costs and the proposed fee. 49215

(B) In addition to licensing fees, a licensor may charge fees 49216
for any of the following: 49217

(1) Review of facility layout and equipment specifications 49218
pertaining to retail food establishments, other than mobile and 49219
temporary retail food establishments; 49220

(2) Any necessary collection and bacteriological examination 49221
of samples from retail food establishments or similar services 49222
specified in rules adopted under this chapter by the director of 49223
agriculture; 49224

(3) Attendance at a course of study offered by the licensor 49225
in food protection as it pertains to retail food establishments, 49226
if the course is approved under section 3717.09 of the Revised 49227
Code. 49228

(C)(1) The director may determine by rule an amount to be 49229
collected from applicants for retail food establishment licenses 49230
for use by the director in administering and enforcing the 49231

provisions of this chapter and the rules adopted under it 49232
applicable to retail food establishments. Licensors shall collect 49233
the amount prior to issuing an applicant's new or renewed license. 49234
If a licensing fee is charged under this section, the licensor 49235
shall collect the amount at the same time the fee is collected. 49236
Licensors are not required to provide notice or hold public 49237
hearings regarding amounts to be collected ~~under this division~~. 49238

~~Not later than sixty days after the last day of the month in 49239
which a license is issued, the 49240~~

(2) A licensor shall certify the amount collected under this 49241
division (C)(1) of this section and transmit the amount to the 49242
treasurer of state. All according to the following schedule: 49243

(a) For amounts received by the licensor on or after the 49244
first day of January but not later than the thirty-first day of 49245
March, transmit the amounts not later than the fifteenth day of 49246
May; 49247

(b) For amounts received by the licensor on or after the 49248
first day of April but not later than the thirtieth day of June, 49249
transmit the amounts not later than the fifteenth day of August; 49250

(c) For amounts received by the licensor on or after the 49251
first day of July but not later than the thirtieth day of 49252
September, transmit the amounts not later than the fifteenth day 49253
of November; 49254

(d) For amounts received by the licensor on or after the 49255
first day of October but not later than the thirty-first day of 49256
December, transmit the amounts not later than the fifteenth day of 49257
February of the following year. 49258

(3) All amounts received shall be deposited into the food 49259
safety fund created in section 915.24 of the Revised Code. The 49260
director shall use the amounts solely for the administration and 49261
enforcement of the provisions of this chapter and the rules 49262

adopted under it applicable to retail food establishments. 49263

(4) When adopting rules regarding the amounts collected under 49264
this division, the director shall make available during the rule 49265
making process the current and projected expenses of administering 49266
and enforcing the provisions of this chapter and the rules adopted 49267
under it applicable to retail food establishments and the total of 49268
all amounts that have been deposited in the food safety fund 49269
pursuant to ~~this~~ division (C)(3) of this section. 49270

Sec. 3717.43. (A) Each person or government entity requesting 49271
a food service operation license or the renewal of a license shall 49272
apply to the appropriate licensor on a form provided by the 49273
licensor. Licensors shall use a form prescribed and furnished to 49274
the licensor by the director of health or a form prescribed by the 49275
licensor that has been approved by the director. The applicant 49276
shall include with the application all information necessary for 49277
the licensor to process the application, as requested by the 49278
licensor. 49279

An application for a food service operation license, other 49280
than an application for a mobile or catering food service 49281
operation license, shall be submitted to the licensor for the 49282
health district in which the food service operation is located. An 49283
application for a mobile food service operation license shall be 49284
submitted to the licensor for the health district in which the 49285
applicant's business headquarters are located, or, if the 49286
headquarters are located outside this state, to the licensor for 49287
the district where the applicant will first operate in this state. 49288
An application for a catering food service operation license shall 49289
be submitted to the licensor for the district where the 49290
applicant's base of operation is located. 49291

(B) The licensor shall review all applications received. The 49292
licensor shall issue a license for a new food service operation 49293

when the applicant submits a complete application and the licensor 49294
determines that the applicant meets all other requirements of this 49295
chapter and the rules adopted under it for receiving the license. 49296
The licensor shall issue a renewed license on receipt of a 49297
complete renewal application. 49298

The licensor shall issue licenses for food service operations 49299
on forms prescribed and furnished by the director of health. If 49300
the license is for a mobile food service operation, the licensor 49301
shall post the operation's layout, equipment, and menu on the back 49302
of the license. 49303

A mobile or catering food service operation license issued by 49304
one licensor shall be recognized by all other licensors in this 49305
state. 49306

(C)(1) A food service operation license expires at the end of 49307
the licensing period for which the license is issued, except as 49308
follows: 49309

(a) A license issued to a new food service operation after 49310
the first day of December shall not expire until the end of the 49311
licensing period next succeeding issuance of the license. 49312

(b) A temporary food service operation license expires at the 49313
end of the period for which it is issued. 49314

(2) All food service operation licenses remain valid until 49315
they are scheduled to expire unless earlier suspended or revoked 49316
under section 3717.49 of the Revised Code. 49317

(D) A food service operation license may be renewed, except 49318
that a temporary food service operation license is not renewable. 49319
A person or government entity seeking license renewal shall submit 49320
an application for renewal to the licensor not later than the 49321
first day of March, except that in the case of a mobile or 49322
seasonal food service operation the renewal application shall be 49323
submitted before commencing operation in a new licensing period. A 49324

licensor may renew a license prior to the first day of March or 49325
the first day of operation in a new licensing period, but not 49326
before the first day of February immediately preceding the 49327
licensing period for which the license is being renewed. 49328

If a renewal application is not filed with the licensor or 49329
postmarked on or before the first day of March or, in the case of 49330
a mobile or seasonal food service operation, the first day of 49331
operation in a new licensing period, the licensor shall assess a 49332
penalty if the licensor charges a license renewal fee. The amount 49333
of the penalty shall be the ~~lesser of fifty dollars or~~ greater of 49334
twenty-five per cent of the renewal fee charged for renewing 49335
licenses, if the licensor charges renewal fees or ten per cent of 49336
the renewal fee multiplied by the number of weeks that have 49337
elapsed since payment of the fee was due. If an applicant is 49338
subject to a penalty, the licensor shall not renew the license 49339
until the applicant pays the penalty. 49340

(E)(1) A licensor may issue not more than ten temporary food 49341
service operation licenses per licensing period to the same person 49342
or government entity to operate at different events within the 49343
licensor's jurisdiction. For each particular event, a licensor may 49344
issue only one temporary food service operation license to the 49345
same person or government entity. 49346

(2) A licensor may issue a temporary food service operation 49347
license to operate for more than five consecutive days if both of 49348
the following apply: 49349

(a) The operation will be operated at an event organized by a 49350
county agricultural society or independent agricultural society 49351
organized under Chapter 1711. of the Revised Code; 49352

(b) The person who will receive the license is a resident of 49353
the county or one of the counties for which the agricultural 49354
society was organized. 49355

(3) A person may be granted only one temporary food service operation license per licensing period pursuant to division (E)(2) of this section.

(F) The licensor may place restrictions or conditions on a food service operation license limiting the types of food that may be prepared or served by the food service operation based on the equipment or facilities of the food service operation. Limitations pertaining to a mobile or catering food service operation shall be posted on the back of the license.

(G) The person or government entity holding a license for a food service operation shall display the license for that food service operation at all times at the licensed location. A person or government entity holding a catering food service operation license shall also maintain a copy of the license at each catered event.

(H) With the assistance of the department of health, the licensor, to the extent practicable, shall computerize the process for licensing food service operations.

Sec. 3717.45. (A) A licensor may charge fees for issuing and renewing food service operation licenses. Any licensing fee charged shall be used solely for the administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to food service operations.

Any licensing fee charged under this section shall be based on the licensor's costs of regulating food service operations, as determined according to the uniform ~~methodologies~~ methodology established under section 3717.07 of the Revised Code. If the licensor is a board of health, a fee may be disapproved by the district advisory council in the case of a general health district or the legislative authority of the city in the case of a city health district. A disapproved fee shall not be charged by the

board of health. 49387

~~At least thirty days prior to establishing~~ Except when a 49388
licensing fee is established as an emergency measure, the licensor 49389
shall hold a public hearing regarding the proposed fee. ~~At~~ If a 49390
public hearing is held, at least ~~thirty~~ twenty days prior to the 49391
public hearing, the licensor shall give written notice of the 49392
hearing to each person or government entity holding a food service 49393
operation license that may be affected by the proposed fee. The 49394
notice shall be mailed to the last known address of the licensee 49395
and shall specify the date, time, and place of the hearing and the 49396
amount of the proposed fee. On request, the licensor shall provide 49397
the completed uniform methodology used in the calculation of the 49398
licensor's costs and the proposed fee. 49399

(B) In addition to licensing fees, a licensor may charge fees 49400
for the following: 49401

(1) Review of facility layout and equipment specifications 49402
pertaining to food service operations, other than mobile and 49403
temporary food service operations, or similar reviews conducted 49404
for vending machine locations; 49405

(2) Any necessary collection and bacteriological examination 49406
of samples from food service operations, or similar services 49407
specified in rules adopted under this chapter by the public health 49408
council; 49409

(3) Attendance at a course of study offered by the licensor 49410
in food protection as it pertains to food service operations, if 49411
the course is approved under section 3717.09 of the Revised Code. 49412

(C)(1) The public health council may determine by rule an 49413
amount to be collected from applicants for food service operation 49414
licenses for use by the director of health in administering and 49415
enforcing the provisions of this chapter and the rules adopted 49416
under it applicable to food service operations. Licensors shall 49417

collect the amount prior to issuing an applicant's new or renewed license. If a licensing fee is charged under this section, the licensor shall collect the amount at the same time the fee is collected. Licensors are not required to provide notice or hold public hearings regarding amounts to be collected under this division.

~~Not later than sixty days after the last day of the month in which a license is issued, the~~

(2) A licensor shall certify the amount collected under this division (C)(1) of this section and transmit the amount to the treasurer of state. All according to the following schedule:

(a) For amounts received by the licensor on or after the first day of January but not later than the thirty-first day of March, transmit the amounts not later than the fifteenth day of May;

(b) For amounts received by the licensor on or after the first day of April but not later than the thirtieth day of June, transmit the amounts not later than the fifteenth day of August;

(c) For amounts received by the licensor on or after the first day of July but not later than the thirtieth day of September, transmit the amounts not later than the fifteenth day of November;

(d) For amounts received by the licensor on or after the first day of October but not later than the thirty-first day of December, transmit the amounts not later than the fifteenth day of February of the following year.

(3) All amounts received shall be deposited into the general operations fund created in section 3701.83 of the Revised Code. The director shall use the amounts solely for the administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to food service operations.

(4) The director may submit recommendations to the public health council regarding the amounts collected under this division. When making recommendations, the director shall submit a report stating the current and projected expenses of administering and enforcing the provisions of this chapter and the rules adopted under it applicable to food service operations and the total of all amounts that have been deposited in the general operations fund pursuant to ~~this~~ division (C)(3) of this section. The director may include in the report any recommendations for modifying the department's administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to food service operations.

Sec. 3718.06. (A)(1) A board of health shall establish fees in accordance with section 3709.09 of the Revised Code for the purpose of carrying out its duties under this chapter and rules adopted under it, including a fee for an installation permit issued by the board. All fees so established and collected by the board shall be deposited in a special fund of the district to be used exclusively by the board in carrying out those duties.

(2) In accordance with Chapter 119. of the Revised Code, the public health council may establish by rule a fee to be collected from applicants for installation permits issued under rules adopted under this chapter. The director of health shall use the proceeds from that fee for administering and enforcing this chapter and the rules adopted under it by the council. A board of health shall collect and transmit the fee ~~at the same time that it collects the fee established by it under division (A)(1) of this section for installation permits.~~

~~Not later than sixty days after the last day of the month in which an installation permit is issued, a board shall certify the amount collected under division (A)(2) of this section and~~

~~transmit the amount to the treasurer of state. All money so~~ 49480
~~received shall be deposited in the state treasury to the credit of~~ 49481
~~the general operations fund created in section 3701.83 of the~~ 49482
~~Revised Code to the director pursuant to section 3709.092 of the~~ 49483
~~Revised Code.~~ The director shall use the money so credited solely 49484
for the administration and enforcement of this chapter and the 49485
rules adopted under it by the public health council. 49486

(B) The director may submit recommendations to the council 49487
regarding the amount of the fee collected under division (A)(2) of 49488
this section for installation permits. When making the 49489
recommendations, the director shall submit a report stating the 49490
current and projected expenses of administering and enforcing this 49491
chapter and the rules adopted under it by the council and the 49492
total of all money that has been deposited to the credit of the 49493
general operations fund under division (A)(2) of this section. The 49494
director may include in the report any recommendations for 49495
modifying the requirements established under this chapter and the 49496
rules adopted under it by the council. 49497

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 49498
3721.99 of the Revised Code: 49499

(1)(a) "Home" means an institution, residence, or facility 49500
that provides, for a period of more than twenty-four hours, 49501
whether for a consideration or not, accommodations to three or 49502
more unrelated individuals who are dependent upon the services of 49503
others, including a nursing home, residential care facility, home 49504
for the aging, and a veterans' home operated under Chapter 5907. 49505
of the Revised Code. 49506

(b) "Home" also means both of the following: 49507

(i) Any facility that a person, as defined in section 3702.51 49508
of the Revised Code, proposes for certification as a skilled 49509
nursing facility or nursing facility under Title XVIII or XIX of 49510

the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 49511
as amended, and for which a certificate of need, other than a 49512
certificate to recategorize hospital beds as described in section 49513
3702.522 of the Revised Code or division (R)(7)(d) of the version 49514
of section 3702.51 of the Revised Code in effect immediately prior 49515
to April 20, 1995, has been granted to the person under sections 49516
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 49517

(ii) A county home or district home that is or has been 49518
licensed as a residential care facility. 49519

(c) "Home" does not mean any of the following: 49520

(i) Except as provided in division (A)(1)(b) of this section, 49521
a public hospital or hospital as defined in section 3701.01 or 49522
5122.01 of the Revised Code; 49523

(ii) A residential facility for mentally ill persons as 49524
defined under section 5119.22 of the Revised Code; 49525

(iii) A residential facility as defined in section 5123.19 of 49526
the Revised Code; 49527

~~(iv) A community alternative home as defined in section 49528
3724.01 of the Revised Code;~~ 49529

~~(v) An adult care facility as defined in section 3722.01 of 49530
the Revised Code;~~ 49531

~~(vi)~~(v) An alcohol or drug addiction program as defined in 49532
section 3793.01 of the Revised Code; 49533

~~(vii)~~(vi) A facility licensed to provide methadone treatment 49534
under section 3793.11 of the Revised Code; 49535

~~(viii)~~(vii) A facility providing services under contract with 49536
the department of mental retardation and developmental 49537
disabilities under section 5123.18 of the Revised Code; 49538

~~(ix)~~(viii) A facility operated by a hospice care program 49539
licensed under section 3712.04 of the Revised Code that is used 49540

exclusively for care of hospice patients; 49541

~~(*)~~(ix) A facility, infirmary, or other entity that is 49542
operated by a religious order, provides care exclusively to 49543
members of religious orders who take vows of celibacy and live by 49544
virtue of their vows within the orders as if related, and does not 49545
participate in the medicare program established under Title XVIII 49546
of the "Social Security Act" or the medical assistance program 49547
established under Chapter 5111. of the Revised Code and Title XIX 49548
of the "Social Security Act," if on January 1, 1994, the facility, 49549
infirmary, or entity was providing care exclusively to members of 49550
the religious order; 49551

~~(xi)~~(x) A county home or district home that has never been 49552
licensed as a residential care facility. 49553

(2) "Unrelated individual" means one who is not related to 49554
the owner or operator of a home or to the spouse of the owner or 49555
operator as a parent, grandparent, child, grandchild, brother, 49556
sister, niece, nephew, aunt, uncle, or as the child of an aunt or 49557
uncle. 49558

(3) "Mental impairment" does not mean mental illness as 49559
defined in section 5122.01 of the Revised Code or mental 49560
retardation as defined in section 5123.01 of the Revised Code. 49561

(4) "Skilled nursing care" means procedures that require 49562
technical skills and knowledge beyond those the untrained person 49563
possesses and that are commonly employed in providing for the 49564
physical, mental, and emotional needs of the ill or otherwise 49565
incapacitated. "Skilled nursing care" includes, but is not limited 49566
to, the following: 49567

(a) Irrigations, catheterizations, application of dressings, 49568
and supervision of special diets; 49569

(b) Objective observation of changes in the patient's 49570
condition as a means of analyzing and determining the nursing care 49571

required and the need for further medical diagnosis and treatment; 49572

(c) Special procedures contributing to rehabilitation; 49573

(d) Administration of medication by any method ordered by a 49574
physician, such as hypodermically, rectally, or orally, including 49575
observation of the patient after receipt of the medication; 49576

(e) Carrying out other treatments prescribed by the physician 49577
that involve a similar level of complexity and skill in 49578
administration. 49579

(5)(a) "Personal care services" means services including, but 49580
not limited to, the following: 49581

(i) Assisting residents with activities of daily living; 49582

(ii) Assisting residents with self-administration of 49583
medication, in accordance with rules adopted under section 3721.04 49584
of the Revised Code; 49585

(iii) Preparing special diets, other than complex therapeutic 49586
diets, for residents pursuant to the instructions of a physician 49587
or a licensed dietitian, in accordance with rules adopted under 49588
section 3721.04 of the Revised Code. 49589

(b) "Personal care services" does not include "skilled 49590
nursing care" as defined in division (A)(4) of this section. A 49591
facility need not provide more than one of the services listed in 49592
division (A)(5)(a) of this section to be considered to be 49593
providing personal care services. 49594

(6) "Nursing home" means a home used for the reception and 49595
care of individuals who by reason of illness or physical or mental 49596
impairment require skilled nursing care and of individuals who 49597
require personal care services but not skilled nursing care. A 49598
nursing home is licensed to provide personal care services and 49599
skilled nursing care. 49600

(7) "Residential care facility" means a home that provides 49601

either of the following: 49602

(a) Accommodations for seventeen or more unrelated 49603
individuals and supervision and personal care services for three 49604
or more of those individuals who are dependent on the services of 49605
others by reason of age or physical or mental impairment; 49606

(b) Accommodations for three or more unrelated individuals, 49607
supervision and personal care services for at least three of those 49608
individuals who are dependent on the services of others by reason 49609
of age or physical or mental impairment, and, to at least one of 49610
those individuals, any of the skilled nursing care authorized by 49611
section 3721.011 of the Revised Code. 49612

(8) "Home for the aging" means a home that provides services 49613
as a residential care facility and a nursing home, except that the 49614
home provides its services only to individuals who are dependent 49615
on the services of others by reason of both age and physical or 49616
mental impairment. 49617

The part or unit of a home for the aging that provides 49618
services only as a residential care facility is licensed as a 49619
residential care facility. The part or unit that may provide 49620
skilled nursing care beyond the extent authorized by section 49621
3721.011 of the Revised Code is licensed as a nursing home. 49622

(9) "County home" and "district home" mean a county home or 49623
district home operated under Chapter 5155. of the Revised Code. 49624

(B) The public health council may further classify homes. For 49625
the purposes of this chapter, any residence, institution, hotel, 49626
congregate housing project, or similar facility that meets the 49627
definition of a home under this section is such a home regardless 49628
of how the facility holds itself out to the public. 49629

(C) For purposes of this chapter, personal care services or 49630
skilled nursing care shall be considered to be provided by a 49631
facility if they are provided by a person employed by or 49632

associated with the facility or by another person pursuant to an 49633
agreement to which neither the resident who receives the services 49634
nor the resident's sponsor is a party. 49635

(D) Nothing in division (A)(4) of this section shall be 49636
construed to permit skilled nursing care to be imposed on an 49637
individual who does not require skilled nursing care. 49638

Nothing in division (A)(5) of this section shall be construed 49639
to permit personal care services to be imposed on an individual 49640
who is capable of performing the activity in question without 49641
assistance. 49642

(E) Division (A)(1)(c)~~(*)~~(ix) of this section does not 49643
prohibit a facility, infirmary, or other entity described in that 49644
division from seeking licensure under sections 3721.01 to 3721.09 49645
of the Revised Code or certification under Title XVIII or XIX of 49646
the "Social Security Act." However, such a facility, infirmary, or 49647
entity that applies for licensure or certification must meet the 49648
requirements of those sections or titles and the rules adopted 49649
under them and obtain a certificate of need from the director of 49650
health under section 3702.52 of the Revised Code. 49651

(F) Nothing in this chapter, or rules adopted pursuant to it, 49652
shall be construed as authorizing the supervision, regulation, or 49653
control of the spiritual care or treatment of residents or 49654
patients in any home who rely upon treatment by prayer or 49655
spiritual means in accordance with the creed or tenets of any 49656
recognized church or religious denomination. 49657

Sec. 3721.02. (A) The director of health shall license homes 49658
and establish procedures to be followed in inspecting and 49659
licensing homes. The director may inspect a home at any time. Each 49660
home shall be inspected by the director at least once prior to the 49661
issuance of a license and at least once every fifteen months 49662
thereafter. The state fire marshal or a township, municipal, or 49663

other legally constituted fire department approved by the marshal 49664
shall also inspect a home prior to issuance of a license, at least 49665
once every fifteen months thereafter, and at any other time 49666
requested by the director. A home does not have to be inspected 49667
prior to issuance of a license by the director, state fire 49668
marshal, or a fire department if ownership of the home is assigned 49669
or transferred to a different person and the home was licensed 49670
under this chapter immediately prior to the assignment or 49671
transfer. The director may enter at any time, for the purposes of 49672
investigation, any institution, residence, facility, or other 49673
structure that has been reported to the director or that the 49674
director has reasonable cause to believe is operating as a nursing 49675
home, residential care facility, or home for the aging without a 49676
valid license required by section 3721.05 of the Revised Code or, 49677
in the case of a county home or district home, is operating 49678
despite the revocation of its residential care facility license. 49679
The director may delegate the director's authority and duties 49680
under this chapter to any division, bureau, agency, or official of 49681
the department of health. 49682

(B) A single facility may be licensed both as a nursing home 49683
pursuant to this chapter and as an adult care facility pursuant to 49684
Chapter 3722. of the Revised Code if the director determines that 49685
the part or unit to be licensed as a nursing home can be 49686
maintained separate and discrete from the part or unit to be 49687
licensed as an adult care facility. 49688

(C) In determining the number of residents in a home for the 49689
purpose of licensing, the director shall consider all the 49690
individuals for whom the home provides accommodations as one group 49691
unless one of the following is the case: 49692

(1) The home is a home for the aging, in which case all the 49693
individuals in the part or unit licensed as a nursing home shall 49694
be considered as one group, and all the individuals in the part or 49695

unit licensed as a rest home shall be considered as another group. 49696

(2) The home is both a nursing home and an adult care 49697
facility. In that case, all the individuals in the part or unit 49698
licensed as a nursing home shall be considered as one group, and 49699
all the individuals in the part or unit licensed as an adult care 49700
facility shall be considered as another group. 49701

(3) The home maintains, in addition to a nursing home or 49702
residential care facility, a separate and discrete part or unit 49703
that provides accommodations to individuals who do not require or 49704
receive skilled nursing care and do not receive personal care 49705
services from the home, in which case the individuals in the 49706
separate and discrete part or unit shall not be considered in 49707
determining the number of residents in the home if the separate 49708
and discrete part or unit is in compliance with the Ohio basic 49709
building code established by the board of building standards under 49710
Chapters 3781. and 3791. of the Revised Code and the home permits 49711
the director, on request, to inspect the separate and discrete 49712
part or unit and speak with the individuals residing there, if 49713
they consent, to determine whether the separate and discrete part 49714
or unit meets the requirements of this division. 49715

(D)(1) The director of health shall charge ~~an~~ the following 49716
application fee and ~~an~~ annual renewal licensing and inspection fee 49717
~~of one hundred seventy dollars~~ for each fifty persons or part 49718
thereof of a home's licensed capacity: 49719

(a) For state fiscal year 2010, two hundred twenty dollars; 49720

(b) For state fiscal year 2011, two hundred seventy dollars; 49721

(c) For each state fiscal year thereafter, three hundred 49722
twenty dollars. ~~All~~ 49723

(2) All fees collected by the director for the issuance or 49724
renewal of licenses shall be deposited into the state treasury to 49725
the credit of the general operations fund created in section 49726

3701.83 of the Revised Code for use only in administering and 49727
enforcing this chapter and rules adopted under it. 49728

(E)(1) Except as otherwise provided in this section, the 49729
results of an inspection or investigation of a home that is 49730
conducted under this section, including any statement of 49731
deficiencies and all findings and deficiencies cited in the 49732
statement on the basis of the inspection or investigation, shall 49733
be used solely to determine the home's compliance with this 49734
chapter or another chapter of the Revised Code in any action or 49735
proceeding other than an action commenced under division (I) of 49736
section 3721.17 of the Revised Code. Those results of an 49737
inspection or investigation, that statement of deficiencies, and 49738
the findings and deficiencies cited in that statement shall not be 49739
used in any court or in any action or proceeding that is pending 49740
in any court and are not admissible in evidence in any action or 49741
proceeding unless that action or proceeding is an appeal of an 49742
action by the department of health under this chapter or is an 49743
action by any department or agency of the state to enforce this 49744
chapter or another chapter of the Revised Code. 49745

(2) Nothing in division (E)(1) of this section prohibits the 49746
results of an inspection or investigation conducted under this 49747
section from being used in a criminal investigation or 49748
prosecution. 49749

Sec. 3721.071. The buildings in which a home is housed shall 49750
be equipped with both an automatic fire extinguishing system and 49751
fire alarm system. Such systems shall conform to standards set 49752
forth in the regulations of the board of building standards and 49753
the state fire marshal. 49754

The time for compliance with the requirements imposed by this 49755
section shall be January 1, 1975, except that the date for 49756
compliance with the automatic fire extinguishing requirements is 49757

extended to January 1, 1976, provided the buildings of the home 49758
are otherwise in compliance with fire safety laws and regulations 49759
and: 49760

(A) The home within thirty days after August 4, 1975, files a 49761
written plan with the state fire marshal's office that: 49762

(1) Outlines the interim safety procedures which shall be 49763
carried out to reduce the possibility of a fire; 49764

(2) Provides evidence that the home has entered into an 49765
agreement for a fire safety inspection to be conducted not less 49766
than monthly by a qualified independent safety engineer consultant 49767
or a township, municipal, or other legally constituted fire 49768
department, or by a township or municipal fire prevention officer; 49769

(3) Provides verification that the home has entered into a 49770
valid contract for the installation of an automatic fire 49771
extinguishing system or fire alarm system, or both, as required to 49772
comply with this section; 49773

(4) Includes a statement regarding the expected date for the 49774
completion of the fire extinguishing system or fire alarm system, 49775
or both. 49776

(B) Inspections by a qualified independent safety engineer 49777
consultant or a township, municipal, or other legally constituted 49778
fire department, or by a township or municipal fire prevention 49779
officer are initiated no later than sixty days after August 4, 49780
1975, and are conducted no less than monthly thereafter, and 49781
reports of the consultant, fire department, or fire prevention 49782
officer identifying existing hazards and recommended corrective 49783
actions are submitted to the state fire marshal, the division of 49784
~~industrial compliance~~ labor in the department of commerce, and the 49785
department of health. 49786

It is the express intent of the general assembly that the 49787
department of job and family services shall terminate payments 49788

under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 49789
42 U.S.C. 301, as amended, to those homes which do not comply with 49790
the requirements of this section for the submission of a written 49791
fire safety plan and the deadline for entering into contracts for 49792
the installation of systems. 49793

Sec. 3721.23. (A) The director of health shall receive, 49794
review, and investigate allegations of abuse or neglect of a 49795
resident or misappropriation of the property of a resident by any 49796
individual used by a long-term care facility or residential care 49797
facility to provide services to residents. 49798

(B) The director shall make findings regarding alleged abuse, 49799
neglect, or misappropriation of property after doing both of the 49800
following: 49801

(1) Investigating the allegation and determining that there 49802
is a reasonable basis for it; 49803

(2) Giving notice to the individual named in the allegation 49804
and affording the individual a reasonable opportunity for a 49805
hearing. 49806

Notice to the person named in an allegation shall be given 49807
and the hearing shall be conducted pursuant to rules adopted by 49808
the director under section 3721.26 of the Revised Code. For 49809
purposes of conducting a hearing under this section, the director 49810
may issue subpoenas compelling attendance of witnesses or 49811
production of documents. The subpoenas shall be served in the same 49812
manner as subpoenas and subpoenas duces tecum issued for a trial 49813
of a civil action in a court of common pleas. If a person who is 49814
served a subpoena fails to attend a hearing or to produce 49815
documents, or refuses to be sworn or to answer any questions, the 49816
director may apply to the common pleas court of the county in 49817
which the person resides, or the county in which the long-term 49818
care facility or residential care facility is located, for a 49819

contempt order, as in the case of a failure of a person who is 49820
served a subpoena issued by the court to attend or to produce 49821
documents or a refusal of such person to testify. 49822

(C)(1) If the director finds that an individual used by a 49823
long-term care facility or residential care facility has neglected 49824
or abused a resident or misappropriated property of a resident, 49825
the director shall notify the individual, the facility using the 49826
individual, and the attorney general, county prosecutor, or other 49827
appropriate law enforcement official. The director also shall do 49828
the following: 49829

(a) If the individual is used by a long-term care facility as 49830
a nurse aide, the director shall, in accordance with section 49831
3721.32 of the Revised Code, include in the nurse aide registry 49832
established under that section a statement detailing the findings 49833
pertaining to the individual. 49834

(b) If the individual is a licensed health professional used 49835
by a long-term care facility or residential care facility to 49836
provide services to residents, the director shall notify the 49837
appropriate professional licensing authority established under 49838
Title XLVII of the Revised Code. 49839

(c) If the individual is used by a long-term care facility 49840
and is neither a nurse aide nor a licensed health professional, or 49841
is used by a residential care facility and is not a licensed 49842
health professional, the director shall, in accordance with 49843
section 3721.32 of the Revised Code, include in the nurse aide 49844
registry a statement detailing the findings pertaining to the 49845
individual. 49846

(2) A nurse aide or other individual about whom a statement 49847
is required by this division to be included in the nurse aide 49848
registry may provide the director with a statement disputing the 49849
director's findings and explaining the circumstances of the 49850

allegation. The statement shall be included in the nurse aide registry with the director's findings.

(D)(1) If the director finds that alleged neglect or abuse of a resident or misappropriation of property of a resident cannot be substantiated, the director shall notify the individual and expunge all files and records of the investigation and the hearing by doing all of the following:

(a) Removing and destroying the files and records, originals and copies, and deleting all index references;

(b) Reporting to the individual the nature and extent of any information about the individual transmitted to any other person or government entity by the director of health;

(c) Otherwise ensuring that any examination of files and records in question show no record whatever with respect to the individual.

(2)(a) If, in accordance with division (C)(1)(a) or (c) of this section, the director includes in the nurse aide registry a statement of a finding of neglect, the individual found to have neglected a resident may, not earlier than one year after the date of the finding, petition the director to rescind the finding and remove the statement and any accompanying information from the nurse aide registry. The director shall consider the petition. If, in the judgment of the director, the neglect was a singular occurrence and the employment and personal history of the individual does not evidence abuse or any other incident of neglect of residents, the director shall notify the individual and remove the statement and any accompanying information from the nurse aide registry. The director shall expunge all files and records of the investigation and the hearing, except the petition for rescission of the finding of neglect and the director's notice that the rescission has been approved.

(b) A petition for rescission of a finding of neglect and the director's notice that the rescission has been approved are not public records for the purposes of section 149.43 of the Revised Code. 49882
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(3) When files and records have been expunged under division (D)(1) or (2) of this section, all rights and privileges are restored, and the individual, the director, and any other person or government entity may properly reply to an inquiry that no such record exists as to the matter expunged. 49886
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Sec. 3721.51. The department of job and family services shall do all of the following: 49891
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(A) Subject to division (C) of this section and for the purposes specified in sections 3721.56 and 3721.561 of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to ~~six~~ eleven dollars and ~~twenty five cents~~, multiplied by the product of the following: 49893
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(1) The number of beds licensed as nursing home beds, plus any other beds certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX on the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code; 49898
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(2) The number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code. 49903
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(B) Subject to division (C) of this section and for the purposes specified in sections 3721.56 and 3721.561 of the Revised Code, determine an annual franchise permit fee on each hospital in an amount equal to ~~six~~ eleven dollars and ~~twenty five cents~~, multiplied by the product of the following: 49907
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(1) The number of beds registered pursuant to section 3701.07 49912
of the Revised Code as skilled nursing facility beds or long-term 49913
care beds, plus any other beds licensed as nursing home beds under 49914
section 3721.02 or 3721.09 of the Revised Code, on the first day 49915
of May of the calendar year in which the fee is determined 49916
pursuant to division (A) of section 3721.53 of the Revised Code; 49917

(2) The number of days in the fiscal year beginning on the 49918
first day of July of the calendar year in which the fee is 49919
determined pursuant to division (A) of section 3721.53 of the 49920
Revised Code. 49921

(C) If the United States centers for medicare and medicaid 49922
services determines that the franchise permit fee established by 49923
sections 3721.50 to 3721.58 of the Revised Code is an 49924
impermissible health care related tax under section 1903(w) of the 49925
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 49926
amended, take all necessary actions to cease implementation of 49927
sections 3721.50 to 3721.58 of the Revised Code in accordance with 49928
rules adopted under section 3721.58 of the Revised Code. 49929

Sec. 3721.56. There is hereby created in the state treasury 49930
the home- and community-based services for the aged fund. ~~Sixteen~~ 49931
Nine and nine hundredths per cent of all payments and penalties 49932
paid by nursing homes and hospitals under sections 3721.53 and 49933
3721.54 of the Revised Code shall be deposited into the fund. The 49934
departments of job and family services and aging shall use the 49935
moneys in the fund to fund the following in accordance with rules 49936
adopted under section 3721.58 of the Revised Code: 49937

(A) The medicaid program established under Chapter 5111. of 49938
the Revised Code, including the PASSPORT program established under 49939
section 173.40 of the Revised Code; 49940

(B) The residential state supplement program established 49941
under section 173.35 of the Revised Code. 49942

Sec. 3722.01. (A) As used in this chapter:	49943
(1) "Owner" means the person who owns the business of and who ultimately controls the operation of an adult care facility and to whom the manager, if different from the owner, is responsible.	49944 49945 49946
(2) "Manager" means the person responsible for the daily operation of an adult care facility. The manager and the owner of a facility may be the same person.	49947 49948 49949
(3) "Adult" means an individual eighteen years of age or older.	49950 49951
(4) "Unrelated" means that an adult resident is not related to the owner or manager of an adult care facility or to the owner's or manager's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle.	49952 49953 49954 49955 49956
(5) "Skilled nursing care" means skilled nursing care as defined in section 3721.01 of the Revised Code.	49957 49958
(6)(a) "Personal care services" means services including, but not limited to, the following:	49959 49960
(i) Assisting residents <u>Assistance</u> with activities of daily living;	49961 49962
(ii) Assisting residents <u>Assistance</u> with self-administration of medication, in accordance with rules adopted by the public health council pursuant to this chapter;	49963 49964 49965
(iii) Preparing <u>Preparation of</u> special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted by the public health council pursuant to this chapter.	49966 49967 49968 49969 49970
(b) "Personal care services" does not include "skilled	49971

nursing care" as defined in section 3721.01 of the Revised Code. A 49972
facility need not provide more than one of the services listed in 49973
division (A)(6)(a) of this section for the facility to be 49974
considered to be providing personal care services. 49975

(7) "Adult family home" means a residence or facility that 49976
provides accommodations and supervision to three to five unrelated 49977
adults ~~and supervision and personal care services to,~~ at least 49978
three of ~~those adults~~ whom require personal care services. 49979

(8) "Adult group home" means a residence or facility that 49980
provides accommodations and supervision to six to sixteen 49981
unrelated adults ~~and provides supervision and personal care~~ 49982
~~services to,~~ at least three of ~~the unrelated adults~~ whom require 49983
personal care services. 49984

(9) "Adult care facility" means an adult family home or an 49985
adult group home. For the purposes of this chapter, any residence, 49986
facility, institution, hotel, congregate housing project, or 49987
similar facility that provides accommodations and supervision to 49988
three to sixteen unrelated adults, at least three of whom ~~are~~ 49989
~~provided~~ require personal care services, is an adult care facility 49990
regardless of how the facility holds itself out to the public. 49991
"Adult care facility" does not include: 49992

(a) A facility operated by a hospice care program licensed 49993
under section 3712.04 of the Revised Code that is used exclusively 49994
for care of hospice patients; 49995

(b) A nursing home, residential care facility, or home for 49996
the aging as defined in section 3721.01 of the Revised Code; 49997

(c) ~~A community alternative home as defined in section~~ 49998
~~3724.01 of the Revised Code;~~ 49999

~~(d)~~ An alcohol and drug addiction program as defined in 50000
section 3793.01 of the Revised Code; 50001

~~(e)~~(d) A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code; 50002
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~~(f)~~(e) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code; 50005
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~~(g)~~(f) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of mental retardation and developmental disabilities; 50007
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~~(h)~~(g) Any residence, institution, hotel, congregate housing project, or similar facility that provides personal care services to fewer than three residents or that provides, for any number of residents, only housing, housekeeping, laundry, meal preparation, social or recreational activities, maintenance, security, transportation, and similar services that are not personal care services or skilled nursing care; 50010
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~~(i)~~(h) Any facility that receives funding for operating costs from the department of development under any program established to provide emergency shelter housing or transitional housing for the homeless; 50017
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~~(j)~~(i) A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code; 50021
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~~(k)~~(j) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C.A. 630, as amended, and used exclusively for the placement and care of veterans; 50024
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~~(l)~~ Until January 1, 1994, the portion of a facility in which care is provided exclusively to members of a religious order if the facility is owned by or part of a nonprofit institution of higher education authorized to award degrees by the Ohio board of regents under Chapter 1713. of the Revised Code. 50028
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(10) "Residents' rights advocate" means:	50033
(a) An employee or representative of any state or local government entity that has a responsibility for residents of adult care facilities and has registered with the department of health under section 3701.07 of the Revised Code;	50034 50035 50036 50037
(b) An employee or representative, other than a manager or employee of an adult care facility or nursing home, of any private nonprofit corporation or association that qualifies for tax-exempt status under section 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has registered with the department of health under section 3701.07 of the Revised Code, and whose purposes include educating and counseling residents, assisting residents in resolving problems and complaints concerning their care and treatment, and assisting them in securing adequate services.	50038 50039 50040 50041 50042 50043 50044 50045 50046 50047
(11) "Sponsor" means an adult relative, friend, or guardian of a resident of an adult care facility who has an interest in or responsibility for the resident's welfare.	50048 50049 50050
(12) "Ombudsperson" means a "representative of the office of the state long-term care ombudsperson program" as defined in section 173.14 of the Revised Code.	50051 50052 50053
(13) "Mental health agency" means a community mental health agency, as defined in section 5119.22 of the Revised Code, under contract with a board of alcohol, drug addiction, and mental health services pursuant to division (A)(8)(a) of section 340.03 of the Revised Code.	50054 50055 50056 50057 50058
(B) For purposes of this chapter, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services	50059 50060 50061 50062 50063

nor the resident's sponsor is a party. 50064

(C) Nothing in division (A)(6) of this section shall be 50065
construed to permit personal care services to be imposed upon a 50066
resident who is capable of performing the activity in question 50067
without assistance. 50068

Sec. 3722.011. ~~(A)~~ All medication taken by residents of an 50069
adult care facility shall be self-administered, except that 50070
medication may be administered to a resident ~~by a home health~~ 50071
~~agency, hospice care program, nursing home staff, mental health~~ 50072
~~agency, or board of alcohol, drug addiction, and mental health~~ 50073
~~services under~~ as part of the skilled nursing care provided in 50074
accordance with division (B) of section 3722.16 of the Revised 50075
Code. ~~Members of the staff of an adult care facility shall not~~ 50076
~~administer medication to residents.~~ No person shall be admitted to 50077
or retained by an adult care facility unless the person is capable 50078
of ~~taking~~ self-administering the person's ~~own~~ medication ~~and~~ 50079
~~biologicals~~, as determined in writing by ~~the person's personal a~~ 50080
physician, except that a person may be admitted to or retained by 50081
such a facility if the person's medication is administered ~~by a~~ 50082
~~home health agency, hospice care program, nursing home staff,~~ 50083
~~mental health agency, or board of alcohol, drug addiction, and~~ 50084
~~mental health services under~~ as part of the skilled nursing care 50085
provided in accordance with division (B) of section 3722.16 of the 50086
Revised Code. ~~Members~~ 50087

(B) Members of the staff of an adult care facility shall not 50088
administer medication to residents but may do any of the 50089
following: 50090

~~(A)~~ Remind a resident when to take medication and watch to 50091
ensure that the resident follows the directions on the container; 50092

~~(B)~~ Assist a resident in the self-administration of 50093
medication by taking the medication from the locked area where it 50094

is stored, in accordance with rules adopted by the public health 50095
council pursuant to this chapter, and handing it to the resident. 50096
If the resident is physically unable to open the container, a 50097
staff member may open the container for the resident. 50098

~~(C)~~ Assist a physically impaired but mentally alert resident, 50099
such as a resident with arthritis, cerebral palsy, or Parkinson's 50100
disease, in removing oral or topical medication from containers 50101
and in consuming or applying the medication, upon request by or 50102
with the consent of the resident. If a resident is physically 50103
unable to place a dose of medicine to the resident's mouth without 50104
spilling it, a staff member may place the dose in a container and 50105
place the container to the mouth of the resident. 50106

Sec. 3722.02. A person seeking a license to operate an adult 50107
care facility shall submit to the director of health an 50108
application on a form prescribed by the director and the 50109
following: 50110

(A) In the case of an adult group home seeking licensure as 50111
an adult care facility, evidence that the home has been inspected 50112
and approved by a local certified building department or by the 50113
division of ~~industrial compliance~~ labor in the department of 50114
commerce as meeting the applicable requirements of sections 50115
3781.06 to 3781.18 and 3791.04 of the Revised Code and any rules 50116
adopted under those sections and evidence that the home has been 50117
inspected by the state fire marshal or fire prevention officer of 50118
a municipal, township, or other legally constituted fire 50119
department approved by the state fire marshal and found to be in 50120
compliance with rules adopted under section 3737.83 of the Revised 50121
Code regarding fire prevention and safety in adult group homes; 50122

(B) Valid approvals of the facility's water and sewage 50124
systems issued by the responsible governmental entity, if 50125

applicable;	50126
(C) A statement of ownership containing the following information:	50127 50128
(1) If the owner is an individual, the owner's name, address, telephone number, business address, business telephone number, and occupation. If the owner is an association, corporation, or partnership, the business activity, address, and telephone number of the entity and the name of every person who has an ownership interest of five per cent or more in the entity.	50129 50130 50131 50132 50133 50134
(2) If the owner does not own the building or if the owner owns only part of the building in which the facility is housed, the name of each person who has an ownership interest of five per cent or more in the building;	50135 50136 50137 50138
(3) The address of any adult care facility and any facility described in divisions (A)(9)(a) to (h) (j) of section 3722.01 of the Revised Code in which the owner has an ownership interest of five per cent or more;	50139 50140 50141 50142
(4) The identity of the manager of the adult care facility, if different from the owner;	50143 50144
(5) The name and address of any adult care facility and any facility described in divisions (A)(9)(a) to (h) (j) of section 3722.01 of the Revised Code with which either the owner or manager has been affiliated through ownership or employment in the five years prior to the date of the application;	50145 50146 50147 50148 50149
(6) The names and addresses of three persons not employed by or associated in business with the owner who will provide information about the character, reputation, and competence of the owner and the manager and the financial responsibility of the owner;	50150 50151 50152 50153 50154
(7) Information about any arrest of the owner or manager for,	50155

or adjudication or conviction of, a criminal offense related to 50156
the provision of care in an adult care facility or any facility 50157
described in divisions (A)(9)(a) to ~~(h)~~(j) of section 3722.01 of 50158
the Revised Code or the ability to operate a facility; 50159

(8) Any other information the director may require regarding 50160
the owner's ability to operate the facility. 50161

(D) If the facility is an adult group home, a balance sheet 50162
showing the assets and liabilities of the owner and a statement 50163
projecting revenues and expenses for the first twelve months of 50164
the facility's operation; 50165

~~(E) Proof of insurance in an amount and type determined in~~ 50166
~~rules adopted by the public health council pursuant to this~~ 50167
~~chapter to be adequate; A statement containing the following~~ 50168
~~information regarding admissions to the facility:~~ 50169

(1) The intended bed capacity of the facility; 50170

(2) Whether the facility will admit persons referred by or 50171
receiving services from a board of alcohol, drug addiction, and 50172
mental health services board or a mental health agency; 50173

(3) If the facility will admit persons referred by or 50174
receiving services from a board of alcohol, drug addiction, and 50175
mental health services board or a mental health agency, the total 50176
number of beds anticipated to be occupied as a result of those 50177
admissions. 50178

(F) A nonrefundable license application fee in an amount 50179
established in rules adopted by the public health council pursuant 50180
to this chapter. 50181

Sec. 3722.021. In determining the number of residents in a 50182
facility for the purpose of licensure under this chapter, the 50183
director of health shall consider all the individuals for whom the 50184
facility provides accommodations as one group unless either of the 50185

following is the case: 50186

(A) ~~The~~ In addition to being an adult care facility, the 50187
facility is ~~both~~ a nursing home licensed under Chapter 3721. of 50188
the Revised Code ~~and an adult care facility, a residential~~ 50189
facility licensed under that chapter, or both. In that case, all 50190
the individuals in the part or unit licensed as a nursing home, 50191
residential care facility, or both, shall be considered as one 50192
group and all the individuals in the part or unit licensed as an 50193
adult care facility shall be considered as another group. 50194

(B) The facility maintains, in addition to an adult care 50195
facility, a separate and discrete part or unit that provides 50196
accommodations to individuals who do not receive supervision or 50197
personal care services from the adult care facility, in which case 50198
the individuals in the separate and discrete part or unit shall 50199
not be considered in determining the number of residents in the 50200
adult care facility if the separate and discrete part or unit is 50201
in compliance with the Ohio basic building code established by the 50202
board of building standards under Chapters 3781. and 3791. of the 50203
Revised Code and the adult care facility, to the extent of its 50204
authority, permits the director, on request, to inspect the 50205
separate and discrete part or unit and speak with the individuals 50206
residing there, if they consent, to determine whether the separate 50207
and discrete part or unit meets the requirements of this division. 50208

Sec. 3722.022. A person may not apply for a license to 50209
operate an adult care facility if the person is or has been the 50210
owner or manager of an adult care facility for which a license to 50211
operate was revoked or for which renewal of a license was refused 50212
for any reason other than nonpayment of the license renewal fee, 50213
unless both of the following conditions are met: 50214

(A) A period of not less than two years has elapsed since the 50215
date the director of health issued the order revoking or refusing 50216

to renew the facility's license. 50217

(B) The director's revocation or refusal to renew the license 50218
was not based on an act or omission at the facility that violated 50219
a resident's right to be free from abuse, neglect, or 50220
exploitation. 50221

Sec. 3722.04. (A)~~(1)~~ The director of health shall inspect, 50222
license, and regulate adult care facilities. Except as otherwise 50223
provided in division (D) of this section, the director shall issue 50224
a license to an adult care facility that meets the requirements of 50225
section 3722.02 of the Revised Code and that the director 50226
determines to be in substantial compliance with the rules adopted 50227
by the public health council pursuant to this chapter. The 50228
director shall consider the past record of the owner and manager 50229
and any individuals who are principal participants in an entity 50230
that is the owner or manager in operating facilities providing 50231
care to adults. The director may, in accordance with Chapter 119. 50232
of the Revised Code, deny a license if the past record indicates 50233
that the owner or manager is not suitable to own or manage an 50234
adult care facility. 50235

The license shall contain the name and address of the 50236
facility for which it was issued, the date of expiration of the 50237
license, and the maximum number of residents that may be 50238
accommodated by the facility. A license for an adult care facility 50239
shall be valid for a period of two years after the date of 50240
issuance. No single facility may be licensed to operate as more 50241
than one adult care facility. 50242

~~(2) Notwithstanding division (A)(1) of this section and~~ 50243
~~sections 3722.02 and 3722.041 of the Revised Code, the director~~ 50244
~~may issue a temporary license if the requirements of divisions~~ 50245
~~(C), (D), and (F) of section 3722.02 of the Revised Code have been~~ 50246
~~met. A temporary license shall be valid for a period of ninety~~ 50247

~~days and, except as otherwise provided in division (A)(3) of~~ 50248
~~section 3722.05 of the Revised Code, may be renewed, without~~ 50249
~~payment of an additional application fee, for an additional ninety~~ 50250
~~days.~~ 50251

(B) The director shall renew a license for a two-year period 50252
if the facility continues to be in compliance with the 50253
requirements of this chapter and in substantial compliance with 50254
the rules adopted under this chapter. The owner shall submit a 50255
nonrefundable license renewal application fee in an amount 50256
established in rules adopted by the public health council pursuant 50257
to this chapter. Before the license of an adult group home is 50258
renewed, if any alterations have been made to the buildings, a 50259
certificate of occupancy for the facility shall have been issued 50260
by the division of ~~industrial compliance~~ labor in the department 50261
of commerce or a local certified building department. The facility 50262
shall have water and sewage system approvals, if required by law, 50263
and, in the case of an adult group home, documentation of 50264
continued compliance with the rules adopted by the state fire 50265
marshal under division (F) of section 3737.83 of the Revised Code. 50266

(C) ~~The~~ (1) During each licensure period, the director shall 50267
make at least one ~~unannounced~~ inspection of an adult care facility 50268
~~during each licensure period~~ in addition to inspecting the 50269
facility to determine whether a license should be issued or 50270
renewed, and may make additional ~~unannounced~~ inspections as the 50271
director considers necessary. Other inspections may be made at any 50272
time that the director considers appropriate. ~~The~~ 50273

The director shall determine whether an inspection is to be 50274
conducted as an announced or unannounced inspection. In the case 50275
of an unannounced inspection, the director shall take all 50276
reasonable actions to avoid giving notice of ~~an~~ the inspection by 50277
the manner in which the inspection is scheduled or performed. ~~Not~~ 50278

Not later than sixty days after the date of an inspection of 50279

a facility, the director shall send a report of the inspection to 50280
the ombudsperson in whose region the facility is located. The 50281

(2) The state fire marshal or fire prevention officer of a 50282
municipal, township, or other legally constituted fire department 50283
approved by the state fire marshal shall inspect an adult group 50284
home seeking a license or renewal under this chapter as an adult 50285
care facility prior to issuance of a license or renewal, at least 50286
once annually thereafter, and at any other time at the request of 50287
the director, to determine compliance with the rules adopted under 50288
division (F) of section 3737.83 of the Revised Code. 50289

(D) The director may waive any of the licensing requirements 50290
having to do with fire and safety requirements or building 50291
standards established by rule adopted by the public health council 50292
pursuant to this chapter upon written request of the facility. The 50293
director may grant a waiver if the director determines that the 50294
strict application of the licensing requirement would cause undue 50295
hardship to the facility and that granting the waiver would not 50296
jeopardize the health or safety of any resident. The director may 50297
provide a facility with an informal hearing concerning the denial 50298
of a waiver request, but the facility shall not be entitled to a 50299
hearing under Chapter 119. of the Revised Code unless the director 50300
takes an action that requires a hearing to be held under section 50301
3722.05 of the Revised Code. 50302

(E)(1) Not later than thirty days after each of the 50303
following, the owner of an adult care facility shall submit an 50304
inspection fee of twenty dollars for each bed for which the 50305
facility is licensed: 50306

(a) Issuance or renewal of a license, ~~other than a temporary~~ 50307
~~license;~~ 50308

(b) The ~~unannounced~~ inspection required by division (C)(1) of 50309
this section that is in addition to the inspection conducted to 50310

determine whether a license should be issued or renewed; 50311

(c) If, during an inspection conducted in addition to the two 50312
inspections required by division (C)(1) of this section, the 50313
facility was found to be in violation of this chapter or the rules 50314
adopted under it, receipt by the facility of the report of that 50315
investigation. 50316

(2) The director may revoke the license of any adult care 50317
facility that fails to submit the fee within the thirty-day 50318
period. 50319

(3) All inspection fees received by the director, all civil 50320
penalties assessed under section 3722.08 of the Revised Code, all 50321
fines imposed under section 3722.99 of the Revised Code, and all 50322
license application and renewal application fees received under 50323
division (F) of section 3722.02 of the Revised Code or under 50324
division (B) of this section shall be deposited into the general 50325
operations fund created in section 3701.83 of the Revised Code and 50326
shall be used only to pay the costs of administering and enforcing 50327
the requirements of this chapter and rules adopted under it. 50328

(F)(1) An owner shall inform the director in writing of any 50329
changes in the information contained in the statement of ownership 50330
made pursuant to division (C) of section 3722.02 of the Revised 50331
Code or in the identity of the manager, not later than ten days 50332
after the change occurs. 50333

(2) An owner who sells or transfers an adult care facility 50334
shall be responsible and liable for the following: 50335

(a) Any civil penalties imposed against the facility under 50336
section 3722.08 of the Revised Code for violations that occur 50337
before the date of transfer of ownership or during any period in 50338
which the seller or the seller's agent operates the facility; 50339

(b) Any outstanding liability to the state, unless the buyer 50340
or transferee has agreed, as a condition of the sale or transfer, 50341

to accept the outstanding liabilities and to guarantee their 50342
payment, except that if the buyer or transferee fails to meet 50343
these obligations the seller or transferor shall remain 50344
responsible for the outstanding liability. 50345

(G) The director shall annually publish a list of licensed 50346
adult care facilities, facilities ~~whose~~ for which licenses have 50347
been revoked ~~or not renewed~~, facilities for which license renewal
has been refused, any facilities under an order suspending 50348
admissions pursuant to section 3722.07 of the Revised Code, and 50349
any facilities that have been assessed a civil penalty pursuant to 50350
section 3722.08 of the Revised Code. The director shall furnish 50351
information concerning the status of licensure of any facility to 50352
any person upon request. The director shall annually send a copy 50353
of the list to the department of job and family services, to the 50354
department of mental health, and to the department of aging. 50355
50356

Sec. 3722.041. (A) Sections 3781.06 to 3781.18 and 3791.04 of 50357
the Revised Code do not apply to an adult family home for which 50358
application is made to the director of health for licensure as an 50359
adult care facility under this chapter. Adult family homes shall 50360
not be required to submit evidence to the director of health that 50361
the home has been inspected by a local certified building 50362
department or the division of ~~industrial compliance~~ labor in the 50363
department of commerce or by the state fire marshal or a fire 50364
prevention officer under section 3722.02 of the Revised Code, but 50365
shall be inspected by the director of health to determine 50366
compliance with this section. An inspection made under this 50367
section may be made at the same time as an inspection made under 50368
section 3722.04 of the Revised Code. 50369

(B) The director shall not license or renew the license of an 50370
adult family home unless it meets the fire protection standards 50371
established by rules adopted by the public health council pursuant 50372

to this chapter. 50373

Sec. 3722.05. ~~(A)(1)~~ If an adult care facility fails to 50374
comply with any requirement of this chapter or with any rule 50375
adopted pursuant to this chapter, the director of health may do 50376
any one or all of the following: 50377

~~(a)(A)~~ In accordance with Chapter 119. of the Revised Code, 50378
deny, revoke, or refuse to renew the license of the facility; 50379

~~(b)(B)~~ Give the facility an opportunity to correct the 50380
violation, in accordance with section 3722.06 of the Revised Code; 50381

~~(c)(C)~~ Issue an order suspending the admission of residents 50382
to the facility, in accordance with section 3722.07 of the Revised 50383
Code; 50384

~~(d)(D)~~ Impose a civil penalty in accordance with section 50385
3722.08 of the Revised Code; 50386

~~(e)(E)~~ Petition the court of common pleas for injunctive 50387
relief in accordance with section 3722.09 of the Revised Code. 50388

~~(2) The director may refuse to renew the temporary license of 50389
any adult care facility for failure to make reasonable progress 50390
toward compliance with the requirements for licensure under 50391
section 3722.02 of the Revised Code and rules adopted by the 50392
public health council pursuant to this chapter. The director may 50393
revoke a temporary license upon a finding that the facility 50394
jeopardizes the health or safety of any of its residents. 50395
Proceedings initiated to deny, revoke, or refuse to renew a 50396
temporary license are not subject to Chapter 119. of the Revised 50397
Code. 50398~~

~~(3) The director may renew a temporary license for the 50399
duration of proceedings under Chapter 119. of the Revised Code 50400
regarding the denial of a permanent license if he determines that 50401
the continued operation of the facility will not jeopardize the 50402~~

~~health or safety of the residents.~~ 50403

Sec. 3722.06. Except as otherwise provided in sections 50404
3722.07 to 3722.09 of the Revised Code and except in cases of 50405
violations that jeopardize the health and safety of any of the 50406
residents, if the director determines that a licensed adult care 50407
facility is in violation of this chapter or of rules adopted 50408
pursuant to this chapter, ~~he~~ the director shall give the facility 50409
an opportunity to correct the violation. The director shall notify 50410
the facility of the violation, ~~prescribe the steps necessary to~~ 50411
~~correct the condition,~~ and specify a reasonable time for making 50412
the corrections. Notice of the violation ~~and the prescribed~~ 50413
~~corrections~~ shall be in writing and shall include a citation to 50414
the statute or rule violated. The director shall state the action 50415
that ~~he~~ the director will take if the corrections are not made 50416
within the specified period of time. 50417

The facility shall submit to the director a plan of 50418
correction stating the actions that will be taken to correct the 50419
violation. The director shall conduct an inspection to determine 50420
whether the facility has corrected the violation in accordance 50421
with the plan of correction. 50422

If the director determines that the facility has failed to 50423
correct the violation in accordance with the plan of correction, 50424
the director may impose a penalty under section 3722.08 of the 50425
Revised Code. If the director ~~subsequently~~ determines that the 50426
license of the facility should be revoked or should not be renewed 50427
because the facility has failed to correct the violation within 50428
the time specified or because the violation jeopardizes the health 50429
or safety of any of the residents, the director shall revoke or 50430
refuse to renew the license in accordance with Chapter 119. of the 50431
Revised Code. 50432

Sec. 3722.08. (A) If the director of health determines that 50433
an adult care facility is in violation of this chapter or rules 50434
adopted under it, the director may impose a civil penalty on the 50435
owner of the facility, pursuant to rules adopted by the public 50436
health council under this chapter, ~~on the owner of the facility~~. 50437
The director shall determine the classification and amount of the 50438
penalty by considering the following factors: 50439

(1) The gravity of the violation, the severity of the actual 50440
or potential harm, and the extent to which the provisions of this 50441
chapter or rules adopted under it were violated; 50442

(2) Actions taken by the owner or manager to correct the 50443
violation; 50444

(3) The number, if any, of previous violations by the adult 50445
care facility. 50446

(B) The director shall give written notice of the order 50447
imposing a civil penalty to the adult care facility by certified 50448
mail, return receipt requested, or shall provide for delivery of 50449
the notice in person. The notice shall specify the classification 50450
of the violation as determined by rules adopted by the public 50451
health council pursuant to this chapter, the amount of the penalty 50452
and the rate of interest, the action that is required to be taken 50453
to correct the violation, the time within which it is to be 50454
corrected as specified in division (C) of this section, and the 50455
procedures for the facility to follow to request a conference on 50456
the order imposing a civil penalty. If the facility requests a 50457
conference in a letter mailed or delivered not later than two 50458
working days after it has received the notice, the director shall 50459
hold a conference with representatives of the facility concerning 50460
the civil penalty. The conference shall be held not later than 50461
seven days after the director receives the request. The conference 50462
shall be conducted as prescribed in division (C) of section 50463

3722.07 of the Revised Code. If the director issues an order 50464
upholding the civil penalty, the facility may request an 50465
adjudication hearing pursuant to Chapter 119. of the Revised Code, 50466
but the order of the director shall be in effect during 50467
proceedings instituted pursuant to that chapter until a final 50468
adjudication is made. 50469

(C) The director shall order that the condition or practice 50470
constituting a class I violation be abated or eliminated within 50471
twenty-four hours or any longer period that the director considers 50472
reasonable. The notice for a class II or a class III violation 50473
shall specify a time within which the violation is required to be 50474
corrected. 50475

(D) If the facility does not request a conference or if, 50476
after a conference, it fails to take action to correct a violation 50477
in the time prescribed by the director, the director shall issue 50478
an order upholding the penalty, plus interest at the rate 50479
specified in section 1343.03 of the Revised Code for each day 50480
beyond the date set for payment of the penalty. The director may 50481
waive the interest payment for the period prior to the conference 50482
if the director concludes that the conference was necessitated by 50483
a legitimate dispute. 50484

(E) The director may cancel or reduce the penalty for a class 50485
I violation if the facility corrects the violation within the time 50486
specified in the notice ~~unless, except that the director shall~~ 50487
impose the penalty even though the facility has corrected the 50488
violation if a resident suffers physical harm because of the 50489
violation or ~~unless~~ the facility has been cited previously for the 50490
same violation, ~~in which case the director shall impose the~~ 50491
~~penalty even though the facility has corrected the violation.~~ The 50492
director ~~shall~~ may cancel the penalty for a class II or class III 50493
violation if the facility corrects the violation within the time 50494
specified in the notice ~~unless~~ and the facility has not been cited 50495

previously for the same violation. Each day of a violation of any class, after the date the director sets for abatement or elimination, constitutes a separate and additional violation.

(F) If an adult care facility fails to pay a penalty imposed under this section, the director may commence a civil action to collect the penalty. The license of an adult care facility that has failed to pay a penalty imposed under this section shall not be renewed until the penalty has been paid.

(G) If a penalty is imposed under this section, a fine shall not be imposed under section 3722.99 of the Revised Code for the same violation.

~~(H) Notwithstanding any other division of this section, the director shall not impose a penalty for a class I violation if all of the following apply:~~

~~(1) A resident has not suffered physical harm because of the violation;~~

~~(2) The violation has been corrected and is no longer occurring;~~

~~(3) The violation is discovered by an inspector authorized to inspect an adult care facility pursuant to this chapter by an examination of the records of the facility.~~

Sec. 3722.09. (A) If the director of health determines that the operation of an adult care facility jeopardizes the health or safety of any of the residents of the facility or if the director determines that an adult care facility is operating without a license, the director may petition the court of common pleas in the county in which the facility is located for appropriate injunctive relief against the facility. The If injunctive relief is granted against a facility for operating without a license and the facility continues to operate without a license, the director

shall refer the case to the attorney general for further action. 50526

(B) The court petitioned under division (A) of this section 50527
shall grant injunctive relief upon a showing that the operation of 50528
the facility jeopardizes the health or safety of any of the 50529
residents of the facility or that the facility is operating 50530
without a license. When the court grants injunctive relief in the 50531
case of a facility operating without a license, the court shall 50532
issue, at a minimum, an order enjoining the facility from 50533
admitting new residents to the facility and an order requiring the 50534
facility to assist resident rights advocates with the safe and 50535
orderly relocation of the facility's residents. 50536

Sec. 3722.10. (A) The public health council shall have the 50537
exclusive authority to adopt, and the council shall adopt, rules 50538
~~in accordance with Chapter 119. of the Revised Code~~ governing the 50539
licensing and operation of adult care facilities. The rules shall 50540
be adopted in accordance with Chapter 119. of the Revised Code and 50541
shall specify all of the following: 50542

(1) Procedures for the issuance, renewal, and revocation of 50543
licenses ~~and temporary licenses~~, for the granting and denial of 50544
waivers, and for the issuance and termination of orders of 50545
suspension of admission pursuant to section 3722.07 of the Revised 50546
Code; 50547

(2) The qualifications required for owners, managers, and 50548
employees of adult care facilities, including character, training, 50549
education, experience, and financial resources and the number of 50550
staff members required in a facility; 50551

(3) Adequate space, equipment, safety, and sanitation 50552
standards for the premises of adult care facilities, and fire 50553
protection standards for adult family homes as required by section 50554
3722.041 of the Revised Code; 50555

- (4) The personal, social, dietary, and recreational services to be provided to each resident of adult care facilities; 50556
50557
- (5) Rights of residents of adult care facilities, in addition to the rights enumerated under section 3722.12 of the Revised Code, and procedures to protect and enforce the rights of these residents; 50558
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- (6) Provisions for keeping records of residents and for maintaining the confidentiality of the records as required by division (B) of section 3722.12 of the Revised Code. The provisions for maintaining the confidentiality of records shall, at the minimum, meet the requirements for maintaining the confidentiality of records under Title XIX of the "Social Security Act," 49 Stat. 620, 42 U.S.C. 301, as amended, and regulations promulgated thereunder. 50562
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- (7) Measures to be taken by adult care facilities relative to residents' medication, including policies and procedures concerning medication, storage of medication in a locked area, and disposal of medication and assistance with self-administration of medication, if the facility provides assistance; 50570
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- (8) Requirements for initial and periodic health assessments of prospective and current adult care facility residents by physicians or other health professionals to ensure that they do not require a level of care beyond that which is provided by the adult care facility, including assessment of their capacity to self-administer the medications prescribed for them; 50575
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- (9) Requirements relating to preparation of special diets; 50581
- (10) The amount of the fees for new and renewal license applications made pursuant to sections 3722.02 and 3722.04 of the Revised Code; 50582
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- (11) Measures to be taken by any employee of the state or any political subdivision of the state authorized by this chapter to 50585
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enter an adult care facility to inspect the facility or for any 50587
other purpose, to ensure that the employee respects the privacy 50588
and dignity of residents of the facility, cooperates with 50589
residents of the facility and behaves in a congenial manner toward 50590
them, and protects the rights of residents; 50591

(12) How an owner or manager of an adult care facility is to 50592
comply with section 3722.18 of the Revised Code. ~~The~~ At a minimum, 50593
the rules shall ~~do at least both of the following:~~ 50594

~~(a) Establish~~ establish the procedures an owner or manager is 50595
to follow under division (A)~~(2)~~ of section 3722.18 of the Revised 50596
Code regarding referrals to the facility of prospective residents 50597
with mental illness or severe mental disability and effective 50598
arrangements for ongoing mental health services for such 50599
prospective residents. The procedures may provide for any of the 50600
following: 50601

~~(i)~~(a) That the owner or manager sign written agreements with 50602
the mental health agencies and boards of alcohol, drug addiction, 50603
and mental health services that refer such prospective residents 50604
to the facility. Each agreement shall cover all such prospective 50605
residents referred by the agency or board with which the owner or 50606
manager enters into the agreement. 50607

~~(ii)~~(b) That the owner or manager and the mental health 50608
agencies and boards of alcohol, drug addiction, and mental health 50609
services that refer such prospective residents to the facility 50610
develop and sign a plan for services for each such prospective 50611
resident; 50612

~~(iii)~~(c) Any other process regarding referrals and effective 50613
arrangements for ongoing mental health services. 50614

~~(b) Specify the date an owner or manager must begin to follow 50615
the procedures established by division (A)(12)(a) of this section. 50616~~

(13) Any other rules necessary for the administration and 50617

enforcement of this chapter. 50618

(B) After consulting with relevant constituencies, the 50619
director of mental health shall prepare and submit to the director 50620
of health recommendations for the content of rules to be adopted 50621
under division (A)(12) of this section. The public health council 50622
shall adopt the rules required by division (A)(12) of this section 50623
no later than July 1, 2000. 50624

(C) The director of health shall advise adult care facilities 50625
regarding compliance with the requirements of this chapter and 50626
with the rules adopted pursuant to this chapter. 50627

(D) Any duty or responsibility imposed upon the director of 50628
health by this chapter may be carried out by an employee of the 50629
department of health. 50630

(E) Employees of the department of health may enter, for the 50631
purposes of investigation, any institution, residence, facility, 50632
or other structure which has been reported to the department as, 50633
or that the department has reasonable cause to believe is, 50634
operating as an adult care facility without a valid license. 50635

Sec. 3722.13. (A) Each adult care facility shall establish a 50636
written residents' rights policy containing the text of sections 50637
3722.12 and 3722.14 of the Revised Code and rules adopted by the 50638
public health council pursuant to this chapter, a discussion of 50639
the rights and responsibilities of residents under that section, 50640
and the text of any additional rule for residents promulgated by 50641
the facility. At the time of admission the manager shall give a 50642
copy of the residents' rights policy to the resident and ~~his~~ the 50643
resident's sponsor, if any, and explain the contents of the policy 50644
to them. The facility shall establish procedures for facilitating 50645
the residents' exercise of their rights. 50646

(B) Each adult care facility shall post prominently within 50647

the facility a copy of the residents' rights listed in division 50648
(B) of section 3722.12 of the Revised Code and any additional 50649
residents' rights established by rules adopted by the public 50650
health council pursuant to this chapter, ~~and~~ the addresses and 50651
telephone numbers of the state long-term care ~~facilities ombudsman~~ 50652
ombudsperson and the regional ~~ombudsman~~ ombudsperson for the area 50653
in which the facility is located, ~~and of the central and district~~ 50654
~~offices of~~ the telephone number maintained by the department of 50655
health for accepting complaints. 50656

Sec. 3722.14. (A)(1) Except as provided in division (A)(2) of 50657
this section, an adult care facility may transfer or discharge a 50658
resident, in the absence of a request from the resident, only for 50659
the following reasons: 50660

(a) Charges for the resident's accommodations and services 50661
have not been paid within thirty days after the date on which they 50662
became due; 50663

(b) The mental, emotional, or physical condition of the 50664
resident requires a level of care that the facility is unable to 50665
provide; 50666

(c) The health, safety, or welfare of the resident or of 50667
another resident requires a transfer or discharge; 50668

(d) The facility's license has been revoked or renewal has 50669
been denied pursuant to this chapter; 50670

(e) The owner closes the facility; 50671

(f) The resident is relocated as the result of a court's 50672
order issued under section 3722.09 of the Revised Code as part of 50673
the injunctive relief granted against a facility that is operating 50674
without a license. 50675

(2) An adult family home may transfer or discharge a resident 50676
if transfer or discharge is required for the health, safety, or 50677

welfare of an individual who resides in the home but is not a 50678
resident for whom supervision or personal services are provided. 50679

(B)(1) The facility shall give a resident thirty days advance 50680
notice, in writing, of a proposed transfer or discharge, except 50681
that if the transfer or discharge is for a reason given in 50682
divisions (A)(1)(b) to (f) or (A)(2) to (5) of this section and an 50683
emergency exists, the notice need not be given thirty days in 50684
advance. ~~The resident may request and the director of health shall~~ 50685
~~conduct a hearing if the transfer or discharge is based upon~~ 50686
~~division (A)(1), (2), or (3) of this section. The public health~~ 50687
~~council shall adopt rules governing the procedure for conducting~~ 50688
~~such a hearing.~~ The facility shall state in the written notice the 50689
reasons for the proposed transfer or discharge. If the resident is 50690
entitled to a hearing as specified in division (B)(2) of this 50691
section, the written notice shall outline the procedure for the 50692
resident to follow in requesting a hearing. 50693

(2) A resident may request a hearing if a proposed transfer 50694
or discharge is based on reason given in division (A)(1)(a) to (c) 50695
or (A)(2) of this section. If the resident seeks a hearing, ~~he~~ the 50696
resident shall submit a request to the director not later than ten 50697
days after receiving the written notice. The director shall hold 50698
the hearing not later than ten days after receiving the request. A 50699
representative of the director shall preside over the hearing and 50700
shall issue a written recommendation of action to be taken by the 50701
director not later than three days after the hearing. The director 50702
shall issue an order regarding the transfer or discharge not later 50703
than two days after receipt of the recommendation. The order may 50704
prohibit or place conditions on the discharge or transfer. In the 50705
case of a transfer, the order may require that the transfer be to 50706
an institution or facility specified by the director. The hearing 50707
is not subject to section 121.22 of the Revised Code. The public 50708
health council shall adopt rules governing any additional 50709

procedures necessary for conducting the hearing. 50710

(C)(1) The owner of an adult care facility who is closing the 50711
facility shall inform the director of health in writing at least 50712
thirty days prior to the proposed date of closing. At the same 50713
time, the owner or manager shall inform each resident, ~~his~~ the 50714
resident's guardian, ~~his~~ the resident's sponsor, or any 50715
organization or agency acting on behalf of the resident, of the 50716
closing of the facility and the date of the closing. 50717

(2) Immediately upon receiving notice that a facility is to 50718
be closed, the director shall monitor the transfer of residents to 50719
other facilities and ensure that residents' rights are protected. 50720
The director shall notify the ~~ombudsman~~ ombudsperson in the region 50721
in which the facility is located of the closing. 50722

(3) All charges shall be prorated as of the date on which the 50723
facility closes. If payments have been made in advance, the 50724
payments for services not rendered shall be refunded to the 50725
resident or the resident's guardian not later than seven days 50726
after the closing of the facility. 50727

(4) Immediately upon the closing of a facility, the owner 50728
shall surrender the license to the director, and the license shall 50729
be canceled. 50730

Sec. 3722.15. (A) The following may enter an adult care 50731
facility at any time: 50732

(1) Employees designated by the director of health; 50733

(2) Employees designated by the director of aging; 50734

(3) Employees designated by the attorney general; 50735

(4) Employees designated by a county department of job and 50736
family services to implement sections 5101.60 to 5101.71 of the 50737
Revised Code; 50738

(5) Persons employed pursuant to division (M) of section 173.01 of the Revised Code in the long-term care facilities ombudsperson program; 50739
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(6) Employees of the department of mental health designated by the director of mental health; 50742
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(7) Employees of a mental health agency, ~~if under either of the following circumstances:~~ 50744
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(a) When the agency has a client residing in the facility; 50746

(b) When the agency is acting as an agent of a board of alcohol, drug addiction, or mental health services other than the board with which it is under contract. 50747
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(8) Employees of a board of alcohol, drug addiction, and mental health services, ~~when under any of the following circumstances:~~ 50750
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(a) When authorized by section 340.05 of the Revised Code ~~or if an individual;~~ 50753
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(b) When a resident of the facility is receiving mental health services provided by ~~the~~ that board or another board of alcohol, drug addiction, and mental health services pursuant to division (A)(8)(b) of section 340.03 of the Revised Code ~~or;~~ 50755
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(c) When a resident of the facility is receiving services from a mental health agency under contract with ~~the~~ that board ~~resides in the facility or another board of alcohol, drug addiction, and mental health services.~~ 50759
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~~These~~ The employees specified in divisions (A)(1) to (8) of this section shall be afforded access to all records of the facility, including records pertaining to residents, and may copy the records. Neither these employees nor the director of health shall release, without consent, any information obtained from the records of an adult care facility that reasonably would tend to 50763
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identify a specific resident of the facility, except as ordered by a court of competent jurisdiction.

(B) The following persons may enter any adult care facility during reasonable hours:

(1) A resident's sponsor;

(2) Residents' rights advocates;

(3) A resident's attorney;

(4) A minister, priest, rabbi, or other person ministering to a resident's religious needs;

(5) A physician or other person providing health care services to a resident;

(6) Employees authorized by county departments of job and family services and local boards of health or health departments to enter adult care facilities;

(7) A prospective resident and prospective resident's sponsor.

(C) The manager of an adult care facility may require a person seeking to enter the facility to present identification sufficient to identify the person as an authorized person under this section.

Sec. 3722.16. (A) No person shall:

(1) Operate an adult care facility unless the facility is validly licensed by the director of health under section 3722.04 of the Revised Code;

(2) Admit to an adult care facility more residents than the number authorized in the facility's license;

(3) Admit a resident to an adult care facility after the director has issued an order pursuant to section 3722.07 of the

Revised Code suspending admissions to the facility. Violation of 50797
division (A)(3) of this section is cause for revocation of the 50798
facility's license. 50799

(4) Interfere with any authorized inspection of an adult care 50800
facility conducted pursuant to section 3722.02 or 3722.04 of the 50801
Revised Code; 50802

(5) Admit to an adult care facility a resident requiring 50803
publicly funded mental health services without first notifying the 50804
board of alcohol, drug addiction, and mental health services 50805
serving the alcohol, drug addiction, and mental health service 50806
district in which the facility is located; 50807

(6) Violate any of the provisions of this chapter or any of 50808
the rules adopted pursuant to it. 50809

(B) No adult care facility shall provide, or admit or retain 50810
any resident in need of, skilled nursing care unless all of the 50811
following conditions are ~~the case~~ met: 50812

(1) The care will be provided on a part-time, intermittent 50813
basis for not more than a total of one hundred twenty days in any 50814
twelve-month period. 50815

(2) The care will be provided by one or more of the 50816
following: 50817

(a) A home health agency certified under Title XVIII of the 50818
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 50819
amended+; 50820

(b) A hospice care program licensed under Chapter 3712. of 50821
the Revised Code; 50822

(c) A nursing home licensed under Chapter 3721. of the 50823
Revised Code and owned and operated by the same person and located 50824
on the same site as the adult care facility; 50825

(d) A mental health agency or, pursuant to division (A)(8)(b) 50826

of section 340.03 of the Revised Code, a board of alcohol, drug 50827
addiction, and mental health services. 50828

~~(2)(3) Each individual employed by, under contract with, or 50829
otherwise used by any of the entities specified in division (B)(2) 50830
of this section to perform the skilled nursing care is authorized 50831
under the laws of this state to perform the care by being 50832
appropriately licensed, as specified in rules adopted under 50833
division (G) of this section. 50834~~

~~(4) The staff of the home health agency, hospice care 50835
program, nursing home, mental health agency, or board of alcohol, 50836
drug addiction, and mental health services one or more entities 50837
providing the skilled nursing care does not train the adult care 50838
facility staff to provide the skilled nursing care; 50839~~

~~(3)(5) The individual to whom the skilled nursing care is 50840
provided is suffering from a short-term illness; 50841~~

~~(4)(6) If the skilled nursing care is to be provided by the 50842
nursing staff of a nursing home, all of the following are the 50843
case: 50844~~

~~(a) The adult care facility evaluates the individual 50845
receiving the skilled nursing care at least once every seven days 50846
to determine whether the individual should be transferred to a 50847
nursing home; 50848~~

~~(b) The adult care facility meets at all times staffing 50849
requirements established by rules adopted under section 3722.10 of 50850
the Revised Code; 50851~~

~~(c) The nursing home does not include the cost of providing 50852
skilled nursing care to the adult care facility residents in a 50853
cost report filed under section 5111.26 of the Revised Code; 50854~~

~~(d) The nursing home meets at all times the nursing home 50855
licensure staffing ratios established by rules adopted under 50856~~

section 3721.04 of the Revised Code; 50857

(e) The nursing home staff providing skilled nursing care to 50858
adult care facility residents are registered nurses or licensed 50859
practical nurses licensed under Chapter 4723. of the Revised Code 50860
and meet the personnel qualifications for nursing home staff 50861
established by rules adopted under section 3721.04 of the Revised 50862
Code; 50863

(f) The skilled nursing care is provided in accordance with 50864
rules established for nursing homes under section 3721.04 of the 50865
Revised Code; 50866

(g) The nursing home meets the skilled nursing care needs of 50867
the adult care facility residents; 50868

(h) Using the nursing home's nursing staff does not prevent 50869
the nursing home or adult care facility from meeting the needs of 50870
the nursing home and adult care facility residents in a quality 50871
and timely manner. 50872

(7) No adult care facility staff shall provide skilled 50873
nursing care. 50874

Notwithstanding section 3721.01 of the Revised Code, an adult 50875
care facility in which residents receive skilled nursing care as 50876
described in division (B) of this section is not a nursing home. 50877
~~No adult care facility shall provide skilled nursing care.~~ 50878

(C) A home health agency or hospice care program that 50879
provides skilled nursing care pursuant to division (B) of this 50880
section may not be associated with the adult care facility unless 50881
the facility is part of a home for the aged as defined in section 50882
5701.13 of the Revised Code or the adult care facility is owned 50883
and operated by the same person and located on the same site as a 50884
nursing home licensed under Chapter 3721. of the Revised Code that 50885
is associated with the home health agency or hospice care program. 50886
In addition, the following requirements shall be met: 50887

(1) The adult care facility shall evaluate the individual 50888
receiving the skilled nursing care not less than once every seven 50889
days to determine whether the individual should be transferred to 50890
a nursing home; 50891

(2) If the costs of providing the skilled nursing care are 50892
included in a cost report filed pursuant to section 5111.26 of the 50893
Revised Code by the nursing home that is part of the same home for 50894
the aged, the home health agency or hospice care program shall not 50895
seek reimbursement for the care under the medical assistance 50896
program established under Chapter 5111. of the Revised Code. 50897

(D)~~(1)~~ No person knowingly shall place or recommend placement 50898
of any person in an adult care facility that is operating without 50899
a license. 50900

~~(2)~~(E) No employee of a unit of local or state government, 50901
board of alcohol, drug addiction, and mental health services, 50902
mental health agency, or PASSPORT administrative agency shall 50903
place or recommend placement of any person in an adult care 50904
facility if the employee knows ~~that~~ either of the following: 50905

(1) That the facility cannot meet the needs of the potential 50906
resident; 50907

(2) That placement of the resident would cause the facility 50908
to exceed its licensed capacity. 50909

~~(3)~~ No person who has reason to believe that an adult care 50910
facility is operating without a license shall fail to report this 50911
information to the director of health. 50912

~~(E)~~(F) In accordance with Chapter 119. of the Revised Code, 50913
the public health council shall adopt rules ~~that define for~~ 50914
purposes of division (B) of this section that do all of the 50915
following: 50916

(1) Define a short-term illness for purposes of division 50917

(B)~~(3)~~(5) of this section ~~and specify;~~ 50918

(2) Specify, consistent with rules pertaining to home health 50919
care adopted by the director of job and family services under the 50920
medical assistance program established under Chapter 5111. of the 50921
Revised Code and Title XIX of the "Social Security Act," 49 Stat. 50922
620 (1935), 42 U.S.C. 301, as amended, what constitutes a 50923
part-time, intermittent basis for purposes of division (B)(1) of 50924
this section; 50925

(3) Specify what constitutes being appropriately licensed for 50926
purposes of division (B)(3) of this section. 50927

Sec. 3722.17. (A) Any person who believes that an adult care 50928
facility is in violation of this chapter or of any of the rules 50929
promulgated pursuant to it may report the information to the 50930
director of health. The director shall investigate each report 50931
made under this section or section 3722.16 of the Revised Code and 50932
shall inform the facility of the results of the investigation. 50933
When investigating a report made pursuant to section 340.05 of the 50934
Revised Code, the director shall consult with the board of 50935
alcohol, drug addiction, and mental health services that made the 50936
report. The director shall keep a record of the investigation and 50937
the action taken as a result of the investigation. 50938

The director shall not reveal, without consent, the identity 50939
of a person who makes a report under this section or division 50940
~~(D)~~~~(3)~~(F) of section 3722.16 of the Revised Code, the identity of 50941
a specific resident or residents referred to in such a report, or 50942
any other information that could reasonably be expected to reveal 50943
the identity of the person making the report or the resident or 50944
residents referred to in the report, except that the director may 50945
provide this information to a government agency responsible for 50946
enforcing laws applying to adult care facilities. 50947

(B) Any person who believes that a resident's rights under 50948

sections 3722.12 to 3722.15 of the Revised Code have been violated 50949
may report the information to the state or regional long-term care 50950
~~facilities~~ ombudsperson or to the director of health. If the 50951
person believes that the resident has mental illness or severe 50952
mental disability and is suffering abuse or neglect, the person 50953
may report the information to the board of alcohol, drug 50954
addiction, and mental health services serving the alcohol, drug 50955
addiction, and mental health service district in which the adult 50956
care facility is located or a mental health agency under contract 50957
with the board in addition to or instead of the ombudsperson or 50958
director. 50959

(C) Any person who makes a report pursuant to division (A) or 50960
(B) of this section or division ~~(D)~~~~(3)~~(F) of section 3722.16 of 50961
the Revised Code or any person who participates in an 50962
administrative or judicial proceeding resulting from such a report 50963
is immune from any civil liability or criminal liability, other 50964
than perjury, that might otherwise be incurred or imposed as a 50965
result of these actions, unless the person has acted in bad faith 50966
or with malicious purpose. 50967

Sec. 3722.18. Before an adult care facility admits a 50968
prospective resident who the owner or manager of the facility 50969
knows has been assessed as having a mental illness or severe 50970
mental disability, the owner or manager ~~shall do~~ is subject to 50971
both of the following ~~in accordance with rules adopted under~~ 50972
~~division (A)(12) of section 3722.10 of the Revised Code:~~ 50973

(A) If the prospective resident is referred to the facility 50974
by a mental health agency or board of alcohol, drug addiction, and 50975
mental health services, ~~do the following:~~ 50976

~~(1) Except in an emergency and only until the date an owner~~ 50977
~~or manager of an adult care facility must begin to follow~~ 50978
~~procedures under division (A)(2) of this section, enter into an~~ 50979

~~affiliation agreement with the agency or board. An affiliation agreement with the agency is subject to the board's approval. An affiliation agreement must be consistent with the residential portion of the board's community mental health plan submitted to the department of mental health under section 340.03 of the Revised Code.~~ 50980
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~~(2) Beginning on the date specified in rules adopted under division (A)(12) of section 3722.10 of the Revised Code, the owner or manager shall follow procedures established in those rules adopted under division (A)(12) of section 3722.10 of the Revised Code regarding referrals and effective arrangements for ongoing mental health services.~~ 50986
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(B) If the prospective resident is not referred to the facility by a mental health agency or board of alcohol, drug addiction, and mental health services, ~~document that~~ the owner or manager ~~has offered~~ shall offer to assist the prospective resident in obtaining appropriate mental health services and document the offer of assistance in accordance with rules adopted under division (A)(12) of section 3722.10 of the Revised Code. 50992
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Sec. 3722.99. Whoever violates division (A) ~~or (B)(1)~~ of section 3722.16 of the Revised Code shall be fined ~~five hundred two thousand~~ two thousand dollars for a first offense; for each subsequent offense, such person shall be fined ~~one~~ five thousand dollars. 50999
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Whoever violates division (C) of section 3722.12 or division (A)(2), (3), (4), (5) or (6), (B), (C), (D), (E), or (F) of section 3722.16 of the Revised Code shall be fined ~~one~~ five hundred dollars for a first offense; for each subsequent offense, such person shall be fined ~~five hundred~~ one thousand dollars. 51003
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Sec. 3727.02. (A) No person and no political subdivision, agency, or instrumentality of this state shall operate a hospital 51008
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unless it is certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or is accredited by ~~the joint commission or the American osteopathic association~~ a national accrediting organization approved by the centers for medicare and medicaid services and the director of health.

(B) No person and no political subdivision, agency, or instrumentality of this state shall hold out as a hospital any health facility that is not certified or accredited as required in division (A) of this section.

Sec. ~~3727.05~~ 3727.04. The director of health may petition the court of common pleas of the county in which a hospital is located for an order enjoining any person or any political subdivision, agency, or instrumentality of this state from violating section 3727.02 of the Revised Code. Irrespective of any other remedy the director may have in law or equity, the court may grant the order upon a showing that the respondent named in the petition is violating section 3727.02 of the Revised Code.

Sec. ~~3701.71~~ 3727.05. ~~To comply with the Social Security Act Amendments of 1950, known as Public Law 734 81st Congress, the Ohio~~ The department of health ~~is hereby designated as the state authority responsible for establishing and maintaining~~ shall establish, maintain, and enforce minimum standards for ~~voluntary and governmental~~ hospitals and ~~in~~ for units providing medical and nursing care in city and county institutions.

Sec. ~~3701.72~~ 3727.051. ~~Subject to the provisions of sections 119.01 to 119.13 inclusive, of the Revised Code, the~~ The Ohio department of health ~~shall have the power to~~ may adopt reasonable rules and regulations to establish and maintain such minimum standards implement section 3727.05 of the Revised Code. The rules

shall be adopted under Chapter 119. of the Revised Code. 51040

Sec. 3727.052. All prosecutions and proceedings by the 51041
department of health for a violation of the minimum standards 51042
established under section 3727.05 of the Revised Code, a violation 51043
of any of the rules adopted under section 3727.051 of the Revised 51044
Code, or a violation of any order issued by the department to 51045
enforce those standards or rules shall be instituted by the 51046
director of health. All fines or judgments the department collects 51047
shall be paid into the state treasury to the credit of the general 51048
revenue fund. 51049

The director may petition the court of common pleas for 51050
injunctive or other appropriate relief requiring any person 51051
committing the alleged violation to comply with the applicable 51052
standard, rule, or order. The court of common pleas of the county 51053
in which the offense is alleged to be occurring may grant such 51054
injunctive or other appropriate relief as the equities of the case 51055
require. 51056

Sec. ~~3727.04~~ 3727.053. In addition to any other inspections 51057
authorized by law, the director of health may inspect any hospital 51058
if there are substantial allegations or evidence of a significant 51059
deficiency or deficiencies that would, if found to be present, 51060
adversely affect the health or safety of its patients and may make 51061
such other inspections as are necessary to enforce this chapter. 51062

Sec. 3729.07. The licenser of a recreational vehicle park, 51063
recreation camp, or combined park-camp may charge a fee for an 51064
annual license to operate such a park, camp, or park-camp. In the 51065
case of a temporary park-camp, the licenser may charge a fee for a 51066
license to operate the temporary park-camp for the period 51067
specified in division (A) of section 3729.05 of the Revised Code. 51068
The fees for both types of licenses shall be determined in 51069

accordance with section 3709.09 of the Revised Code and shall 51070
include the cost of licensing and all inspections. 51071

Except for the fee for a temporary park-camp license, the fee 51072
also shall include any additional amount determined by rule of the 51073
public health council, which shall be collected and transmitted by 51074
the board of health to the ~~treasurer of state to be credited to~~ 51075
~~the general operations fund created in section 3701.83 of the~~ 51076
~~Revised Code~~ director of health pursuant to section 3709.092 of 51077
the Revised Code and used only for the purpose of administering 51078
and enforcing this chapter and rules adopted under it. The portion 51079
of any fee retained by the board of health shall be paid into a 51080
special fund and used only for the purpose of administering and 51081
enforcing this chapter and rules adopted under it. 51082

Sec. 3733.04. The licensor of a manufactured home park may 51083
charge a fee for an annual license to operate such a park. The fee 51084
for a license shall be determined in accordance with section 51085
3709.09 of the Revised Code and shall include the cost of 51086
licensing and all inspections. 51087

The fee also shall include any additional amount determined 51088
by rule of the public health council, which shall be collected and 51089
transmitted by the board of health to the ~~treasurer of state to be~~ 51090
~~credited to the general operations fund created in section 3701.83~~ 51091
~~of the Revised Code~~ director of health pursuant to section 51092
3709.092 of the Revised Code and used only for the purpose of 51093
administering and enforcing sections 3733.01 to 3733.08 of the 51094
Revised Code and the rules adopted under those sections. The 51095
portion of any fee retained by the board of health shall be paid 51096
into a special fund and used only for the purpose of administering 51097
and enforcing sections 3733.01 to 3733.08 of the Revised Code and 51098
the rules adopted thereunder. 51099

Sec. 3733.25. Any fee for the license required by section 51100
3733.24 of the Revised Code shall be determined in accordance with 51101
section 3709.09 of the Revised Code. The license fee shall include 51102
any additional amount determined by rule of the public health 51103
council, which shall be collected and transmitted by the board of 51104
health ~~district~~ to the director of health ~~for deposit in the state~~ 51105
~~treasury to the credit of the general operations fund created in~~ 51106
~~section 3701.83 of the Revised Code pursuant to section 3709.092~~ 51107
of the Revised Code and shall be used by the director to 51108
administer and enforce sections 3733.21 to 3733.30 of the Revised 51109
Code and rules adopted thereunder. The portion of any fee retained 51110
by the health district shall be paid into a special fund which is 51111
hereby created in each health district and shall be used only by 51112
the board for the purpose of administering and enforcing sections 51113
3733.21 to 3733.30 of the Revised Code and the rules adopted 51114
thereunder. The health district may charge additional reasonable 51115
fees for the collection and bacteriological examination of any 51116
necessary water samples taken from a marina. 51117

Sec. 3733.43. (A) Except as otherwise provided in this 51118
division, prior to the fifteenth day of April in each year, every 51119
person who intends to operate an agricultural labor camp shall 51120
make application to the licenser for a license to operate such 51121
camp, effective for the calendar year in which it is issued. The 51122
licenser may accept an application on or after the fifteenth day 51123
of April. The license fees specified in this division shall be 51124
submitted to the licenser with the application for a license. No 51125
agricultural labor camp shall be operated in this state without a 51126
license. Any person operating an agricultural labor camp without a 51127
current and valid agricultural labor camp license is not excepted 51128
from compliance with sections 3733.41 to 3733.49 of the Revised 51129
Code by holding a valid and current hotel license. Each person 51130

proposing to open an agricultural labor camp shall submit with the 51131
application for a license any plans required by any rule adopted 51132
under section 3733.42 of the Revised Code. ~~The~~ For any license 51133
issued on or after July 1, 2009, the annual license fee is 51134
~~seventy-five~~ one hundred fifty dollars, unless the application for 51135
a license is made on or after the fifteenth day of April in any 51136
given year, in which case the annual license fee is one hundred 51137
sixty-six dollars. ~~An~~ For any license issued on or after July 1, 51138
2009, an additional fee of ~~ten~~ twenty dollars per housing unit per 51139
year shall be assessed to defray the costs of enforcing sections 51140
3733.41 to 3733.49 of the Revised Code, unless the application for 51141
a license is made on or after the fifteenth day of April in any 51142
given year, in which case an additional fee of ~~fifteen~~ forty-two 51143
dollars and fifty cents per housing unit shall be assessed. All 51144
fees collected under this division shall be deposited in the state 51145
treasury to the credit of the general operations fund created in 51146
section 3701.83 of the Revised Code and shall be used for the 51147
administration and enforcement of sections 3733.41 to 3733.49 of 51148
the Revised Code and rules adopted thereunder. 51149

(B) Any license under this section may be denied, suspended, 51150
or revoked by the licensor for violation of sections 3733.41 to 51151
3733.49 of the Revised Code or the rules adopted thereunder. 51152
Unless there is an immediate serious public health hazard, no 51153
denial, suspension, or revocation of a license shall be made 51154
effective until the person operating the agricultural labor camp 51155
has been given notice in writing of the specific violations and a 51156
reasonable time to make corrections. When the licensor determines 51157
that an immediate serious public health hazard exists, the 51158
licensor shall issue an order denying or suspending the license 51159
without a prior hearing. 51160

(C) All proceedings under this section are subject to Chapter 51161
119. of the Revised Code except as provided in section 3733.431 of 51162

the Revised Code. 51163

(D) Every occupant of an agricultural labor camp shall keep 51164
that part of the dwelling unit, and premises thereof, that the 51165
occupant occupies and controls in a clean and sanitary condition. 51166

Sec. 3734.28. ~~All~~ Except as otherwise provided in section 51167
3734.282 of the Revised Code, moneys collected under sections 51168
3734.122, 3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the 51169
Revised Code and ~~natural resource damages collected by the state~~ 51170
under the "Comprehensive Environmental Response, Compensation, and 51171
Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as 51172
amended, shall be paid into the state treasury to the credit of 51173
the hazardous waste clean-up fund, which is hereby created. In 51174
addition, any moneys recovered for costs paid from the fund for 51175
activities described in ~~division~~ divisions (A)(1) and (2) of 51176
section 3745.12 of the Revised Code shall be credited to the fund. 51177
The environmental protection agency shall use the moneys in the 51178
fund for the purposes set forth in division (D) of section 51179
3734.122, sections 3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 51180
3734.26, and 3734.27, ~~and, through October 15, 2005,~~ divisions 51181
(A)(1) and (2) of section 3745.12, and Chapter 3746. of the 51182
Revised Code, including any related enforcement expenses. In 51183
addition, the agency shall use the moneys in the fund to pay the 51184
state's long-term operation and maintenance costs or matching 51185
share for actions taken under the "Comprehensive Environmental 51186
Response, Compensation, and Liability Act of 1980," as amended. If 51187
those moneys are reimbursed by grants or other moneys from the 51188
United States or any other person, the moneys shall be placed in 51189
the fund and not in the general revenue fund. 51190

The director of environmental protection may enter into 51191
contracts and grant agreements with federal, state, or local 51192
government agencies, nonprofit organizations, and colleges and 51193

universities for the purpose of carrying out the responsibilities 51194
of the environmental protection agency for which money may be 51195
expended from the fund. 51196

Sec. 3734.281. ~~Notwithstanding any provision of law to the~~ 51197
~~contrary, any moneys set aside by the state for the cleanup and~~ 51198
~~remediation of the Ashtabula river; any~~ Except as otherwise 51199
provided in section 3734.282 of the Revised Code, moneys collected 51200
from judgements for the state or settlements ~~made by~~ with the 51201
director of environmental protection, including those associated 51202
with bankruptcies, related to actions brought under Chapter 3714. 51203
and section 3734.13, 3734.20, 3734.22, 6111.03, or 6111.04 of the 51204
Revised Code; and ~~any~~ moneys received under the "Comprehensive 51205
Environmental Response, Compensation, and Liability Act of 1980," 51206
94 Stat. 2767, 42 U.S.C. ~~9602~~ 9601 et seq., as amended, may be 51207
paid into the state treasury to the credit of the environmental 51208
protection remediation fund, which is hereby created. The 51209
environmental protection agency shall use the moneys in the fund 51210
only for the purpose of remediating conditions at a hazardous 51211
waste facility, a solid waste facility, a construction and 51212
demolition debris facility licensed under Chapter 3714. of the 51213
Revised Code, or another location at which the director has reason 51214
to believe there is a substantial threat to public health or 51215
safety or the environment. Remediation may include the direct and 51216
indirect costs associated with the overseeing, supervising, 51217
performing, verifying, or reviewing of remediation activities by 51218
agency employees. All investment earnings of the fund shall be 51219
credited to the fund. 51220

The director of environmental protection may enter into 51221
contracts and grant agreements with federal, state, or local 51222
government agencies, nonprofit organizations, and colleges and 51223
universities for the purpose of carrying out the responsibilities 51224
of the environmental protection agency for which money may be 51225

expended from the fund. 51226

Sec. 3734.282. All money collected by the state for natural 51227
resources damages under the "Comprehensive Environmental Response, 51228
Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 51229
9601 et seq., as amended, the "Oil Pollution Act of 1990," 104 51230
Stat. 484, 33 U.S.C. 2701 et seq., as amended, the "Clean Water 51231
Act," 86 Stat. 862, 33 U.S.C. 1321, as amended, or any other 51232
applicable federal or state law shall be paid into the state 51233
treasury to the credit of the natural resource damages fund, which 51234
is hereby created. The director of environmental protection shall 51235
use money in the fund only in accordance with the purposes of and 51236
the limitations on natural resources damages set forth in the 51237
"Comprehensive Environmental Response, Compensation, and Liability 51238
Act of 1980," as amended, the "Oil Pollution Act of 1990," as 51239
amended, the "Clean Water Act," as amended, or another applicable 51240
federal or state law. All investment earnings of the fund shall be 51241
credited to the fund. 51242

The director of environmental protection may enter into 51243
contracts and grant agreements with federal, state, or local 51244
government agencies, nonprofit organizations, and colleges and 51245
universities for the purpose of carrying out the director's 51246
responsibilities for which money may be expended from the fund. 51247

Sec. 3734.57. (A) The following fees are hereby levied on the 51248
transfer or disposal of solid wastes in this state: 51249

(1) One dollar per ton on and after July 1, 2003, through 51250
June 30, ~~2010~~ 2012, one-half of the proceeds of which shall be 51251
deposited in the state treasury to the credit of the hazardous 51252
waste facility management fund created in section 3734.18 of the 51253
Revised Code and one-half of the proceeds of which shall be 51254
deposited in the state treasury to the credit of the hazardous 51255

waste clean-up fund created in section 3734.28 of the Revised Code; 51256
51257

(2) An additional one dollar per ton on and after July 1, 51258
2003, through June 30, ~~2010~~ 2012, the proceeds of which shall be 51259
deposited in the state treasury to the credit of the solid waste 51260
fund, which is hereby created. The environmental protection agency 51261
shall use money in the solid waste fund to pay the costs of 51262
administering and enforcing the laws pertaining to solid wastes, 51263
infectious wastes, and construction and demolition debris, 51264
including, without limitation, ground water evaluations related to 51265
solid wastes, infectious wastes, and construction and demolition 51266
debris, under this chapter and Chapter 3714. of the Revised Code 51267
and any rules adopted under them, providing compliance assistance 51268
to small businesses, and paying a share of the administrative 51269
costs of the environmental protection agency pursuant to section 51270
3745.014 of the Revised Code. 51271

(3) An additional ~~one dollar~~ two dollars and fifty cents per 51272
ton on and after July 1, ~~2005~~ 2009, through June 30, ~~2010~~ 2012, 51273
the proceeds of which shall be deposited in the state treasury to 51274
the credit of the environmental protection fund created in section 51275
3745.015 of the Revised Code; 51276

(4) An additional twenty-five cents per ton on and after July 51277
1, 2009, through June 30, 2012, the proceeds of which shall be 51278
deposited in the state treasury to the credit of the soil and 51279
water conservation district assistance fund created in section 51280
1515.14 of the Revised Code. 51281

In the case of solid wastes that are taken to a solid waste 51282
transfer facility located in this state prior to being transported 51283
for disposal at a solid waste disposal facility located in this 51284
state or outside of this state, the fees levied under this 51285
division shall be collected by the owner or operator of the 51286
transfer facility as a trustee for the state. The amount of fees 51287

required to be collected under this division at such a transfer 51288
facility shall equal the total tonnage of solid wastes received at 51289
the facility multiplied by the fees levied under this division. In 51290
the case of solid wastes that are not taken to a solid waste 51291
transfer facility located in this state prior to being transported 51292
to a solid waste disposal facility, the fees shall be collected by 51293
the owner or operator of the solid waste disposal facility as a 51294
trustee for the state. The amount of fees required to be collected 51295
under this division at such a disposal facility shall equal the 51296
total tonnage of solid wastes received at the facility that was 51297
not previously taken to a solid waste transfer facility located in 51298
this state multiplied by the fees levied under this division. Fees 51299
levied under this division do not apply to materials separated 51300
from a mixed waste stream for recycling by a generator or 51301
materials removed from the solid waste stream through recycling, 51302
as "recycling" is defined in rules adopted under section 3734.02 51303
of the Revised Code. 51304

The owner or operator of a solid waste transfer facility or 51305
disposal facility, as applicable, shall prepare and file with the 51306
director of environmental protection each month a return 51307
indicating the total tonnage of solid wastes received at the 51308
facility during that month and the total amount of the fees 51309
required to be collected under this division during that month. In 51310
addition, the owner or operator of a solid waste disposal facility 51311
shall indicate on the return the total tonnage of solid wastes 51312
received from transfer facilities located in this state during 51313
that month for which the fees were required to be collected by the 51314
transfer facilities. The monthly returns shall be filed on a form 51315
prescribed by the director. Not later than thirty days after the 51316
last day of the month to which a return applies, the owner or 51317
operator shall mail to the director the return for that month 51318
together with the fees required to be collected under this 51319
division during that month as indicated on the return or may 51320

submit the return and fees electronically in a manner approved by 51321
the director. If the return is filed and the amount of the fees 51322
due is paid in a timely manner as required in this division, the 51323
owner or operator may retain a discount of three-fourths of one 51324
per cent of the total amount of the fees that are required to be 51325
paid as indicated on the return. 51326

The owner or operator may request an extension of not more 51327
than thirty days for filing the return and remitting the fees, 51328
provided that the owner or operator has submitted such a request 51329
in writing to the director together with a detailed description of 51330
why the extension is requested, the director has received the 51331
request not later than the day on which the return is required to 51332
be filed, and the director has approved the request. If the fees 51333
are not remitted within thirty days after the last day of the 51334
month to which the return applies or are not remitted by the last 51335
day of an extension approved by the director, the owner or 51336
operator shall not retain the three-fourths of one per cent 51337
discount and shall pay an additional ten per cent of the amount of 51338
the fees for each month that they are late. For purposes of 51339
calculating the late fee, the first month in which fees are late 51340
begins on the first day after the deadline has passed for timely 51341
submitting the return and fees, and one additional month shall be 51342
counted every thirty days thereafter. 51343

The owner or operator of a solid waste facility may request a 51344
refund or credit of fees levied under this division and remitted 51345
to the director that have not been paid to the owner or operator. 51346
Such a request shall be made only if the fees have not been 51347
collected by the owner or operator, have become a debt that has 51348
become worthless or uncollectable for a period of six months or 51349
more, and may be claimed as a deduction, including a deduction 51350
claimed if the owner or operator keeps accounts on an accrual 51351
basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 51352

U.S.C. 166, as amended, and regulations adopted under it. Prior to 51353
making a request for a refund or credit, an owner or operator 51354
shall make reasonable efforts to collect the applicable fees. A 51355
request for a refund or credit shall not include any costs 51356
resulting from those efforts to collect unpaid fees. 51357

A request for a refund or credit of fees shall be made in 51358
writing, on a form prescribed by the director, and shall be 51359
supported by evidence that may be required in rules adopted by the 51360
director under this chapter. After reviewing the request, and if 51361
the request and evidence submitted with the request indicate that 51362
a refund or credit is warranted, the director shall grant a refund 51363
to the owner or operator or shall permit a credit to be taken by 51364
the owner or operator on a subsequent monthly return submitted by 51365
the owner or operator. The amount of a refund or credit shall not 51366
exceed an amount that is equal to ninety days' worth of fees owed 51367
to an owner or operator by a particular debtor of the owner or 51368
operator. A refund or credit shall not be granted by the director 51369
to an owner or operator more than once in any twelve-month period 51370
for fees owed to the owner or operator by a particular debtor. 51371

If, after receiving a refund or credit from the director, an 51372
owner or operator receives payment of all or part of the fees, the 51373
owner or operator shall remit the fees with the next monthly 51374
return submitted to the director together with a written 51375
explanation of the reason for the submittal. 51376

For purposes of computing the fees levied under this division 51377
or division (B) of this section, any solid waste transfer or 51378
disposal facility that does not use scales as a means of 51379
determining gate receipts shall use a conversion factor of three 51380
cubic yards per ton of solid waste or one cubic yard per ton for 51381
baled waste, as applicable. 51382

The fees levied under this division and divisions (B) and (C) 51383
of this section are in addition to all other applicable fees and 51384

taxes and shall be paid by the customer or a political subdivision 51385
to the owner or operator of a solid waste transfer or disposal 51386
facility notwithstanding the existence of any provision in a 51387
contract that the customer or a political subdivision may have 51388
with the owner or operator or with a transporter of waste to the 51389
facility that would not require or allow such payment. 51390

(B) For the purposes specified in division (G) of this 51391
section, the solid waste management policy committee of a county 51392
or joint solid waste management district may levy fees upon the 51393
following activities: 51394

(1) The disposal at a solid waste disposal facility located 51395
in the district of solid wastes generated within the district; 51396

(2) The disposal at a solid waste disposal facility within 51397
the district of solid wastes generated outside the boundaries of 51398
the district, but inside this state; 51399

(3) The disposal at a solid waste disposal facility within 51400
the district of solid wastes generated outside the boundaries of 51401
this state. 51402

The solid waste management plan of the county or joint 51403
district approved under section 3734.521 or 3734.55 of the Revised 51404
Code and any amendments to it, or the resolution adopted under 51405
this division, as appropriate, shall establish the rates of the 51406
fees levied under divisions (B)(1), (2), and (3) of this section, 51407
if any, and shall specify whether the fees are levied on the basis 51408
of tons or cubic yards as the unit of measurement. A solid waste 51409
management district that levies fees under this division on the 51410
basis of cubic yards shall do so in accordance with division (A) 51411
of this section. 51412

The fee levied under division (B)(1) of this section shall be 51413
not less than one dollar per ton nor more than two dollars per 51414
ton, the fee levied under division (B)(2) of this section shall be 51415

not less than two dollars per ton nor more than four dollars per 51416
ton, and the fee levied under division (B)(3) of this section 51417
shall be not more than the fee levied under division (B)(1) of 51418
this section. 51419

Prior to the approval of the solid waste management plan of a 51420
district under section 3734.55 of the Revised Code, the solid 51421
waste management policy committee of a district may levy fees 51422
under this division by adopting a resolution establishing the 51423
proposed amount of the fees. Upon adopting the resolution, the 51424
committee shall deliver a copy of the resolution to the board of 51425
county commissioners of each county forming the district and to 51426
the legislative authority of each municipal corporation and 51427
township under the jurisdiction of the district and shall prepare 51428
and publish the resolution and a notice of the time and location 51429
where a public hearing on the fees will be held. Upon adopting the 51430
resolution, the committee shall deliver written notice of the 51431
adoption of the resolution; of the amount of the proposed fees; 51432
and of the date, time, and location of the public hearing to the 51433
director and to the fifty industrial, commercial, or institutional 51434
generators of solid wastes within the district that generate the 51435
largest quantities of solid wastes, as determined by the 51436
committee, and to their local trade associations. The committee 51437
shall make good faith efforts to identify those generators within 51438
the district and their local trade associations, but the 51439
nonprovision of notice under this division to a particular 51440
generator or local trade association does not invalidate the 51441
proceedings under this division. The publication shall occur at 51442
least thirty days before the hearing. After the hearing, the 51443
committee may make such revisions to the proposed fees as it 51444
considers appropriate and thereafter, by resolution, shall adopt 51445
the revised fee schedule. Upon adopting the revised fee schedule, 51446
the committee shall deliver a copy of the resolution doing so to 51447
the board of county commissioners of each county forming the 51448

district and to the legislative authority of each municipal 51449
corporation and township under the jurisdiction of the district. 51450
Within sixty days after the delivery of a copy of the resolution 51451
adopting the proposed revised fees by the policy committee, each 51452
such board and legislative authority, by ordinance or resolution, 51453
shall approve or disapprove the revised fees and deliver a copy of 51454
the ordinance or resolution to the committee. If any such board or 51455
legislative authority fails to adopt and deliver to the policy 51456
committee an ordinance or resolution approving or disapproving the 51457
revised fees within sixty days after the policy committee 51458
delivered its resolution adopting the proposed revised fees, it 51459
shall be conclusively presumed that the board or legislative 51460
authority has approved the proposed revised fees. The committee 51461
shall determine if the resolution has been ratified in the same 51462
manner in which it determines if a draft solid waste management 51463
plan has been ratified under division (B) of section 3734.55 of 51464
the Revised Code. 51465

The committee may amend the schedule of fees levied pursuant 51466
to a resolution adopted and ratified under this division by 51467
adopting a resolution establishing the proposed amount of the 51468
amended fees. The committee may repeal the fees levied pursuant to 51469
such a resolution by adopting a resolution proposing to repeal 51470
them. Upon adopting such a resolution, the committee shall proceed 51471
to obtain ratification of the resolution in accordance with this 51472
division. 51473

Not later than fourteen days after declaring the new fees to 51474
be ratified or the fees to be repealed under this division, the 51475
committee shall notify by certified mail the owner or operator of 51476
each solid waste disposal facility that is required to collect the 51477
fees of the ratification and the amount of the fees or of the 51478
repeal of the fees. Collection of any fees shall commence or 51479
collection of repealed fees shall cease on the first day of the 51480

second month following the month in which notification is sent to 51481
the owner or operator. 51482

Fees levied under this division also may be established, 51483
amended, or repealed by a solid waste management policy committee 51484
through the adoption of a new district solid waste management 51485
plan, the adoption of an amended plan, or the amendment of the 51486
plan or amended plan in accordance with sections 3734.55 and 51487
3734.56 of the Revised Code or the adoption or amendment of a 51488
district plan in connection with a change in district composition 51489
under section 3734.521 of the Revised Code. 51490

Not later than fourteen days after the director issues an 51491
order approving a district's solid waste management plan, amended 51492
plan, or amendment to a plan or amended plan that establishes, 51493
amends, or repeals a schedule of fees levied by the district, the 51494
committee shall notify by certified mail the owner or operator of 51495
each solid waste disposal facility that is required to collect the 51496
fees of the approval of the plan or amended plan, or the amendment 51497
to the plan, as appropriate, and the amount of the fees, if any. 51498
In the case of an initial or amended plan approved under section 51499
3734.521 of the Revised Code in connection with a change in 51500
district composition, other than one involving the withdrawal of a 51501
county from a joint district, the committee, within fourteen days 51502
after the change takes effect pursuant to division (G) of that 51503
section, shall notify by certified mail the owner or operator of 51504
each solid waste disposal facility that is required to collect the 51505
fees that the change has taken effect and of the amount of the 51506
fees, if any. Collection of any fees shall commence or collection 51507
of repealed fees shall cease on the first day of the second month 51508
following the month in which notification is sent to the owner or 51509
operator. 51510

If, in the case of a change in district composition involving 51511
the withdrawal of a county from a joint district, the director 51512

completes the actions required under division (G)(1) or (3) of 51513
section 3734.521 of the Revised Code, as appropriate, forty-five 51514
days or more before the beginning of a calendar year, the policy 51515
committee of each of the districts resulting from the change that 51516
obtained the director's approval of an initial or amended plan in 51517
connection with the change, within fourteen days after the 51518
director's completion of the required actions, shall notify by 51519
certified mail the owner or operator of each solid waste disposal 51520
facility that is required to collect the district's fees that the 51521
change is to take effect on the first day of January immediately 51522
following the issuance of the notice and of the amount of the fees 51523
or amended fees levied under divisions (B)(1) to (3) of this 51524
section pursuant to the district's initial or amended plan as so 51525
approved or, if appropriate, the repeal of the district's fees by 51526
that initial or amended plan. Collection of any fees set forth in 51527
such a plan or amended plan shall commence on the first day of 51528
January immediately following the issuance of the notice. If such 51529
an initial or amended plan repeals a schedule of fees, collection 51530
of the fees shall cease on that first day of January. 51531

If, in the case of a change in district composition involving 51532
the withdrawal of a county from a joint district, the director 51533
completes the actions required under division (G)(1) or (3) of 51534
section 3734.521 of the Revised Code, as appropriate, less than 51535
forty-five days before the beginning of a calendar year, the 51536
director, on behalf of each of the districts resulting from the 51537
change that obtained the director's approval of an initial or 51538
amended plan in connection with the change proceedings, shall 51539
notify by certified mail the owner or operator of each solid waste 51540
disposal facility that is required to collect the district's fees 51541
that the change is to take effect on the first day of January 51542
immediately following the mailing of the notice and of the amount 51543
of the fees or amended fees levied under divisions (B)(1) to (3) 51544
of this section pursuant to the district's initial or amended plan 51545

as so approved or, if appropriate, the repeal of the district's 51546
fees by that initial or amended plan. Collection of any fees set 51547
forth in such a plan or amended plan shall commence on the first 51548
day of the second month following the month in which notification 51549
is sent to the owner or operator. If such an initial or amended 51550
plan repeals a schedule of fees, collection of the fees shall 51551
cease on the first day of the second month following the month in 51552
which notification is sent to the owner or operator. 51553

If the schedule of fees that a solid waste management 51554
district is levying under divisions (B)(1) to (3) of this section 51555
is amended or repealed, the fees in effect immediately prior to 51556
the amendment or repeal shall continue to be collected until 51557
collection of the amended fees commences or collection of the 51558
repealed fees ceases, as applicable, as specified in this 51559
division. In the case of a change in district composition, money 51560
so received from the collection of the fees of the former 51561
districts shall be divided among the resulting districts in 51562
accordance with division (B) of section 343.012 of the Revised 51563
Code and the agreements entered into under division (B) of section 51564
343.01 of the Revised Code to establish the former and resulting 51565
districts and any amendments to those agreements. 51566

For the purposes of the provisions of division (B) of this 51567
section establishing the times when newly established or amended 51568
fees levied by a district are required to commence and the 51569
collection of fees that have been amended or repealed is required 51570
to cease, "fees" or "schedule of fees" includes, in addition to 51571
fees levied under divisions (B)(1) to (3) of this section, those 51572
levied under section 3734.573 or 3734.574 of the Revised Code. 51573

(C) For the purposes of defraying the added costs to a 51574
municipal corporation or township of maintaining roads and other 51575
public facilities and of providing emergency and other public 51576
services, and compensating a municipal corporation or township for 51577

reductions in real property tax revenues due to reductions in real 51578
property valuations resulting from the location and operation of a 51579
solid waste disposal facility within the municipal corporation or 51580
township, a municipal corporation or township in which such a 51581
solid waste disposal facility is located may levy a fee of not 51582
more than twenty-five cents per ton on the disposal of solid 51583
wastes at a solid waste disposal facility located within the 51584
boundaries of the municipal corporation or township regardless of 51585
where the wastes were generated. 51586

The legislative authority of a municipal corporation or 51587
township may levy fees under this division by enacting an 51588
ordinance or adopting a resolution establishing the amount of the 51589
fees. Upon so doing the legislative authority shall mail a 51590
certified copy of the ordinance or resolution to the board of 51591
county commissioners or directors of the county or joint solid 51592
waste management district in which the municipal corporation or 51593
township is located or, if a regional solid waste management 51594
authority has been formed under section 343.011 of the Revised 51595
Code, to the board of trustees of that regional authority, the 51596
owner or operator of each solid waste disposal facility in the 51597
municipal corporation or township that is required to collect the 51598
fee by the ordinance or resolution, and the director of 51599
environmental protection. Although the fees levied under this 51600
division are levied on the basis of tons as the unit of 51601
measurement, the legislative authority, in its ordinance or 51602
resolution levying the fees under this division, may direct that 51603
the fees be levied on the basis of cubic yards as the unit of 51604
measurement based upon a conversion factor of three cubic yards 51605
per ton generally or one cubic yard per ton for baled wastes. 51606

Not later than five days after enacting an ordinance or 51607
adopting a resolution under this division, the legislative 51608
authority shall so notify by certified mail the owner or operator 51609

of each solid waste disposal facility that is required to collect 51610
the fee. Collection of any fee levied on or after March 24, 1992, 51611
shall commence on the first day of the second month following the 51612
month in which notification is sent to the owner or operator. 51613

(D)(1) The fees levied under divisions (A), (B), and (C) of 51614
this section do not apply to the disposal of solid wastes that: 51615

(a) Are disposed of at a facility owned by the generator of 51616
the wastes when the solid waste facility exclusively disposes of 51617
solid wastes generated at one or more premises owned by the 51618
generator regardless of whether the facility is located on a 51619
premises where the wastes are generated; 51620

(b) Are disposed of at facilities that exclusively dispose of 51621
wastes that are generated from the combustion of coal, or from the 51622
combustion of primarily coal in combination with scrap tires, that 51623
is not combined in any way with garbage at one or more premises 51624
owned by the generator. 51625

(2) Except as provided in section 3734.571 of the Revised 51626
Code, any fees levied under division (B)(1) of this section apply 51627
to solid wastes originating outside the boundaries of a county or 51628
joint district that are covered by an agreement for the joint use 51629
of solid waste facilities entered into under section 343.02 of the 51630
Revised Code by the board of county commissioners or board of 51631
directors of the county or joint district where the wastes are 51632
generated and disposed of. 51633

(3) When solid wastes, other than solid wastes that consist 51634
of scrap tires, are burned in a disposal facility that is an 51635
incinerator or energy recovery facility, the fees levied under 51636
divisions (A), (B), and (C) of this section shall be levied upon 51637
the disposal of the fly ash and bottom ash remaining after burning 51638
of the solid wastes and shall be collected by the owner or 51639
operator of the sanitary landfill where the ash is disposed of. 51640

(4) When solid wastes are delivered to a solid waste transfer facility, the fees levied under divisions (B) and (C) of this section shall be levied upon the disposal of solid wastes transported off the premises of the transfer facility for disposal and shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of.

(5) The fees levied under divisions (A), (B), and (C) of this section do not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(6) The fees levied under divisions (A), (B), and (C) of this section do not apply to solid wastes delivered to a solid waste composting facility for processing. When any unprocessed solid waste or compost product is transported off the premises of a composting facility and disposed of at a landfill, the fees levied under divisions (A), (B), and (C) of this section shall be collected by the owner or operator of the landfill where the unprocessed waste or compost product is disposed of.

(7) When solid wastes that consist of scrap tires are processed at a scrap tire recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash or other solid wastes remaining after the processing of the scrap tires and shall be collected by the owner or operator of the solid waste disposal facility where the ash or other solid wastes are disposed of.

(8) The director of environmental protection may issue an order exempting from the fees levied under this section solid wastes, including, but not limited to, scrap tires, that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered into by the

administrator or regional administrator of the United States 51673
environmental protection agency, the director of environmental 51674
protection, or the director of administrative services on behalf 51675
of the director of environmental protection for the purpose of 51676
remediating conditions at a hazardous waste facility, solid waste 51677
facility, or other location at which the administrator or regional 51678
administrator or the director of environmental protection has 51679
reason to believe that there is a substantial threat to public 51680
health or safety or the environment or that the conditions are 51681
causing or contributing to air or water pollution or soil 51682
contamination. An order issued by the director of environmental 51683
protection under division (D)(8) of this section shall include a 51684
determination that the amount of the fees not received by a solid 51685
waste management district as a result of the order will not 51686
adversely impact the implementation and financing of the 51687
district's approved solid waste management plan and any approved 51688
amendments to the plan. Such an order is a final action of the 51689
director of environmental protection. 51690

(E) The fees levied under divisions (B) and (C) of this 51691
section shall be collected by the owner or operator of the solid 51692
waste disposal facility where the wastes are disposed of as a 51693
trustee for the county or joint district and municipal corporation 51694
or township where the wastes are disposed of. Moneys from the fees 51695
levied under division (B) of this section shall be forwarded to 51696
the board of county commissioners or board of directors of the 51697
district in accordance with rules adopted under division (H) of 51698
this section. Moneys from the fees levied under division (C) of 51699
this section shall be forwarded to the treasurer or such other 51700
officer of the municipal corporation as, by virtue of the charter, 51701
has the duties of the treasurer or to the fiscal officer of the 51702
township, as appropriate, in accordance with those rules. 51703

(F) Moneys received by the treasurer or other officer of the 51704

municipal corporation under division (E) of this section shall be 51705
paid into the general fund of the municipal corporation. Moneys 51706
received by the fiscal officer of the township under that division 51707
shall be paid into the general fund of the township. The treasurer 51708
or other officer of the municipal corporation or the township 51709
fiscal officer, as appropriate, shall maintain separate records of 51710
the moneys received from the fees levied under division (C) of 51711
this section. 51712

(G) Moneys received by the board of county commissioners or 51713
board of directors under division (E) of this section or section 51714
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 51715
shall be paid to the county treasurer, or other official acting in 51716
a similar capacity under a county charter, in a county district or 51717
to the county treasurer or other official designated by the board 51718
of directors in a joint district and kept in a separate and 51719
distinct fund to the credit of the district. If a regional solid 51720
waste management authority has been formed under section 343.011 51721
of the Revised Code, moneys received by the board of trustees of 51722
that regional authority under division (E) of this section shall 51723
be kept by the board in a separate and distinct fund to the credit 51724
of the district. Moneys in the special fund of the county or joint 51725
district arising from the fees levied under division (B) of this 51726
section and the fee levied under division (A) of section 3734.573 51727
of the Revised Code shall be expended by the board of county 51728
commissioners or directors of the district in accordance with the 51729
district's solid waste management plan or amended plan approved 51730
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 51731
exclusively for the following purposes: 51732

(1) Preparation of the solid waste management plan of the 51733
district under section 3734.54 of the Revised Code, monitoring 51734
implementation of the plan, and conducting the periodic review and 51735
amendment of the plan required by section 3734.56 of the Revised 51736

Code by the solid waste management policy committee;	51737
(2) Implementation of the approved solid waste management plan or amended plan of the district, including, without limitation, the development and implementation of solid waste recycling or reduction programs;	51738 51739 51740 51741
(3) Providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for enforcement of this chapter and rules, orders, and terms and conditions of permits, licenses, and variances adopted or issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions;	51742 51743 51744 51745 51746 51747 51748
(4) Providing financial assistance to each county within the district to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan or amended plan;	51749 51750 51751 51752 51753 51754
(5) Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or private water wells on lands adjacent to those facilities;	51755 51756 51757 51758 51759 51760
(6) Developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan;	51761 51762 51763 51764
(7) Providing financial assistance to boards of health within the district for the enforcement of section 3734.03 of the Revised Code or to local law enforcement agencies having jurisdiction	51765 51766 51767

within the district for enforcing anti-littering laws and 51768
ordinances; 51769

(8) Providing financial assistance to boards of health of 51770
health districts within the district that are on the approved list 51771
under section 3734.08 of the Revised Code to defray the costs to 51772
the health districts for the participation of their employees 51773
responsible for enforcement of the solid waste provisions of this 51774
chapter and rules adopted and orders and terms and conditions of 51775
permits, licenses, and variances issued under those provisions in 51776
the training and certification program as required by rules 51777
adopted under division (L) of section 3734.02 of the Revised Code; 51778

(9) Providing financial assistance to individual municipal 51779
corporations and townships within the district to defray their 51780
added costs of maintaining roads and other public facilities and 51781
of providing emergency and other public services resulting from 51782
the location and operation within their boundaries of a 51783
composting, energy or resource recovery, incineration, or 51784
recycling facility that either is owned by the district or is 51785
furnishing solid waste management facility or recycling services 51786
to the district pursuant to a contract or agreement with the board 51787
of county commissioners or directors of the district; 51788

(10) Payment of any expenses that are agreed to, awarded, or 51789
ordered to be paid under section 3734.35 of the Revised Code and 51790
of any administrative costs incurred pursuant to that section. In 51791
the case of a joint solid waste management district, if the board 51792
of county commissioners of one of the counties in the district is 51793
negotiating on behalf of affected communities, as defined in that 51794
section, in that county, the board shall obtain the approval of 51795
the board of directors of the district in order to expend moneys 51796
for administrative costs incurred. 51797

Prior to the approval of the district's solid waste 51798
management plan under section 3734.55 of the Revised Code, moneys 51799

in the special fund of the district arising from the fees shall be 51800
expended for those purposes in the manner prescribed by the solid 51801
waste management policy committee by resolution. 51802

Notwithstanding division (G)(6) of this section as it existed 51803
prior to October 29, 1993, or any provision in a district's solid 51804
waste management plan prepared in accordance with division 51805
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 51806
prior to that date, any moneys arising from the fees levied under 51807
division (B)(3) of this section prior to January 1, 1994, may be 51808
expended for any of the purposes authorized in divisions (G)(1) to 51809
(10) of this section. 51810

(H) The director shall adopt rules in accordance with Chapter 51811
119. of the Revised Code prescribing procedures for collecting and 51812
forwarding the fees levied under divisions (B) and (C) of this 51813
section to the boards of county commissioners or directors of 51814
county or joint solid waste management districts and to the 51815
treasurers or other officers of municipal corporations and the 51816
fiscal officers of townships. The rules also shall prescribe the 51817
dates for forwarding the fees to the boards and officials and may 51818
prescribe any other requirements the director considers necessary 51819
or appropriate to implement and administer divisions (A), (B), and 51820
(C) of this section. 51821

Sec. 3734.82. (A) The annual fee for a scrap tire recovery 51822
facility license issued under section 3734.81 of the Revised Code 51823
shall be in accordance with the following schedule: 51824

Daily Design	Annual	51825
Input Capacity	License	51826
(Tons)	Fee	51827
1 or less	\$ 100	51828
2 to 25	500	51829
26 to 50	1,000	51830

51 to 100	1,500	51831
101 to 200	2,500	51832
201 to 500	3,500	51833
501 or more	5,500	51834

For the purpose of determining the applicable license fee 51835
under this division, the daily design input capacity shall be the 51836
quantity of scrap tires the facility is designed to process daily 51837
as set forth in the registration certificate or permit for the 51838
facility, and any modifications to the permit, if applicable, 51839
issued under section 3734.78 of the Revised Code. 51840

(B) The annual fee for a scrap tire monocell or monofill 51841
facility license shall be in accordance with the following 51842
schedule: 51843

Authorized Maximum	Annual	51844
Daily Waste Receipt	License	51845
(Tons)	Fee	51846
100 or less	\$ 5,000	51847
101 to 200	12,500	51848
201 to 500	30,000	51849
501 or more	60,000	51850

For the purpose of determining the applicable license fee 51851
under this division, the authorized maximum daily waste receipt 51852
shall be the maximum amount of scrap tires the facility is 51853
authorized to receive daily that is established in the permit for 51854
the facility, and any modification to that permit, issued under 51855
section 3734.77 of the Revised Code. 51856

(C)(1) Except as otherwise provided in division (C)(2) of 51857
this section, the annual fee for a scrap tire storage facility 51858
license shall equal one thousand dollars times the number of acres 51859
on which scrap tires are to be stored at the facility during the 51860
license year, as set forth on the application for the annual 51861
license, except that the total annual license fee for any such 51862

facility shall not exceed three thousand dollars. 51863

(2) The annual fee for a scrap tire storage facility license 51864
for a storage facility that is owned or operated by a motor 51865
vehicle salvage dealer licensed under Chapter 4738. of the Revised 51866
Code is one hundred dollars. 51867

(D)(1) Except as otherwise provided in division (D)(2) of 51868
this section, the annual fee for a scrap tire collection facility 51869
license is two hundred dollars. 51870

(2) The annual fee for a scrap tire collection facility 51871
license for a collection facility that is owned or operated by a 51872
motor vehicle salvage dealer licensed under Chapter 4738. of the 51873
Revised Code is fifty dollars. 51874

(E) Except as otherwise provided in divisions (C)(2) and 51875
(D)(2) of this section, the same fees apply to private operators 51876
and to the state and its political subdivisions and shall be paid 51877
within thirty days after the issuance of a license. The fees 51878
include the cost of licensing, all inspections, and other costs 51879
associated with the administration of the scrap tire provisions of 51880
this chapter and rules adopted under them. Each license shall 51881
specify that it is conditioned upon payment of the applicable fee 51882
to the board of health or the director of environmental 51883
protection, as appropriate, within thirty days after the issuance 51884
of the license. 51885

(F) The board of health shall retain fifteen thousand dollars 51886
of each license fee collected by the board under division (B) of 51887
this section, or the entire amount of any such fee that is less 51888
than fifteen thousand dollars, and the entire amount of each 51889
license fee collected by the board under divisions (A), (C), and 51890
(D) of this section. The moneys retained shall be paid into a 51891
special fund, which is hereby created in each health district, and 51892
used solely to administer and enforce the scrap tire provisions of 51893

this chapter and rules adopted under them. The remainder, if any, 51894
of each license fee collected by the board under division (B) of 51895
this section shall be transmitted to the director within 51896
forty-five days after receipt of the fee. 51897

(G) The director shall transmit the moneys received by the 51898
director from license fees collected under division (B) of this 51899
section to the treasurer of state to be credited to the scrap tire 51900
management fund, which is hereby created in the state treasury. 51901
The fund shall consist of all federal moneys received by the 51902
environmental protection agency for the scrap tire management 51903
program; all grants, gifts, and contributions made to the director 51904
for that program; and all other moneys that may be provided by law 51905
for that program. The director shall use moneys in the fund as 51906
follows: 51907

(1) ~~Expend not more than seven hundred fifty thousand dollars~~ 51908
~~during each fiscal year~~ amounts determined necessary by the 51909
director to implement, administer, and enforce the scrap tire 51910
provisions of this chapter and rules adopted under them; 51911

(2) During each fiscal year, request the director of budget 51912
and management to, and the director of budget and management 51913
shall, transfer one million dollars to the scrap tire grant fund 51914
created in section 1502.12 of the Revised Code for ~~the purposes~~ 51915
~~specified in that section;~~ supporting market development 51916
activities for scrap tires and synthetic rubber from tire 51917
manufacturing processes and tire recycling processes. In addition, 51918
during a fiscal year, the director of environmental protection may 51919
request the director of budget and management to, and the director 51920
of budget and management shall, transfer up to an additional five 51921
hundred thousand dollars to the scrap tire grant fund for scrap 51922
tire amnesty events and scrap tire cleanup events. 51923

(3) ~~Expend not more than three million dollars per year~~ 51924
~~during fiscal years 2002 and 2003 to conduct removal actions under~~ 51925

~~section 3734.85 of the Revised Code and to make grants to boards of health under section 3734.042 of the Revised Code. However, more than three million dollars may be expended in fiscal years 2002 and 2003 for the purposes of division (C)(3) of this section if more moneys are collected from the fee levied under division (A)(2) of section 3734.901 of the Revised Code. During each subsequent fiscal year the director shall expend not more than four million five hundred thousand dollars to conduct removal actions under section 3734.85 of the Revised Code and to make grants to boards of health under section 3734.042 of the Revised Code. However, more than four million five hundred thousand dollars may be expended in a fiscal year for the purposes of division (C)(3) of this section if more moneys are collected from the fee levied under division (A)(2) of section 3734.901 of the Revised Code. The director shall request the approval of the controlling board prior to the use of the moneys to conduct removal actions under section 3734.85 of the Revised Code. The request shall be accompanied by a plan describing the removal actions to be conducted during the fiscal year and an estimate of the costs of conducting them. The controlling board shall approve the plan only if it finds that the proposed removal actions are in accordance with the priorities set forth in division (B) of section 3734.85 of the Revised Code and that the costs of conducting them are reasonable. Controlling board approval is not required for grants made to boards of health under section 3734.042 of the Revised Code.~~

~~(H) If, during a fiscal year, more than seven million dollars are credited to the scrap tire management fund, the director, at the conclusion of the fiscal year, shall request the director of budget and management to, and the director of budget and management shall, transfer one half of those excess moneys to the scrap tire grant fund. The director shall expend the remaining excess moneys in the scrap tire management fund to conduct removal~~

~~actions under section 3734.85 of the Revised Code in accordance 51959
with the procedures established under division (I) of this 51960
section. 51961~~

~~(I) After the actions in divisions (G)(1) to (3) and (H) of 51962
this section are completed during each prior fiscal year, the 51963
director may expend up to the balance remaining from prior fiscal 51964
years in the scrap tire management fund to conduct removal actions 51965
under section 3734.85 of the Revised Code. Prior to using any 51966
moneys in the fund for that purpose in a fiscal year, the director 51967
shall request the approval of the controlling board for that use 51968
of the moneys. The request shall be accompanied by a plan 51969
describing the removal actions to be conducted during the fiscal 51970
year and an estimate of the costs of conducting them. The 51971
controlling board shall approve the plan only if the board finds 51972
that the proposed removal actions are in accordance with the 51973
priorities set forth in division (B) of section 3734.85 of the 51974
Revised Code and that the costs of conducting them are reasonable 51975
After the expenditures and transfers are made under divisions 51976
(G)(1) and (2) of this section, expend the balance of the money in 51977
the scrap tire management fund remaining in each fiscal year to 51978
conduct removal actions under section 3734.85 of the Revised Code 51979
and to provide grants to boards of health under section 3734.042 51980
of the Revised Code. 51981~~

Sec. 3734.901. (A)(1) For the purpose of providing revenue to 51982
defray the cost of administering and enforcing the scrap tire 51983
provisions of this chapter, rules adopted under those provisions, 51984
and terms and conditions of orders, variances, and licenses issued 51985
under those provisions; to abate accumulations of scrap tires; to 51986
make grants to promote research regarding alternative methods of 51987
recycling scrap tires and supporting market development activities 51988
for scrap tires and synthetic rubber from tire manufacturing 51989
processes and tire recycling processes and to support scrap tire 51990

amnesty and cleanup events; to make loans to promote the recycling 51991
or recovery of energy from scrap tires; and to defray the costs of 51992
administering and enforcing sections 3734.90 to 3734.9014 of the 51993
Revised Code, a fee of fifty cents per tire is hereby levied on 51994
the sale of tires. The proceeds of the fee shall be deposited in 51995
the state treasury to the credit of the scrap tire management fund 51996
created in section 3734.82 of the Revised Code. The fee is levied 51997
from the first day of the calendar month that begins next after 51998
thirty days from October 29, 1993, through June 30, 2011. 51999

(2) Beginning on September 5, 2001, and ending on June 30, 52000
2011, there is hereby levied an additional fee of fifty cents per 52001
tire on the sale of tires the proceeds of which shall be deposited 52002
in the state treasury to the credit of the scrap tire management 52003
fund ~~created in section 3734.82 of the Revised Code~~ and be used 52004
exclusively for the purposes specified in division (G)(3) of that 52005
section. 52006

(3) Beginning on July 1, 2009, there is hereby levied an 52007
additional fee of two dollars and thirty cents per tire on the 52008
sale of tires the proceeds of which shall be deposited in the 52009
state treasury to the credit of the auto emissions test fund 52010
created in section 3704.14 of the Revised Code. 52011

(B) Only one sale of the same article shall be used in 52012
computing the amount of the fee due. 52013

Sec. 3734.9010. Two per cent of all amounts paid to the 52014
treasurer of state pursuant to sections 3734.90 to 3734.9014 of 52015
the Revised Code shall be certified directly to the credit of the 52016
tire fee administrative fund, which is hereby created in the state 52017
treasury, for appropriation to the department of taxation for use 52018
in administering those sections. The Except as provided in 52019
division (A)(3) of section 3734.901 of the Revised Code, the 52020
remainder of the amounts paid to the treasurer of state shall be 52021

deposited ~~to the credit of the scrap tire management fund created~~ 52022
and credited in accordance with section 3734.82 3734.901 of the 52023
Revised Code. 52024

Sec. 3737.71. Each insurance company doing business in this 52025
state shall pay to the state in installments, at the time of 52026
making the payments required by section 5729.05 of the Revised 52027
Code, in addition to the taxes required to be paid by it, 52028
three-fourths of one per cent on the gross premium receipts 52029
derived from fire insurance and that portion of the premium 52030
reasonably allocable to insurance against the hazard of fire 52031
included in other coverages except life and sickness and accident 52032
insurance, after deducting return premiums paid and considerations 52033
received for reinsurances as shown by the annual statement of such 52034
company made pursuant to sections 3929.30, 3931.06, and 5729.02 of 52035
the Revised Code. The money received shall be paid into the state 52036
treasury to the credit of the state fire marshal's fund, which is 52037
hereby created. The fund shall be used for the maintenance and 52038
administration of the office of the fire marshal and the Ohio fire 52039
academy established by section 3737.33 of the Revised Code. If the 52040
director of commerce certifies to the director of budget and 52041
management that the cash balance in the state fire marshal's fund 52042
is in excess of the amount needed to pay ongoing operating 52043
expenses, the director of commerce, with the approval of the 52044
director of budget and management, may use the excess amount to 52045
acquire by purchase, lease, or otherwise, real property or 52046
interests in real property to be used for the benefit of the 52047
office of the state fire marshal, or to construct, acquire, 52048
enlarge, equip, furnish, or improve the fire marshal's office 52049
facilities or the facilities of the Ohio fire academy. The state 52050
fire marshal's fund shall be assessed a proportionate share of the 52051
administrative costs of the department of commerce in accordance 52052
with procedures prescribed by the director of commerce and 52053

approved by the director of budget and management. Such assessment 52054
shall be paid from the state fire marshal's fund to the division 52055
of administration fund. 52056

Notwithstanding any other provision in this section, if the 52057
director of budget and management determines at any time that the 52058
money in the state fire marshal's fund exceeds the amount 52059
necessary to defray ongoing operating expenses in a fiscal year, 52060
the director may transfer the excess to the general revenue fund . 52061
52062

Sec. 3743.04. (A) The license of a manufacturer of fireworks 52063
is effective for one year beginning on the first day of December. 52064
The state fire marshal shall issue or renew a license only on that 52065
date and at no other time. If a manufacturer of fireworks wishes 52066
to continue manufacturing fireworks at the designated fireworks 52067
plant after its then effective license expires, it shall apply no 52068
later than the first day of October for a new license pursuant to 52069
section 3743.02 of the Revised Code. The state fire marshal shall 52070
send a written notice of the expiration of its license to a 52071
licensed manufacturer at least three months before the expiration 52072
date. 52073

(B) If, during the effective period of its licensure, a 52074
licensed manufacturer of fireworks wishes to construct, locate, or 52075
relocate any buildings or other structures on the premises of its 52076
fireworks plant, to make any structural change or renovation in 52077
any building or other structure on the premises of its fireworks 52078
plant, or to change the nature of its manufacturing of fireworks 52079
so as to include the processing of fireworks, the manufacturer 52080
shall notify the state fire marshal in writing. The state fire 52081
marshal may require a licensed manufacturer also to submit 52082
documentation, including, but not limited to, plans covering the 52083
proposed construction, location, relocation, structural change or 52084

renovation, or change in manufacturing of fireworks, if the state 52085
fire marshal determines the documentation is necessary for 52086
evaluation purposes in light of the proposed construction, 52087
location, relocation, structural change or renovation, or change 52088
in manufacturing of fireworks. 52089

Upon receipt of the notification and additional documentation 52090
required by the state fire marshal, the state fire marshal shall 52091
inspect the premises of the fireworks plant to determine if the 52092
proposed construction, location, relocation, structural change or 52093
renovation, or change in manufacturing of fireworks conforms to 52094
sections 3743.02 to 3743.08 of the Revised Code and the rules 52095
adopted by the state fire marshal pursuant to section 3743.05 of 52096
the Revised Code. The state fire marshal shall issue a written 52097
authorization to the manufacturer for the construction, location, 52098
relocation, structural change or renovation, or change in 52099
manufacturing of fireworks if the state fire marshal determines, 52100
upon the inspection and a review of submitted documentation, that 52101
the construction, location, relocation, structural change or 52102
renovation, or change in manufacturing of fireworks conforms to 52103
those sections and rules. Upon authorizing a change in 52104
manufacturing of fireworks to include the processing of fireworks, 52105
the state fire marshal shall make notations on the manufacturer's 52106
license and in the list of licensed manufacturers in accordance 52107
with section 3743.03 of the Revised Code. 52108

On or before June 1, 1998, a licensed manufacturer shall 52109
install, in every licensed building in which fireworks are 52110
manufactured, stored, or displayed and to which the public has 52111
access, interlinked fire detection, smoke exhaust, and smoke 52112
evacuation systems that are approved by the superintendent of ~~the~~ 52113
~~division of industrial compliance~~ labor, and shall comply with 52114
floor plans showing occupancy load limits and internal circulation 52115
and egress patterns that are approved by the state fire marshal 52116

and superintendent, and that are submitted under seal as required 52117
by section 3791.04 of the Revised Code. Notwithstanding section 52118
3743.59 of the Revised Code, the construction and safety 52119
requirements established in this division are not subject to any 52120
variance, waiver, or exclusion. 52121

(C) The license of a manufacturer of fireworks authorizes the 52122
manufacturer to engage only in the following activities: 52123

(1) The manufacturing of fireworks on the premises of the 52124
fireworks plant as described in the application for licensure or 52125
in the notification submitted under division (B) of this section, 52126
except that a licensed manufacturer shall not engage in the 52127
processing of fireworks unless authorized to do so by its license. 52128

(2) To possess for sale at wholesale and sell at wholesale 52129
the fireworks manufactured by the manufacturer, to persons who are 52130
licensed wholesalers of fireworks, to out-of-state residents in 52131
accordance with section 3743.44 of the Revised Code, to residents 52132
of this state in accordance with section 3743.45 of the Revised 52133
Code, or to persons located in another state provided the 52134
fireworks are shipped directly out of this state to them by the 52135
manufacturer. A person who is licensed as a manufacturer of 52136
fireworks on June 14, 1988, also may possess for sale and sell 52137
pursuant to division (C)(2) of this section fireworks other than 52138
those the person manufactures. The possession for sale shall be on 52139
the premises of the fireworks plant described in the application 52140
for licensure or in the notification submitted under division (B) 52141
of this section, and the sale shall be from the inside of a 52142
licensed building and from no other structure or device outside a 52143
licensed building. At no time shall a licensed manufacturer sell 52144
any class of fireworks outside a licensed building. 52145

(3) Possess for sale at retail and sell at retail the 52146
fireworks manufactured by the manufacturer, other than 1.4G 52147
fireworks as designated by the state fire marshal in rules adopted 52148

pursuant to division (A) of section 3743.05 of the Revised Code, 52149
to licensed exhibitors in accordance with sections 3743.50 to 52150
3743.55 of the Revised Code, and possess for sale at retail and 52151
sell at retail the fireworks manufactured by the manufacturer, 52152
including 1.4G fireworks, to out-of-state residents in accordance 52153
with section 3743.44 of the Revised Code, to residents of this 52154
state in accordance with section 3743.45 of the Revised Code, or 52155
to persons located in another state provided the fireworks are 52156
shipped directly out of this state to them by the manufacturer. A 52157
person who is licensed as a manufacturer of fireworks on June 14, 52158
1988, may also possess for sale and sell pursuant to division 52159
(C)(3) of this section fireworks other than those the person 52160
manufactures. The possession for sale shall be on the premises of 52161
the fireworks plant described in the application for licensure or 52162
in the notification submitted under division (B) of this section, 52163
and the sale shall be from the inside of a licensed building and 52164
from no other structure or device outside a licensed building. At 52165
no time shall a licensed manufacturer sell any class of fireworks 52166
outside a licensed building. 52167

A licensed manufacturer of fireworks shall sell under 52168
division (C) of this section only fireworks that meet the 52169
standards set by the consumer product safety commission or by the 52170
American fireworks standard laboratories or that have received an 52171
EX number from the United States department of transportation. 52172

(D) The license of a manufacturer of fireworks shall be 52173
protected under glass and posted in a conspicuous place on the 52174
premises of the fireworks plant. Except as otherwise provided in 52175
this division, the license is not transferable or assignable. A 52176
license may be transferred to another person for the same 52177
fireworks plant for which the license was issued if the assets of 52178
the plant are transferred to that person by inheritance or by a 52179
sale approved by the state fire marshal. The license is subject to 52180

revocation in accordance with section 3743.08 of the Revised Code. 52181

(E) The state fire marshal shall not place the license of a 52182
manufacturer of fireworks in a temporarily inactive status while 52183
the holder of the license is attempting to qualify to retain the 52184
license. 52185

(F) Each licensed manufacturer of fireworks that possesses 52186
fireworks for sale and sells fireworks under division (C) of 52187
section 3743.04 of the Revised Code, or a designee of the 52188
manufacturer, whose identity is provided to the state fire marshal 52189
by the manufacturer, annually shall attend a continuing education 52190
program. The state fire marshal shall develop the program and the 52191
state fire marshal or a person or public agency approved by the 52192
state fire marshal shall conduct it. A licensed manufacturer or 52193
the manufacturer's designee who attends a program as required 52194
under this division, within one year after attending the program, 52195
shall conduct in-service training as approved by the state fire 52196
marshal for other employees of the licensed manufacturer regarding 52197
the information obtained in the program. A licensed manufacturer 52198
shall provide the state fire marshal with notice of the date, 52199
time, and place of all in-service training. For any program 52200
conducted under this division, the state fire marshal shall, in 52201
accordance with rules adopted by the state fire marshal under 52202
Chapter 119. of the Revised Code, establish the subjects to be 52203
taught, the length of classes, the standards for approval, and 52204
time periods for notification by the licensee to the state fire 52205
marshal of any in-service training. 52206

(G) A licensed manufacturer shall maintain comprehensive 52207
general liability insurance coverage in the amount and type 52208
specified under division (B)(2) of section 3743.02 of the Revised 52209
Code at all times. Each policy of insurance required under this 52210
division shall contain a provision requiring the insurer to give 52211
not less than fifteen days' prior written notice to the state fire 52212

marshal before termination, lapse, or cancellation of the policy, 52213
or any change in the policy that reduces the coverage below the 52214
minimum required under this division. Prior to canceling or 52215
reducing the amount of coverage of any comprehensive general 52216
liability insurance coverage required under this division, a 52217
licensed manufacturer shall secure supplemental insurance in an 52218
amount and type that satisfies the requirements of this division 52219
so that no lapse in coverage occurs at any time. A licensed 52220
manufacturer who secures supplemental insurance shall file 52221
evidence of the supplemental insurance with the state fire marshal 52222
prior to canceling or reducing the amount of coverage of any 52223
comprehensive general liability insurance coverage required under 52224
this division. 52225

(H) The state fire marshal shall adopt rules for the 52226
expansion or contraction of a licensed premises and for approval 52227
of such expansions or contractions. The boundaries of a licensed 52228
premises, including any geographic expansion or contraction of 52229
those boundaries, shall be approved by the state fire marshal in 52230
accordance with rules the state fire marshal adopts. If the 52231
licensed premises consists of more than one parcel of real estate, 52232
those parcels shall be contiguous unless an exception is allowed 52233
pursuant to division (I) of this section. 52234

(I)(1) A licensed manufacturer may expand its licensed 52235
premises within this state to include not more than two storage 52236
locations that are located upon one or more real estate parcels 52237
that are noncontiguous to the licensed premises as that licensed 52238
premises exists on the date a licensee submits an application as 52239
described below, if all of the following apply: 52240

(a) The licensee submits an application to the state fire 52241
marshal and an application fee of one hundred dollars per storage 52242
location for which the licensee is requesting approval. 52243

(b) The identity of the holder of the license remains the 52244

same at the storage location. 52245

(c) The storage location has received a valid certificate of 52246
zoning compliance as applicable and a valid certificate of 52247
occupancy for each building or structure at the storage location 52248
issued by the authority having jurisdiction to issue the 52249
certificate for the storage location, and those certificates 52250
permit the distribution and storage of fireworks regulated under 52251
this chapter at the storage location and in the buildings or 52252
structures. The storage location shall be in compliance with all 52253
other applicable federal, state, and local laws and regulations. 52254

(d) Every building or structure located upon the storage 52255
location is separated from occupied residential and nonresidential 52256
buildings or structures, railroads, highways, or any other 52257
buildings or structures on the licensed premises in accordance 52258
with the distances specified in the rules adopted by the state 52259
fire marshal pursuant to section 3743.05 of the Revised Code. 52260

(e) Neither the licensee nor any person holding, owning, or 52261
controlling a five per cent or greater beneficial or equity 52262
interest in the licensee has been convicted of or pleaded guilty 52263
to a felony under the laws of this state, any other state, or the 52264
United States, after September 29, 2005. 52265

(f) The state fire marshal approves the application for 52266
expansion. 52267

(2) The state fire marshal shall approve an application for 52268
expansion requested under division (I)(1) of this section if the 52269
state fire marshal receives the application fee and proof that the 52270
requirements of divisions (I)(1)(b) to (e) of this section are 52271
satisfied. The storage location shall be considered part of the 52272
original licensed premises and shall use the same distinct number 52273
assigned to the original licensed premises with any additional 52274
designations as the state fire marshal deems necessary in 52275

accordance with section 3743.03 of the Revised Code. 52276

(J)(1) A licensee who obtains approval for the use of a 52277
storage location in accordance with division (I) of this section 52278
shall use the storage location exclusively for the following 52279
activities, in accordance with division (C) of this section: 52280

(a) The packaging, assembling, or storing of fireworks, which 52281
shall only occur in buildings or structures approved for such 52282
hazardous uses by the building code official having jurisdiction 52283
for the storage location or, for 1.4G fireworks, in containers or 52284
trailers approved for such hazardous uses by the state fire 52285
marshal if such containers or trailers are not subject to 52286
regulation by the building code adopted in accordance with Chapter 52287
3781. of the Revised Code. All such storage shall be in accordance 52288
with the rules adopted by the state fire marshal under division 52289
(G) of section 3743.05 of the Revised Code for the packaging, 52290
assembling, and storage of fireworks. 52291

(b) Distributing fireworks to other parcels of real estate 52292
located on the manufacturer's licensed premises, to licensed 52293
wholesalers or other licensed manufacturers in this state or to 52294
similarly licensed persons located in another state or country; 52295

(c) Distributing fireworks to a licensed exhibitor of 52296
fireworks pursuant to a properly issued permit in accordance with 52297
section 3743.54 of the Revised Code. 52298

(2) A licensed manufacturer shall not engage in any sales 52299
activity, including the retail sale of fireworks otherwise 52300
permitted under division (C)(2) or (C)(3) of this section, or 52301
pursuant to section 3743.44 or 3743.45 of the Revised Code, at the 52302
storage location approved under this section. 52303

(3) A storage location may not be relocated for a minimum 52304
period of five years after the storage location is approved by the 52305
state fire marshal in accordance with division (I) of this 52306

section. 52307

(K) The licensee shall prohibit public access to the storage 52308
location. The state fire marshal shall adopt rules to describe the 52309
acceptable measures a manufacturer shall use to prohibit access to 52310
the storage site. 52311

Sec. 3743.25. (A)(1) Except as described in division (A)(2) 52312
of this section, all retail sales of 1.4G fireworks by a licensed 52313
manufacturer or wholesaler shall only occur from an approved 52314
retail sales showroom on a licensed premises or from a 52315
representative sample showroom as described in this section on a 52316
licensed premises. For the purposes of this section, a retail sale 52317
includes the transfer of the possession of the 1.4G fireworks from 52318
the licensed manufacturer or wholesaler to the purchaser of the 52319
fireworks. 52320

(2) Sales of 1.4G fireworks to a licensed exhibitor for a 52321
properly permitted exhibition shall occur in accordance with the 52322
provisions of the Revised Code and rules adopted by the state fire 52323
marshal under Chapter 119. of the Revised Code. Such rules shall 52324
specify, at a minimum, that the licensed exhibitor holds a license 52325
under section 3743.51 of the Revised Code, that the exhibitor 52326
possesses a valid exhibition permit issued in accordance with 52327
section 3743.54 of the Revised Code, and that the fireworks 52328
shipped are to be used at the specifically permitted exhibition. 52329

(B) All wholesale sales of fireworks by a licensed 52330
manufacturer or wholesaler shall only occur from a licensed 52331
premises to persons who intend to resell the fireworks purchased 52332
at wholesale. A wholesale sale by a licensed manufacturer or 52333
wholesaler may occur as follows: 52334

(1) The direct sale and shipment of fireworks to a person 52335
outside of this state; 52336

(2) From an approved retail sales showroom as described in 52337
this section; 52338

(3) From a representative sample showroom as described in 52339
this section; 52340

(4) By delivery of wholesale fireworks to a purchaser at a 52341
licensed premises outside of a structure or building on that 52342
premises. All other portions of the wholesale sales transaction 52343
may occur at any location on a licensed premises. 52344

(5) Any other method as described in rules adopted by the 52345
state fire marshal under Chapter 119. of the Revised Code. 52346

(C) A licensed manufacturer or wholesaler shall only sell 52347
1.4G fireworks from a representative sample showroom or a retail 52348
sales showroom. Each licensed premises shall only contain one 52349
sales structure. 52350

A representative sample showroom shall consist of a structure 52351
constructed and maintained in accordance with the nonresidential 52352
building code adopted under Chapter 3781. of the Revised Code and 52353
the fire code adopted under section 3737.82 of the Revised Code 52354
for a use and occupancy group that permits mercantile sales. A 52355
representative sample showroom shall not contain any pyrotechnics, 52356
pyrotechnic materials, fireworks, explosives, explosive materials, 52357
or any similar hazardous materials or substances. A representative 52358
sample showroom shall be used only for the public viewing of 52359
fireworks product representations, including paper materials, 52360
packaging materials, catalogs, photographs, or other similar 52361
product depictions. The delivery of product to a purchaser of 52362
fireworks at a licensed premises that has a representative sample 52363
structure shall not occur inside any structure on a licensed 52364
premises. Such product delivery shall occur on the licensed 52365
premises in a manner prescribed by rules adopted by the state fire 52366
marshal pursuant to Chapter 119. of the Revised Code. 52367

If a manufacturer or wholesaler elects to conduct sales from a retail sales showroom, the showroom structures, to which the public may have any access and in which employees are required to work, on all licensed premises, shall comply with the following safety requirements:

(1) A fireworks showroom that is constructed or upon which expansion is undertaken on and after June 30, 1997, shall be equipped with interlinked fire detection, fire suppression, smoke exhaust, and smoke evacuation systems that are approved by the superintendent of ~~the division of industrial compliance~~ labor in the department of commerce.

(2) A fireworks showroom that first begins to operate on or after June 30, 1997, and to which the public has access for retail purposes shall not exceed five thousand square feet in floor area.

(3) A newly constructed or an existing fireworks showroom structure that exists on ~~the effective date of this amendment~~ September 23, 2008, but that, on or after ~~the effective date of this amendment~~ September 23, 2008, is altered or added to in a manner requiring the submission of plans, drawings, specifications, or data pursuant to section 3791.04 of the Revised Code, shall comply with a graphic floor plan layout that is approved by the state fire marshal and superintendent ~~of the division of industrial compliance~~ showing width of aisles, parallel arrangement of aisles to exits, number of exits per wall, maximum occupancy load, evacuation plan for occupants, height of storage or display of merchandise, and other information as may be required by the state fire marshal and superintendent.

(4) A fireworks showroom structure that exists on June 30, 1997, shall be in compliance on or after June 30, 1997, with floor plans showing occupancy load limits and internal circulation and

egress patterns that are approved by the state fire marshal and 52400
superintendent ~~of industrial compliance~~, and that are submitted 52401
under seal as required by section 3791.04 of the Revised Code. 52402

52403

(D) The safety requirements established in division (C) of 52404
this section are not subject to any variance, waiver, or exclusion 52405
pursuant to this chapter or any applicable building code. 52406

52407

Sec. 3745.015. There is hereby created in the state treasury 52408
the environmental protection fund consisting of money credited to 52409
the fund under division (A)(3) of section 3714.073 and division 52410
(A)(3) of section 3734.57 of the Revised Code. The environmental 52411
protection agency shall use money in the fund to pay the agency's 52412
costs associated with administering and enforcing, or otherwise 52413
conducting activities under, this chapter and Chapters 3704., 52414
3734., 3746., 3747., 3748., 3750., 3751., 3752., 3753., 5709., 52415
6101., 6103., 6105., 6109., 6111., 6112., 6113., 6115., 6117., and 52416
6119. and sections 122.65 and 1521.19 of the Revised Code. 52417

Sec. 3745.11. (A) Applicants for and holders of permits, 52418
licenses, variances, plan approvals, and certifications issued by 52419
the director of environmental protection pursuant to Chapters 52420
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 52421
to the environmental protection agency for each such issuance and 52422
each application for an issuance as provided by this section. No 52423
fee shall be charged for any issuance for which no application has 52424
been submitted to the director. 52425

(B) Each person who is issued a permit to install prior to 52426
July 1, 2003, pursuant to rules adopted under division (F) of 52427
section 3704.03 of the Revised Code shall pay the fees specified 52428
in the following schedules: 52429

(1) Fuel-burning equipment (boilers)		52430
Input capacity (maximum)		52431
(million British thermal units per hour)	Permit to install	52432
Greater than 0, but less than 10	\$ 200	52433
10 or more, but less than 100	400	52434
100 or more, but less than 300	800	52435
300 or more, but less than 500	1500	52436
500 or more, but less than 1000	2500	52437
1000 or more, but less than 5000	4000	52438
5000 or more	6000	52439
Units burning exclusively natural gas, number two fuel oil,		52440
or both shall be assessed a fee that is one-half of the applicable		52441
amount established in division (F)(1) of this section.		52442
(2) Incinerators		52443
Input capacity (pounds per hour)	Permit to install	52444
0 to 100	\$ 100	52445
101 to 500	400	52446
501 to 2000	750	52447
2001 to 20,000	1000	52448
more than 20,000	2500	52449
(3)(a) Process		52450
Process weight rate (pounds per hour)	Permit to install	52451
0 to 1000	\$ 200	52452
1001 to 5000	400	52453
5001 to 10,000	600	52454
10,001 to 50,000	800	52455
more than 50,000	1000	52456
In any process where process weight rate cannot be		52457
ascertained, the minimum fee shall be assessed.		52458
(b) Notwithstanding division (B)(3)(a) of this section, any		52459
person issued a permit to install pursuant to rules adopted under		52460

division (F) of section 3704.03 of the Revised Code shall pay the 52461
fees established in division (B)(3)(c) of this section for a 52462
process used in any of the following industries, as identified by 52463
the applicable four-digit standard industrial classification code 52464
according to the Standard Industrial Classification Manual 52465
published by the United States office of management and budget in 52466
the executive office of the president, 1972, as revised: 52467

1211 Bituminous coal and lignite mining; 52468

1213 Bituminous coal and lignite mining services; 52469

1411 Dimension stone; 52470

1422 Crushed and broken limestone; 52471

1427 Crushed and broken stone, not elsewhere classified; 52472

1442 Construction sand and gravel; 52473

1446 Industrial sand; 52474

3281 Cut stone and stone products; 52475

3295 Minerals and earth, ground or otherwise treated. 52476

(c) The fees established in the following schedule apply to 52477
the issuance of a permit to install pursuant to rules adopted 52478
under division (F) of section 3704.03 of the Revised Code for a 52479
process listed in division (B)(3)(b) of this section: 52480

Process weight rate (pounds per hour)	Permit to install	
0 to 1000	\$ 200	52482
10,001 to 50,000	300	52483
50,001 to 100,000	400	52484
100,001 to 200,000	500	52485
200,001 to 400,000	600	52486
400,001 or more	700	52487

(4) Storage tanks 52488

Gallons (maximum useful capacity)	Permit to install	
-----------------------------------	-------------------	--

0 to 20,000	\$ 100	52490
20,001 to 40,000	150	52491
40,001 to 100,000	200	52492
100,001 to 250,000	250	52493
250,001 to 500,000	350	52494
500,001 to 1,000,000	500	52495
1,000,001 or greater	750	52496
(5) Gasoline/fuel dispensing facilities		52497
For each gasoline/fuel dispensing	Permit to install	52498
facility	\$ 100	52499
(6) Dry cleaning facilities		52500
For each dry cleaning facility	Permit to install	52501
(includes all units at the facility)	\$ 100	52502
(7) Registration status		52503
For each source covered	Permit to install	52504
by registration status	\$ 75	52505
(C)(1) Except as otherwise provided in division (C)(2) of		52506
this section, beginning July 1, 1994, each person who owns or		52507
operates an air contaminant source and who is required to apply		52508
for and obtain a Title V permit under section 3704.036 of the		52509
Revised Code shall pay the fees set forth in division (C)(1) of		52510
this section. For the purposes of that division, total emissions		52511
of air contaminants may be calculated using engineering		52512
calculations, emissions factors, material balance calculations, or		52513
performance testing procedures, as authorized by the director.		52514
The following fees shall be assessed on the total actual		52515
emissions from a source in tons per year of the regulated		52516
pollutants particulate matter, sulfur dioxide, nitrogen oxides,		52517
organic compounds, and lead:		52518
(a) Fifteen dollars per ton on the total actual emissions of		52519
each such regulated pollutant during the period July through		52520

December 1993, to be collected no sooner than July 1, 1994; 52521

(b) Twenty dollars per ton on the total actual emissions of 52522
each such regulated pollutant during calendar year 1994, to be 52523
collected no sooner than April 15, 1995; 52524

(c) Twenty-five dollars per ton on the total actual emissions 52525
of each such regulated pollutant in calendar year 1995, and each 52526
subsequent calendar year, to be collected no sooner than the 52527
fifteenth day of April of the year next succeeding the calendar 52528
year in which the emissions occurred. 52529

The fees levied under division (C)(1) of this section do not 52530
apply to that portion of the emissions of a regulated pollutant at 52531
a facility that exceed four thousand tons during a calendar year. 52532

(2) The fees assessed under division (C)(1) of this section 52533
are for the purpose of providing funding for the Title V permit 52534
program. 52535

(3) The fees assessed under division (C)(1) of this section 52536
do not apply to emissions from any electric generating unit 52537
designated as a Phase I unit under Title IV of the federal Clean 52538
Air Act prior to calendar year 2000. Those fees shall be assessed 52539
on the emissions from such a generating unit commencing in 52540
calendar year 2001 based upon the total actual emissions from the 52541
generating unit during calendar year 2000 and shall continue to be 52542
assessed each subsequent calendar year based on the total actual 52543
emissions from the generating unit during the preceding calendar 52544
year. 52545

(4) The director shall issue invoices to owners or operators 52546
of air contaminant sources who are required to pay a fee assessed 52547
under division (C) or (D) of this section. Any such invoice shall 52548
be issued no sooner than the applicable date when the fee first 52549
may be collected in a year under the applicable division, shall 52550
identify the nature and amount of the fee assessed, and shall 52551

indicate that the fee is required to be paid within thirty days 52552
after the issuance of the invoice. 52553

(D)(1) Except as provided in division (D)(3) of this section, 52554
from January 1, 1994, through December 31, 2003, each person who 52555
owns or operates an air contaminant source; who is required to 52556
apply for a permit to operate pursuant to rules adopted under 52557
division (G), or a variance pursuant to division (H), of section 52558
3704.03 of the Revised Code; and who is not required to apply for 52559
and obtain a Title V permit under section 3704.036 of the Revised 52560
Code shall pay a single fee based upon the sum of the actual 52561
annual emissions from the facility of the regulated pollutants 52562
particulate matter, sulfur dioxide, nitrogen oxides, organic 52563
compounds, and lead in accordance with the following schedule: 52564

Total tons per year		52565
of regulated pollutants	Annual fee	52566
emitted	per facility	52567
More than 0, but less than 50	\$ 75	52568
50 or more, but less than 100	300	52569
100 or more	700	52570

(2) Except as provided in division (D)(3) of this section, 52571
beginning January 1, 2004, each person who owns or operates an air 52572
contaminant source; who is required to apply for a permit to 52573
operate pursuant to rules adopted under division (G), or a 52574
variance pursuant to division (H), of section 3704.03 of the 52575
Revised Code; and who is not required to apply for and obtain a 52576
Title V permit under section 3704.03 of the Revised Code shall pay 52577
a single fee based upon the sum of the actual annual emissions 52578
from the facility of the regulated pollutants particulate matter, 52579
sulfur dioxide, nitrogen oxides, organic compounds, and lead in 52580
accordance with the following schedule: 52581

Total tons per year		52582
of regulated pollutants	Annual fee	52583

emitted	per facility	52584
More than 0, but less than 10	\$ 100	52585
10 or more, but less than 50	200	52586
50 or more, but less than 100	300	52587
100 or more	700	52588

(3)(a) As used in division (D) of this section, "synthetic minor facility" means a facility for which one or more permits to install or permits to operate have been issued for the air contaminant sources at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under section 3704.036 of the Revised Code.

(b) Beginning January 1, 2000, through June 30, ~~2010~~ 2012, each person who owns or operates a synthetic minor facility shall pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with the following schedule:

Combined total tons		52602
per year of all regulated	Annual fee	52603
pollutants emitted	per facility	52604
Less than 10	\$ 170	52605
10 or more, but less than 20	340	52606
20 or more, but less than 30	670	52607
30 or more, but less than 40	1,010	52608
40 or more, but less than 50	1,340	52609
50 or more, but less than 60	1,680	52610
60 or more, but less than 70	2,010	52611
70 or more, but less than 80	2,350	52612
80 or more, but less than 90	2,680	52613
90 or more, but less than 100	3,020	52614
100 or more	3,350	52615

(4) The fees assessed under division (D)(1) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 1995. The fees assessed under division (D)(2) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 2005. The fees assessed under division (D)(3) of this section shall be collected no sooner than the fifteenth day of April, commencing in 2000. The fees assessed under division (D) of this section in a calendar year shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of division (D) of this section, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director, by rule, may require persons who are required to pay the fees assessed under division (D) of this section to pay those fees biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall increase the fees prescribed in division (C)(1) of this section by the percentage, if any, by which the consumer price index for the most recent calendar year ending before the beginning of a year exceeds the consumer price index for calendar year 1989. Upon calculating an increase in fees authorized by division (E)(1) of this section, the director shall compile revised fee schedules for the purposes of division (C)(1) of this section and shall make the revised schedules available to persons required to pay the fees assessed under that division and to the public.

(2) For the purposes of division (E)(1) of this section:

(a) The consumer price index for any year is the average of the consumer price index for all urban consumers published by the United States department of labor as of the close of the

twelve-month period ending on the thirty-first day of August of 52648
that year. 52649

(b) If the 1989 consumer price index is revised, the director 52650
shall use the revision of the consumer price index that is most 52651
consistent with that for calendar year 1989. 52652

(F) Each person who is issued a permit to install pursuant to 52653
rules adopted under division (F) of section 3704.03 of the Revised 52654
Code on or after July 1, 2003, shall pay the fees specified in the 52655
following schedules: 52656

(1) Fuel-burning equipment (boilers, furnaces, or process 52657
heaters used in the process of burning fuel for the primary 52658
purpose of producing heat or power by indirect heat transfer) 52659
Input capacity (maximum) 52660
(million British thermal units per hour) Permit to install 52661
Greater than 0, but less than 10 \$ 200 52662
10 or more, but less than 100 400 52663
100 or more, but less than 300 1000 52664
300 or more, but less than 500 2250 52665
500 or more, but less than 1000 3750 52666
1000 or more, but less than 5000 6000 52667
5000 or more 9000 52668

Units burning exclusively natural gas, number two fuel oil, 52669
or both shall be assessed a fee that is one-half the applicable 52670
amount shown in division (F)(1) of this section. 52671

(2) Combustion turbines and stationary internal combustion 52672
engines designed to generate electricity 52673
Generating capacity (mega watts) Permit to install 52674
0 or more, but less than 10 \$ 25 52675
10 or more, but less than 25 150 52676
25 or more, but less than 50 300 52677
50 or more, but less than 100 500 52678

100 or more, but less than 250	1000	52679
250 or more	2000	52680
(3) Incinerators		52681
Input capacity (pounds per hour)	Permit to install	52682
0 to 100	\$ 100	52683
101 to 500	500	52684
501 to 2000	1000	52685
2001 to 20,000	1500	52686
more than 20,000	3750	52687
(4)(a) Process		52688
Process weight rate (pounds per hour)	Permit to install	52689
0 to 1000	\$ 200	52690
1001 to 5000	500	52691
5001 to 10,000	750	52692
10,001 to 50,000	1000	52693
more than 50,000	1250	52694
In any process where process weight rate cannot be		52695
ascertained, the minimum fee shall be assessed. A boiler, furnace,		52696
combustion turbine, stationary internal combustion engine, or		52697
process heater designed to provide direct heat or power to a		52698
process not designed to generate electricity shall be assessed a		52699
fee established in division (F)(4)(a) of this section. A		52700
combustion turbine or stationary internal combustion engine		52701
designed to generate electricity shall be assessed a fee		52702
established in division (F)(2) of this section.		52703
(b) Notwithstanding division (F)(4)(a) of this section, any		52704
person issued a permit to install pursuant to rules adopted under		52705
division (F) of section 3704.03 of the Revised Code shall pay the		52706
fees set forth in division (F)(4)(c) of this section for a process		52707
used in any of the following industries, as identified by the		52708
applicable two-digit, three-digit, or four-digit standard		52709
industrial classification code according to the Standard		52710

Industrial Classification Manual published by the United States	52711	
office of management and budget in the executive office of the	52712	
president, 1987, as revised:	52713	
Major group 10, metal mining;	52714	
Major group 12, coal mining;	52715	
Major group 14, mining and quarrying of nonmetallic minerals;	52716	
Industry group 204, grain mill products;	52717	
2873 Nitrogen fertilizers;	52718	
2874 Phosphatic fertilizers;	52719	
3281 Cut stone and stone products;	52720	
3295 Minerals and earth, ground or otherwise treated;	52721	
4221 Grain elevators (storage only);	52722	
5159 Farm related raw materials;	52723	
5261 Retail nurseries and lawn and garden supply stores.	52724	
(c) The fees set forth in the following schedule apply to the	52725	
issuance of a permit to install pursuant to rules adopted under	52726	
division (F) of section 3704.03 of the Revised Code for a process	52727	
identified in division (F)(4)(b) of this section:	52728	
Process weight rate (pounds per	Permit to install	52729
hour)		
0 to 10,000	\$ 200	52730
10,001 to 50,000	400	52731
50,001 to 100,000	500	52732
100,001 to 200,000	600	52733
200,001 to 400,000	750	52734
400,001 or more	900	52735
(5) Storage tanks		52736
Gallons (maximum useful capacity)	Permit to install	52737
0 to 20,000	\$ 100	52738

20,001 to 40,000	150	52739
40,001 to 100,000	250	52740
100,001 to 500,000	400	52741
500,001 or greater	750	52742
(6) Gasoline/fuel dispensing facilities		52743
For each gasoline/fuel		52744
dispensing facility (includes all	Permit to install	52745
units at the facility)	\$ 100	52746
(7) Dry cleaning facilities		52747
For each dry cleaning		52748
facility (includes all units	Permit to install	52749
at the facility)	\$ 100	52750
(8) Registration status		52751
For each source covered	Permit to install	52752
by registration status	\$ 75	52753
(G) An owner or operator who is responsible for an asbestos		52754
demolition or renovation project pursuant to rules adopted under		52755
section 3704.03 of the Revised Code shall pay the fees set forth		52756
in the following schedule:		52757
Action	Fee	52758
Each notification	\$75	52759
Asbestos removal	\$3/unit	52760
Asbestos cleanup	\$4/cubic yard	52761
For purposes of this division, "unit" means any combination of		52762
linear feet or square feet equal to fifty.		52763
(H) A person who is issued an extension of time for a permit		52764
to install an air contaminant source pursuant to rules adopted		52765
under division (F) of section 3704.03 of the Revised Code shall		52766
pay a fee equal to one-half the fee originally assessed for the		52767
permit to install under this section, except that the fee for such		52768
an extension shall not exceed two hundred dollars.		52769

(I) A person who is issued a modification to a permit to install an air contaminant source pursuant to rules adopted under section 3704.03 of the Revised Code shall pay a fee equal to one-half of the fee that would be assessed under this section to obtain a permit to install the source. The fee assessed by this division only applies to modifications that are initiated by the owner or operator of the source and shall not exceed two thousand dollars.

(J) Notwithstanding division (B) or (F) of this section, a person who applies for or obtains a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code after the date actual construction of the source began shall pay a fee for the permit to install that is equal to twice the fee that otherwise would be assessed under the applicable division unless the applicant received authorization to begin construction under division (W) of section 3704.03 of the Revised Code. This division only applies to sources for which actual construction of the source begins on or after July 1, 1993. The imposition or payment of the fee established in this division does not preclude the director from taking any administrative or judicial enforcement action under this chapter, Chapter 3704., 3714., 3734., or 6111. of the Revised Code, or a rule adopted under any of them, in connection with a violation of rules adopted under division (F) of section 3704.03 of the Revised Code.

As used in this division, "actual construction of the source" means the initiation of physical on-site construction activities in connection with improvements to the source that are permanent in nature, including, without limitation, the installation of building supports and foundations and the laying of underground pipework.

(K) Fifty cents per ton of each fee assessed under division (C) of this section on actual emissions from a source and received

by the environmental protection agency pursuant to that division 52802
shall be deposited into the state treasury to the credit of the 52803
small business assistance fund created in section 3706.19 of the 52804
Revised Code. The remainder of the moneys received by the division 52805
pursuant to that division and moneys received by the agency 52806
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 52807
section shall be deposited in the state treasury to the credit of 52808
the clean air fund created in section 3704.035 of the Revised 52809
Code. 52810

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 52811
or (c) of this section, a person issued a water discharge permit 52812
or renewal of a water discharge permit pursuant to Chapter 6111. 52813
of the Revised Code shall pay a fee based on each point source to 52814
which the issuance is applicable in accordance with the following 52815
schedule: 52816

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	52818
1,001 to 5000	100	52819
5,001 to 50,000	200	52820
50,001 to 100,000	300	52821
100,001 to 300,000	525	52822
over 300,000	750	52823

(b) Notwithstanding the fee schedule specified in division 52824
(L)(1)(a) of this section, the fee for a water discharge permit 52825
that is applicable to coal mining operations regulated under 52826
Chapter 1513. of the Revised Code shall be two hundred fifty 52827
dollars per mine. 52828

(c) Notwithstanding the fee schedule specified in division 52829
(L)(1)(a) of this section, the fee for a water discharge permit 52830
for a public discharger identified by I in the third character of 52831
the permittee's NPDES permit number shall not exceed seven hundred 52832
fifty dollars. 52833

(2) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, ~~2010~~ 2012, and one hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, ~~2010~~ 2012, except that the total fee shall not exceed fifteen thousand dollars through June 30, ~~2010~~ 2012, and five thousand dollars on and after July 1, ~~2010~~ 2012. The fee shall be paid at the time the application is submitted.

(3) A person issued a modification of a water discharge permit shall pay a fee equal to one-half the fee that otherwise would be charged for a water discharge permit, except that the fee for the modification shall not exceed four hundred dollars.

(4) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(5)(a)(i) Not later than January 30, ~~2008~~ 2010, and January 30, ~~2009~~ 2011, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee established in division (L)(5)(a)(i) of this section shall consist

of a twelve-month period beginning on the first day of January of 52866
the year preceding the date when the annual discharge fee is due. 52867
In the case of an existing source that permanently ceases to 52868
discharge during a billing year, the director shall reduce the 52869
annual discharge fee, including the surcharge applicable to 52870
certain industrial facilities pursuant to division (L)(5)(c) of 52871
this section, by one-twelfth for each full month during the 52872
billing year that the source was not discharging, but only if the 52873
person holding the NPDES discharge permit for the source notifies 52874
the director in writing, not later than the first day of October 52875
of the billing year, of the circumstances causing the cessation of 52876
discharge. 52877

(iii) The annual discharge fee established in division 52878
(L)(5)(a)(i) of this section, except for the surcharge applicable 52879
to certain industrial facilities pursuant to division (L)(5)(c) of 52880
this section, shall be based upon the average daily discharge flow 52881
in gallons per day calculated using first day of May through 52882
thirty-first day of October flow data for the period two years 52883
prior to the date on which the fee is due. In the case of NPDES 52884
discharge permits for new sources, the fee shall be calculated 52885
using the average daily design flow of the facility until actual 52886
average daily discharge flow values are available for the time 52887
period specified in division (L)(5)(a)(iii) of this section. The 52888
annual discharge fee may be prorated for a new source as described 52889
in division (L)(5)(a)(ii) of this section. 52890

(b) An NPDES permit holder that is a public discharger shall 52891
pay the fee specified in the following schedule: 52892

Average daily	Fee due by	52893
discharge flow	January 30,	52894
	2008 <u>2010</u> , and	52895
	January 30, 2009	52896
	<u>2011</u>	

5,000 to 49,999	\$ 200	52897
50,000 to 100,000	500	52898
100,001 to 250,000	1,050	52899
250,001 to 1,000,000	2,600	52900
1,000,001 to 5,000,000	5,200	52901
5,000,001 to 10,000,000	10,350	52902
10,000,001 to 20,000,000	15,550	52903
20,000,001 to 50,000,000	25,900	52904
50,000,001 to 100,000,000	41,400	52905
100,000,001 or more	62,100	52906

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by	52919
	January 30,	52920
	2008 <u>2010</u> , and	52921
	January 30, 2009	52922
	<u>2011</u>	
5,000 to 49,999	\$ 250	52923
50,000 to 250,000	1,200	52924
250,001 to 1,000,000	2,950	52925
1,000,001 to 5,000,000	5,850	52926
5,000,001 to 10,000,000	8,800	52927

10,000,001 to 20,000,000	11,700	52928
20,000,001 to 100,000,000	14,050	52929
100,000,001 to 250,000,000	16,400	52930
250,000,001 or more	18,700	52931

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, ~~2008~~ 2010, and not later than January 30, ~~2009~~ 2011. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, ~~2008~~ 2010, and not later than January 30, ~~2009~~ 2011. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge elimination system general or individual permit for municipal storm water discharge shall pay a nonrefundable storm water discharge fee of one hundred dollars per square mile of area permitted. The fee shall not exceed ten thousand dollars and shall be payable on or before January 30, 2004, and the thirtieth day of January of each year thereafter. Any person who fails to pay the fee on the date specified in division (L)(6) of this section shall pay an additional amount per year equal to ten per cent of the

annual fee that is unpaid. 52960

(7) The director shall transmit all moneys collected under 52961
division (L) of this section to the treasurer of state for deposit 52962
into the state treasury to the credit of the surface water 52963
protection fund created in section 6111.038 of the Revised Code. 52964

(8) As used in division (L) of this section: 52965

(a) "NPDES" means the federally approved national pollutant 52966
discharge elimination system program for issuing, modifying, 52967
revoking, reissuing, terminating, monitoring, and enforcing 52968
permits and imposing and enforcing pretreatment requirements under 52969
Chapter 6111. of the Revised Code and rules adopted under it. 52970

(b) "Public discharger" means any holder of an NPDES permit 52971
identified by P in the second character of the NPDES permit number 52972
assigned by the director. 52973

(c) "Industrial discharger" means any holder of an NPDES 52974
permit identified by I in the second character of the NPDES permit 52975
number assigned by the director. 52976

(d) "Major discharger" means any holder of an NPDES permit 52977
classified as major by the regional administrator of the United 52978
States environmental protection agency in conjunction with the 52979
director. 52980

(M) Through June 30, ~~2010~~ 2012, a person applying for a 52981
license or license renewal to operate a public water system under 52982
section 6109.21 of the Revised Code shall pay the appropriate fee 52983
established under this division at the time of application to the 52984
director. Any person who fails to pay the fee at that time shall 52985
pay an additional amount that equals ten per cent of the required 52986
fee. The director shall transmit all moneys collected under this 52987
division to the treasurer of state for deposit into the drinking 52988
water protection fund created in section 6109.30 of the Revised 52989
Code. 52990

Except as provided in division (M)(4) of this section, fees 52991
required under this division shall be calculated and paid in 52992
accordance with the following schedule: 52993

(1) For the initial license required under division (A)(1) of 52994
section 6109.21 of the Revised Code for any public water system 52995
that is a community water system as defined in section 6109.01 of 52996
the Revised Code, and for each license renewal required for such a 52997
system prior to January 31, ~~2010~~ 2012, the fee is: 52998

Number of service connections	Fee amount	
Not more than 49	\$ 112	53000
50 to 99	176	53001
Number of service connections	Average cost per connection	
100 to 2,499	\$ 1.92	53003
2,500 to 4,999	1.48	53004
5,000 to 7,499	1.42	53005
7,500 to 9,999	1.34	53006
10,000 to 14,999	1.16	53007
15,000 to 24,999	1.10	53008
25,000 to 49,999	1.04	53009
50,000 to 99,999	.92	53010
100,000 to 149,999	.86	53011
150,000 to 199,999	.80	53012
200,000 or more	.76	53013

A public water system may determine how it will pay the total 53014
amount of the fee calculated under division (M)(1) of this 53015
section, including the assessment of additional user fees that may 53016
be assessed on a volumetric basis. 53017

As used in division (M)(1) of this section, "service 53018
connection" means the number of active or inactive pipes, 53019
goosenecks, pigtails, and any other fittings connecting a water 53020
main to any building outlet. 53021

(2) For the initial license required under division (A)(2) of 53022

section 6109.21 of the Revised Code for any public water system 53023
that is not a community water system and serves a nontransient 53024
population, and for each license renewal required for such a 53025
system prior to January 31, ~~2010~~ 2012, the fee is: 53026

Population served	Fee amount	
Fewer than 150	\$ 112	53028
150 to 299	176	53029
300 to 749	384	53030
750 to 1,499	628	53031
1,500 to 2,999	1,268	53032
3,000 to 7,499	2,816	53033
7,500 to 14,999	5,510	53034
15,000 to 22,499	9,048	53035
22,500 to 29,999	12,430	53036
30,000 or more	16,820	53037

As used in division (M)(2) of this section, "population 53038
served" means the total number of individuals receiving water from 53039
the water supply during a twenty-four-hour period for at least 53040
sixty days during any calendar year. In the absence of a specific 53041
population count, that number shall be calculated at the rate of 53042
three individuals per service connection. 53043

(3) For the initial license required under division (A)(3) of 53044
section 6109.21 of the Revised Code for any public water system 53045
that is not a community water system and serves a transient 53046
population, and for each license renewal required for such a 53047
system prior to January 31, ~~2010~~ 2012, the fee is: 53048

Number of wells supplying system	Fee amount	
1	\$112	53050
2	112	53051
3	176	53052
4	278	53053
5	568	53054

System designated as using a 53055
surface water source 792 53056

As used in division (M)(3) of this section, "number of wells 53057
supplying system" means those wells that are physically connected 53058
to the plumbing system serving the public water system. 53059

(4) A public water system designated as using a surface water 53060
source shall pay a fee of seven hundred ninety-two dollars or the 53061
amount calculated under division (M)(1) or (2) of this section, 53062
whichever is greater. 53063

(N)(1) A person applying for a plan approval for a public 53064
water supply system under section 6109.07 of the Revised Code 53065
shall pay a fee of one hundred fifty dollars plus thirty-five 53066
hundredths of one per cent of the estimated project cost, except 53067
that the total fee shall not exceed twenty thousand dollars 53068
through June 30, ~~2010~~ 2012, and fifteen thousand dollars on and 53069
after July 1, ~~2010~~ 2012. The fee shall be paid at the time the 53070
application is submitted. 53071

(2) A person who has entered into an agreement with the 53072
director under division (A)(2) of section 6109.07 of the Revised 53073
Code shall pay an administrative service fee for each plan 53074
submitted under that section for approval that shall not exceed 53075
the minimum amount necessary to pay administrative costs directly 53076
attributable to processing plan approvals. The director annually 53077
shall calculate the fee and shall notify all persons that have 53078
entered into agreements under that division, or who have applied 53079
for agreements, of the amount of the fee. 53080

(3) Through June 30, ~~2010~~ 2012, the following fee, on a per 53081
survey basis, shall be charged any person for services rendered by 53082
the state in the evaluation of laboratories and laboratory 53083
personnel for compliance with accepted analytical techniques and 53084
procedures established pursuant to Chapter 6109. of the Revised 53085
Code for determining the qualitative characteristics of water: 53086

microbiological		53087
MMO-MUG	\$2,000	53088
MF	2,100	53089
MMO-MUG and MF	2,550	53090
organic chemical	5,400	53091
trace metals	5,400	53092
standard chemistry	2,800	53093
limited chemistry	1,550	53094

On and after July 1, ~~2010~~ 2012, the following fee, on a per survey basis, shall be charged any such person:

microbiological	\$ 1,650	53097
organic chemicals	3,500	53098
trace metals	3,500	53099
standard chemistry	1,800	53100
limited chemistry	1,000	53101

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, ~~2010~~ 2012, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

- (a) "MF" means microfiltration.
- (b) "MMO" means minimal medium ONPG.
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any person applying to the director for examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code, at the time the application is submitted, shall pay an application fee of forty-five dollars through November 30, ~~2010~~ 2012, and twenty-five dollars on and after December 1, ~~2010~~ 2012. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay a fee in accordance with the following schedule through November 30, ~~2010~~ 2012:

Class A operator	\$35	53128
Class I operator	60	53129
Class II operator	75	53130
Class III operator	85	53131
Class IV operator	100	53132

On and after December 1, ~~2010~~ 2012, the applicant shall pay a fee in accordance with the following schedule:

Class A operator	\$25	53135
Class I operator	\$45	53136
Class II operator	55	53137
Class III operator	65	53138
Class IV operator	75	53139

A person shall pay a biennial certification renewal fee for each applicable class of certification in accordance with the following schedule:

Class A operator	\$25	53143
Class I operator	35	53144
Class II operator	45	53145
Class III operator	55	53146
Class IV operator	65	53147

If a certification renewal fee is received by the director more than thirty days, but not more than one year after the

expiration date of the certification, the person shall pay a 53150
certification renewal fee in accordance with the following 53151
schedule: 53152

Class A operator	\$45	53153
Class I operator	55	53154
Class II operator	65	53155
Class III operator	75	53156
Class IV operator	85	53157

A person who requests a replacement certificate shall pay a 53158
fee of twenty-five dollars at the time the request is made. 53159

The director shall transmit all moneys collected under this 53160
division to the treasurer of state for deposit into the drinking 53161
water protection fund created in section 6109.30 of the Revised 53162
Code. 53163

(P) Any person submitting an application for an industrial 53164
water pollution control certificate under section 6111.31 of the 53165
Revised Code, as that section existed before its repeal by H.B. 95 53166
of the 125th general assembly, shall pay a nonrefundable fee of 53167
five hundred dollars at the time the application is submitted. The 53168
director shall transmit all moneys collected under this division 53169
to the treasurer of state for deposit into the surface water 53170
protection fund created in section 6111.038 of the Revised Code. A 53171
person paying a certificate fee under this division shall not pay 53172
an application fee under division (S)(1) of this section. On and 53173
after June 26, 2003, persons shall file such applications and pay 53174
the fee as required under sections 5709.20 to 5709.27 of the 53175
Revised Code, and proceeds from the fee shall be credited as 53176
provided in section 5709.212 of the Revised Code. 53177

(Q) Except as otherwise provided in division (R) of this 53178
section, a person issued a permit by the director for a new solid 53179
waste disposal facility other than an incineration or composting 53180
facility, a new infectious waste treatment facility other than an 53181

incineration facility, or a modification of such an existing 53182
facility that includes an increase in the total disposal or 53183
treatment capacity of the facility pursuant to Chapter 3734. of 53184
the Revised Code shall pay a fee of ten dollars per thousand cubic 53185
yards of disposal or treatment capacity, or one thousand dollars, 53186
whichever is greater, except that the total fee for any such 53187
permit shall not exceed eighty thousand dollars. A person issued a 53188
modification of a permit for a solid waste disposal facility or an 53189
infectious waste treatment facility that does not involve an 53190
increase in the total disposal or treatment capacity of the 53191
facility shall pay a fee of one thousand dollars. A person issued 53192
a permit to install a new, or modify an existing, solid waste 53193
transfer facility under that chapter shall pay a fee of two 53194
thousand five hundred dollars. A person issued a permit to install 53195
a new or to modify an existing solid waste incineration or 53196
composting facility, or an existing infectious waste treatment 53197
facility using incineration as its principal method of treatment, 53198
under that chapter shall pay a fee of one thousand dollars. The 53199
increases in the permit fees under this division resulting from 53200
the amendments made by Amended Substitute House Bill 592 of the 53201
117th general assembly do not apply to any person who submitted an 53202
application for a permit to install a new, or modify an existing, 53203
solid waste disposal facility under that chapter prior to 53204
September 1, 1987; any such person shall pay the permit fee 53205
established in this division as it existed prior to June 24, 1988. 53206
In addition to the applicable permit fee under this division, a 53207
person issued a permit to install or modify a solid waste facility 53208
or an infectious waste treatment facility under that chapter who 53209
fails to pay the permit fee to the director in compliance with 53210
division (V) of this section shall pay an additional ten per cent 53211
of the amount of the fee for each week that the permit fee is 53212
late. 53213

Permit and late payment fees paid to the director under this 53214

division shall be credited to the general revenue fund. 53215

(R)(1) A person issued a registration certificate for a scrap 53216
tire collection facility under section 3734.75 of the Revised Code 53217
shall pay a fee of two hundred dollars, except that if the 53218
facility is owned or operated by a motor vehicle salvage dealer 53219
licensed under Chapter 4738. of the Revised Code, the person shall 53220
pay a fee of twenty-five dollars. 53221

(2) A person issued a registration certificate for a new 53222
scrap tire storage facility under section 3734.76 of the Revised 53223
Code shall pay a fee of three hundred dollars, except that if the 53224
facility is owned or operated by a motor vehicle salvage dealer 53225
licensed under Chapter 4738. of the Revised Code, the person shall 53226
pay a fee of twenty-five dollars. 53227

(3) A person issued a permit for a scrap tire storage 53228
facility under section 3734.76 of the Revised Code shall pay a fee 53229
of one thousand dollars, except that if the facility is owned or 53230
operated by a motor vehicle salvage dealer licensed under Chapter 53231
4738. of the Revised Code, the person shall pay a fee of fifty 53232
dollars. 53233

(4) A person issued a permit for a scrap tire monocell or 53234
monofill facility under section 3734.77 of the Revised Code shall 53235
pay a fee of ten dollars per thousand cubic yards of disposal 53236
capacity or one thousand dollars, whichever is greater, except 53237
that the total fee for any such permit shall not exceed eighty 53238
thousand dollars. 53239

(5) A person issued a registration certificate for a scrap 53240
tire recovery facility under section 3734.78 of the Revised Code 53241
shall pay a fee of one hundred dollars. 53242

(6) A person issued a permit for a scrap tire recovery 53243
facility under section 3734.78 of the Revised Code shall pay a fee 53244
of one thousand dollars. 53245

(7) In addition to the applicable registration certificate or permit fee under divisions (R)(1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment fees paid to the director under divisions (R)(1) to (7) of this section shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

(S)(1) Except as provided by divisions (L), (M), (N), (O), (P), and (S)(2) of this section, division (A)(2) of section 3734.05 of the Revised Code, section 3734.79 of the Revised Code, and rules adopted under division (T)(1) of this section, any person applying for a registration certificate under section 3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, variance, or plan approval under Chapter 3734. of the Revised Code shall pay a nonrefundable fee of fifteen dollars at the time the application is submitted.

Except as otherwise provided, any person applying for a permit, variance, or plan approval under Chapter 6109. or 6111. of the Revised Code shall pay a nonrefundable fee of one hundred dollars at the time the application is submitted through June 30, 2010, and a nonrefundable fee of fifteen dollars at the time the application is submitted on and after July 1, 2010. Through June 30, 2010, any person applying for a national pollutant discharge elimination system permit under Chapter 6111. of the Revised Code shall pay a nonrefundable fee of two hundred dollars at the time of application for the permit. On and after July 1, 2010, such a person shall pay a nonrefundable fee of fifteen dollars at the time of application.

In addition to the application fee established under division 53278
(S)(1) of this section, any person applying for a national 53279
pollutant discharge elimination system general storm water 53280
construction permit shall pay a nonrefundable fee of twenty 53281
dollars per acre for each acre that is permitted above five acres 53282
at the time the application is submitted. However, the per acreage 53283
fee shall not exceed three hundred dollars. In addition, any 53284
person applying for a national pollutant discharge elimination 53285
system general storm water industrial permit shall pay a 53286
nonrefundable fee of one hundred fifty dollars at the time the 53287
application is submitted. 53288

The director shall transmit all moneys collected under 53289
division (S)(1) of this section pursuant to Chapter 6109. of the 53290
Revised Code to the treasurer of state for deposit into the 53291
drinking water protection fund created in section 6109.30 of the 53292
Revised Code. 53293

The director shall transmit all moneys collected under 53294
division (S)(1) of this section pursuant to Chapter 6111. of the 53295
Revised Code to the treasurer of state for deposit into the 53296
surface water protection fund created in section 6111.038 of the 53297
Revised Code. 53298

If a registration certificate is issued under section 53299
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 53300
the application fee paid shall be deducted from the amount of the 53301
registration certificate fee due under division (R)(1), (2), or 53302
(5) of this section, as applicable. 53303

If a person submits an electronic application for a 53304
registration certificate, permit, variance, or plan approval for 53305
which an application fee is established under division (S)(1) of 53306
this section, the person shall pay the applicable application fee 53307
as expeditiously as possible after the submission of the 53308
electronic application. An application for a registration 53309

certificate, permit, variance, or plan approval for which an 53310
application fee is established under division (S)(1) of this 53311
section shall not be reviewed or processed until the applicable 53312
application fee, and any other fees established under this 53313
division, are paid. 53314

(2) Division (S)(1) of this section does not apply to an 53315
application for a registration certificate for a scrap tire 53316
collection or storage facility submitted under section 3734.75 or 53317
3734.76 of the Revised Code, as applicable, if the owner or 53318
operator of the facility or proposed facility is a motor vehicle 53319
salvage dealer licensed under Chapter 4738. of the Revised Code. 53320

(T) The director may adopt, amend, and rescind rules in 53321
accordance with Chapter 119. of the Revised Code that do all of 53322
the following: 53323

(1) Prescribe fees to be paid by applicants for and holders 53324
of any license, permit, variance, plan approval, or certification 53325
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 53326
the Revised Code that are not specifically established in this 53327
section. The fees shall be designed to defray the cost of 53328
processing, issuing, revoking, modifying, denying, and enforcing 53329
the licenses, permits, variances, plan approvals, and 53330
certifications. 53331

The director shall transmit all moneys collected under rules 53332
adopted under division (T)(1) of this section pursuant to Chapter 53333
6109. of the Revised Code to the treasurer of state for deposit 53334
into the drinking water protection fund created in section 6109.30 53335
of the Revised Code. 53336

The director shall transmit all moneys collected under rules 53337
adopted under division (T)(1) of this section pursuant to Chapter 53338
6111. of the Revised Code to the treasurer of state for deposit 53339
into the surface water protection fund created in section 6111.038 53340

of the Revised Code. 53341

(2) Exempt the state and political subdivisions thereof, 53342
including education facilities or medical facilities owned by the 53343
state or a political subdivision, or any person exempted from 53344
taxation by section 5709.07 or 5709.12 of the Revised Code, from 53345
any fee required by this section; 53346

(3) Provide for the waiver of any fee, or any part thereof, 53347
otherwise required by this section whenever the director 53348
determines that the imposition of the fee would constitute an 53349
unreasonable cost of doing business for any applicant, class of 53350
applicants, or other person subject to the fee; 53351

(4) Prescribe measures that the director considers necessary 53352
to carry out this section. 53353

(U) When the director reasonably demonstrates that the direct 53354
cost to the state associated with the issuance of a permit to 53355
install, license, variance, plan approval, or certification 53356
exceeds the fee for the issuance or review specified by this 53357
section, the director may condition the issuance or review on the 53358
payment by the person receiving the issuance or review of, in 53359
addition to the fee specified by this section, the amount, or any 53360
portion thereof, in excess of the fee specified under this 53361
section. The director shall not so condition issuances for which 53362
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 53363
section. 53364

(V) Except as provided in divisions (L), (M), and (P) of this 53365
section or unless otherwise prescribed by a rule of the director 53366
adopted pursuant to Chapter 119. of the Revised Code, all fees 53367
required by this section are payable within thirty days after the 53368
issuance of an invoice for the fee by the director or the 53369
effective date of the issuance of the license, permit, variance, 53370
plan approval, or certification. If payment is late, the person 53371

responsible for payment of the fee shall pay an additional ten per cent of the amount due for each month that it is late.

(W) As used in this section, "fuel-burning equipment," "fuel-burning equipment input capacity," "incinerator," "incinerator input capacity," "process," "process weight rate," "storage tank," "gasoline dispensing facility," "dry cleaning facility," "design flow discharge," and "new source treatment works" have the meanings ascribed to those terms by applicable rules or standards adopted by the director under Chapter 3704. or 6111. of the Revised Code.

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), and (J) of this section, and in any other provision of this section pertaining to fees paid pursuant to Chapter 3704. of the Revised Code:

(1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code.

(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least:

(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;

(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal;

(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;

(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions; 53402
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(e) Emission and ambient monitoring; 53405

(f) Modeling, analyses, or demonstrations; 53406

(g) Preparing inventories and tracking emissions; 53407

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code. 53408
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(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge, including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The annual volume of sewage sludge treated or disposed of by a sewage sludge facility shall be calculated using the first day of January through the thirty-first day of December of the calendar year preceding the date on which payment of the fee is due. 53415
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(2)(a) Except as provided in division (Y)(2)(d) of this section, each sewage sludge facility shall pay a minimum annual sewage sludge fee of one hundred dollars. 53425
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(b) The annual sludge fee required to be paid by a sewage sludge facility that treats or disposes of exceptional quality sludge in this state shall be thirty-five per cent less per dry ton of exceptional quality sludge than the fee assessed under division (Y)(1) of this section, subject to the following 53428
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exceptions: 53433

(i) Except as provided in division (Y)(2)(d) of this section, 53434
a sewage sludge facility that treats or disposes of exceptional 53435
quality sludge shall pay a minimum annual sewage sludge fee of one 53436
hundred dollars. 53437

(ii) A sewage sludge facility that treats or disposes of 53438
exceptional quality sludge shall not be required to pay the annual 53439
sludge fee for treatment or disposal in this state of exceptional 53440
quality sludge generated outside of this state and contained in 53441
bags or other containers not greater than one hundred pounds in 53442
capacity. 53443

A thirty-five per cent reduction for exceptional quality 53444
sludge applies to the maximum annual fees established under 53445
division (Y)(3) of this section. 53446

(c) A sewage sludge facility that transfers sewage sludge to 53447
another sewage sludge facility in this state for further treatment 53448
prior to disposal in this state shall not be required to pay the 53449
annual sludge fee for the tons of sewage sludge that have been 53450
transferred. In such a case, the sewage sludge facility that 53451
disposes of the sewage sludge shall pay the annual sludge fee. 53452
However, the facility transferring the sewage sludge shall pay the 53453
one-hundred-dollar minimum fee required under division (Y)(2)(a) 53454
of this section. 53455

In the case of a sewage sludge facility that treats sewage 53456
sludge in this state and transfers it out of this state to another 53457
entity for disposal, the sewage sludge facility in this state 53458
shall be required to pay the annual sludge fee for the tons of 53459
sewage sludge that have been transferred. 53460

(d) A sewage sludge facility that generates sewage sludge 53461
resulting from an average daily discharge flow of less than five 53462
thousand gallons per day is not subject to the fees assessed under 53463

division (Y) of this section. 53464

(3) No sewage sludge facility required to pay the annual 53465
sludge fee shall be required to pay more than the maximum annual 53466
fee for each disposal method that the sewage sludge facility uses. 53467
The maximum annual fee does not include the additional amount that 53468
may be charged under division (Y)(5) of this section for late 53469
payment of the annual sludge fee. The maximum annual fee for the 53470
following methods of disposal of sewage sludge is as follows: 53471

(a) Incineration: five thousand dollars; 53472

(b) Preexisting land reclamation project or disposal in a 53473
landfill: five thousand dollars; 53474

(c) Land application, land reclamation, surface disposal, or 53475
any other disposal method not specified in division (Y)(3)(a) or 53476
(b) of this section: twenty thousand dollars. 53477

(4)(a) In the case of an entity that generates sewage sludge 53478
or a sewage sludge facility that treats sewage sludge and 53479
transfers the sewage sludge to an incineration facility for 53480
disposal, the incineration facility, and not the entity generating 53481
the sewage sludge or the sewage sludge facility treating the 53482
sewage sludge, shall pay the annual sludge fee for the tons of 53483
sewage sludge that are transferred. However, the entity or 53484
facility generating or treating the sewage sludge shall pay the 53485
one-hundred-dollar minimum fee required under division (Y)(2)(a) 53486
of this section. 53487

(b) In the case of an entity that generates sewage sludge and 53488
transfers the sewage sludge to a landfill for disposal or to a 53489
sewage sludge facility for land reclamation or surface disposal, 53490
the entity generating the sewage sludge, and not the landfill or 53491
sewage sludge facility, shall pay the annual sludge fee for the 53492
tons of sewage sludge that are transferred. 53493

(5) Not later than the first day of April of the calendar 53494

year following March 17, 2000, and each first day of April 53495
thereafter, the director shall issue invoices to persons who are 53496
required to pay the annual sludge fee. The invoice shall identify 53497
the nature and amount of the annual sludge fee assessed and state 53498
the first day of May as the deadline for receipt by the director 53499
of objections regarding the amount of the fee and the first day of 53500
July as the deadline for payment of the fee. 53501

Not later than the first day of May following receipt of an 53502
invoice, a person required to pay the annual sludge fee may submit 53503
objections to the director concerning the accuracy of information 53504
regarding the number of dry tons of sewage sludge used to 53505
calculate the amount of the annual sludge fee or regarding whether 53506
the sewage sludge qualifies for the exceptional quality sludge 53507
discount established in division (Y)(2)(b) of this section. The 53508
director may consider the objections and adjust the amount of the 53509
fee to ensure that it is accurate. 53510

If the director does not adjust the amount of the annual 53511
sludge fee in response to a person's objections, the person may 53512
appeal the director's determination in accordance with Chapter 53513
119. of the Revised Code. 53514

Not later than the first day of June, the director shall 53515
notify the objecting person regarding whether the director has 53516
found the objections to be valid and the reasons for the finding. 53517
If the director finds the objections to be valid and adjusts the 53518
amount of the annual sludge fee accordingly, the director shall 53519
issue with the notification a new invoice to the person 53520
identifying the amount of the annual sludge fee assessed and 53521
stating the first day of July as the deadline for payment. 53522

Not later than the first day of July, any person who is 53523
required to do so shall pay the annual sludge fee. Any person who 53524
is required to pay the fee, but who fails to do so on or before 53525
that date shall pay an additional amount that equals ten per cent 53526

of the required annual sludge fee. 53527

(6) The director shall transmit all moneys collected under 53528
division (Y) of this section to the treasurer of state for deposit 53529
into the surface water protection fund created in section 6111.038 53530
of the Revised Code. The moneys shall be used to defray the costs 53531
of administering and enforcing provisions in Chapter 6111. of the 53532
Revised Code and rules adopted under it that govern the use, 53533
storage, treatment, or disposal of sewage sludge. 53534

(7) Beginning in fiscal year 2001, and every two years 53535
thereafter, the director shall review the total amount of moneys 53536
generated by the annual sludge fees to determine if that amount 53537
exceeded six hundred thousand dollars in either of the two 53538
preceding fiscal years. If the total amount of moneys in the fund 53539
exceeded six hundred thousand dollars in either fiscal year, the 53540
director, after review of the fee structure and consultation with 53541
affected persons, shall issue an order reducing the amount of the 53542
fees levied under division (Y) of this section so that the 53543
estimated amount of moneys resulting from the fees will not exceed 53544
six hundred thousand dollars in any fiscal year. 53545

If, upon review of the fees under division (Y)(7) of this 53546
section and after the fees have been reduced, the director 53547
determines that the total amount of moneys collected and 53548
accumulated is less than six hundred thousand dollars, the 53549
director, after review of the fee structure and consultation with 53550
affected persons, may issue an order increasing the amount of the 53551
fees levied under division (Y) of this section so that the 53552
estimated amount of moneys resulting from the fees will be 53553
approximately six hundred thousand dollars. Fees shall never be 53554
increased to an amount exceeding the amount specified in division 53555
(Y)(7) of this section. 53556

Notwithstanding section 119.06 of the Revised Code, the 53557
director may issue an order under division (Y)(7) of this section 53558

without the necessity to hold an adjudicatory hearing in 53559
connection with the order. The issuance of an order under this 53560
division is not an act or action for purposes of section 3745.04 53561
of the Revised Code. 53562

(8) As used in division (Y) of this section: 53563

(a) "Sewage sludge facility" means an entity that performs 53564
treatment on or is responsible for the disposal of sewage sludge. 53565

(b) "Sewage sludge" means a solid, semi-solid, or liquid 53566
residue generated during the treatment of domestic sewage in a 53567
treatment works as defined in section 6111.01 of the Revised Code. 53568
"Sewage sludge" includes, but is not limited to, scum or solids 53569
removed in primary, secondary, or advanced wastewater treatment 53570
processes. "Sewage sludge" does not include ash generated during 53571
the firing of sewage sludge in a sewage sludge incinerator, grit 53572
and screenings generated during preliminary treatment of domestic 53573
sewage in a treatment works, animal manure, residue generated 53574
during treatment of animal manure, or domestic septage. 53575

(c) "Exceptional quality sludge" means sewage sludge that 53576
meets all of the following qualifications: 53577

(i) Satisfies the class A pathogen standards in 40 C.F.R. 53578
503.32(a); 53579

(ii) Satisfies one of the vector attraction reduction 53580
requirements in 40 C.F.R. 503.33(b)(1) to (b)(8); 53581

(iii) Does not exceed the ceiling concentration limitations 53582
for metals listed in table one of 40 C.F.R. 503.13; 53583

(iv) Does not exceed the concentration limitations for metals 53584
listed in table three of 40 C.F.R. 503.13. 53585

(d) "Treatment" means the preparation of sewage sludge for 53586
final use or disposal and includes, but is not limited to, 53587
thickening, stabilization, and dewatering of sewage sludge. 53588

(e) "Disposal" means the final use of sewage sludge, 53589
including, but not limited to, land application, land reclamation, 53590
surface disposal, or disposal in a landfill or an incinerator. 53591

(f) "Land application" means the spraying or spreading of 53592
sewage sludge onto the land surface, the injection of sewage 53593
sludge below the land surface, or the incorporation of sewage 53594
sludge into the soil for the purposes of conditioning the soil or 53595
fertilizing crops or vegetation grown in the soil. 53596

(g) "Land reclamation" means the returning of disturbed land 53597
to productive use. 53598

(h) "Surface disposal" means the placement of sludge on an 53599
area of land for disposal, including, but not limited to, 53600
monofills, surface impoundments, lagoons, waste piles, or 53601
dedicated disposal sites. 53602

(i) "Incinerator" means an entity that disposes of sewage 53603
sludge through the combustion of organic matter and inorganic 53604
matter in sewage sludge by high temperatures in an enclosed 53605
device. 53606

(j) "Incineration facility" includes all incinerators owned 53607
or operated by the same entity and located on a contiguous tract 53608
of land. Areas of land are considered to be contiguous even if 53609
they are separated by a public road or highway. 53610

(k) "Annual sludge fee" means the fee assessed under division 53611
(Y)(1) of this section. 53612

(l) "Landfill" means a sanitary landfill facility, as defined 53613
in rules adopted under section 3734.02 of the Revised Code, that 53614
is licensed under section 3734.05 of the Revised Code. 53615

(m) "Preexisting land reclamation project" means a 53616
property-specific land reclamation project that has been in 53617
continuous operation for not less than five years pursuant to 53618

approval of the activity by the director and includes the 53619
implementation of a community outreach program concerning the 53620
activity. 53621

Sec. 3748.01. As used in this chapter: 53622

(A) "Byproduct material" means either of the following: 53623

(1) Any radioactive material, except special nuclear 53624
material, yielded in or made radioactive by exposure to radiation 53625
incident to the process of producing or utilizing special nuclear 53626
material; 53627

(2) The tailings or wastes produced by the extraction or 53628
concentration of uranium or thorium from any ore processed 53629
primarily for its source material content. 53630

(B) "Certified radiation expert" means an individual who has 53631
complied with all of the following: 53632

(1) Applied to the director of health for certification as a 53633
radiation expert under section 3748.12 of the Revised Code; 53634

(2) Met minimum education and experience requirements 53635
established in rules adopted under division (C) of section 3748.04 53636
of the Revised Code; 53637

(3) Been granted a certificate as a radiation expert by the 53638
director under section 3748.12 of the Revised Code. 53639

(C) "Closure" or "site closure" refers to a facility for the 53640
disposal of low-level radioactive waste or a byproduct material 53641
site, as "byproduct material" is defined in division (A)(2) of 53642
this section, and means all activities performed at a licensed 53643
operation, such as stabilization and contouring, to ensure that 53644
the site where the operation occurred is in a stable condition so 53645
that only minor custodial care, surveillance, and monitoring are 53646
necessary at the site following the termination of the licensed 53647
operation. 53648

(D) "Decommissioning" means to safely remove any licensed operation from service and reduce residual radioactivity to a level that permits release of the licensee's property for unrestricted use. With regard to a facility for the disposal of low-level radioactive waste or a byproduct material site, as "byproduct material" is defined in division (A)(2) of this section, "decommissioning" does not include the reduction of residual radioactivity to a level that permits release of the facility for unrestricted use.

(E) "Director of health" includes a designee or authorized representative of the director.

(F) "Disposal," with regard to low-level radioactive waste, means the permanent isolation of that waste in accordance with requirements established by the United States nuclear regulatory commission or the licensing agreement state.

(G) "Disposal site" means that portion of a facility that is used for the disposal of low-level radioactive waste and that consists of disposal units and a buffer zone. "Disposal unit" means a discrete portion of such a facility into which low-level radioactive waste is placed for disposal.

(H)(1) Except as provided in division (H)(2) of this section, "facility" means the state, any political subdivision, person, public or private institution, or group, or any unit of one of those entities, but does not include the federal government or any of its agencies.

(2) For the purposes of the disposal of low-level radioactive waste, "facility" has the same meaning as in section 3747.01 of the Revised Code.

(I) "Handle" means receive, possess, use, store, transfer, install, service, or dispose of sources of radiation unless possession is solely for the purpose of transportation.

(J) "Handler" means a facility that handles sources of radiation unless possession is solely for the purpose of transportation.

(K) "Inspection" means an official review, examination, or observation, including, without limitation, tests, surveys, and monitoring, that is used to determine compliance with rules, orders, requirements, and conditions of the department of health and that is conducted by the director of health.

(L) "Low-level radioactive waste" has the same meaning as in section 3747.01 of the Revised Code with regard to the disposal of low-level radioactive waste. In regard to regulatory control at locations other than a disposal facility, "low-level radioactive waste" has the same meaning as in 42 U.S.C.A. 2021b.

(M) "Quality assurance program" means a program providing for verification by written procedures such as testing, auditing, and inspection to ensure that deficiencies, deviations, defective equipment, or unsafe practices, or a combination thereof, relating to the use, disposal, management, or manufacture of radiation sources are identified, promptly corrected, and reported to the appropriate regulatory authorities.

(N) "Radiation" means ionizing and nonionizing radiation.

(1) "Ionizing radiation" means gamma rays and X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles, but does not include sound or radio waves or visible, infrared, or ultraviolet light.

(2) "Nonionizing radiation" means any electromagnetic radiation, other than ionizing electromagnetic radiation, or any sonic, ultrasonic, or infrasonic wave.

(O) "Radioactive material" means any solid, liquid, or gaseous material that emits ionizing radiation spontaneously. "Radioactive material" includes accelerator-produced and naturally

occurring materials and byproduct, source, and special nuclear material. 53711
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(P) "Radiation-generating equipment" means any manufactured product or device, or component of such a product or device, or any machine or system that during operation can generate or emit radiation, except those that emit radiation only from radioactive material. "Radiation-generating equipment" does not include either of the following: 53713
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(1) Diathermy machines; 53719

(2) Microwave ovens, including food service microwave ovens used for commercial and industrial uses, television receivers, electric lamps, and other household appliances and products that generate very low levels of radiation. 53720
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(Q) "Source material" means uranium, thorium, or any combination thereof in any physical or chemical form, or any ores that contain by weight at least one-twentieth of one per cent of uranium, thorium, or any combination thereof. "Source material" does not include special nuclear material. 53724
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(R) "Source of radiation" means radioactive material or radiation-generating equipment. 53729
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(S) "Special nuclear material" means either of the following: 53731

(1) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the United States nuclear regulatory commission determines to be special nuclear material, but does not include source material pursuant to section 51 of the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2071." 53732
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(2) Except for any source material, any material artificially enriched by any of the materials identified in division (S)(1) of this section. 53738
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(T) "Storage" means the retention of radioactive materials, 53741
including low-level radioactive waste, prior to disposal in a 53742
manner that allows for surveillance, control, and subsequent 53743
retrieval. 53744

(U) "Medical practitioner" means a person who is authorized 53745
pursuant to Chapter 4715. of the Revised Code to practice 53746
dentistry; pursuant to Chapter 4731. of the Revised Code to 53747
practice medicine and surgery, osteopathic medicine and surgery, 53748
or podiatric medicine and surgery; or pursuant to Chapter 4734. of 53749
the Revised Code to practice chiropractic. 53750

(V) "Medical-practitioner group" means a corporation, 53751
partnership, or other business entity, other than a hospital as 53752
defined in section 3727.01 of the Revised Code, consisting of 53753
medical practitioners. 53754

Sec. 3748.04. The public health council, in accordance with 53755
Chapter 119. of the Revised Code, shall adopt and may amend or 53756
rescind rules doing all of the following: 53757

(A) Listing types of radioactive material for which licensure 53758
by its handler is required and types of radiation-generating 53759
equipment for which registration by its handler is required, and 53760
establishing requirements governing them. Rules adopted under 53761
division (A) of this section shall be compatible with applicable 53762
federal regulations and shall establish all of the following, 53763
without limitation: 53764

(1) Requirements governing both of the following: 53765

(a) The licensing and inspection of handlers of radioactive 53766
material. Standards established in rules adopted under division 53767
(A)(1)(a) of this section regarding byproduct material or any 53768
activity that results in the production of that material, to the 53769
extent practicable, shall be equivalent to or more stringent than 53770

applicable standards established by the United States nuclear regulatory commission. 53771
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(b) The registration and inspection of handlers of radiation-generating equipment. Standards established in rules adopted under division (A)(1)(b) of this section, to the extent practicable, shall be equivalent to applicable standards established by the food and drug administration in the United States department of health and human services. 53773
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(2) Identification of and requirements governing possession and use of specifically licensed and generally licensed quantities of radioactive material as either sealed sources or unsealed sources; 53779
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(3) A procedure for the issuance of and the frequency of renewal of the licenses of handlers of radioactive material, other than a license for a facility for the disposal of low-level radioactive waste, and of the certificates of registration of handlers of radiation-generating equipment; 53783
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(4) Procedures for suspending and revoking the licenses of handlers of radioactive material and the certificates of registration of handlers of radiation-generating equipment; 53788
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(5) Criteria to be used by the director of health in amending the license of a handler of radioactive material or the certificate of registration of a handler of radiation-generating equipment subsequent to its issuance; 53791
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(6) Criteria for achieving and maintaining compliance with this chapter and rules adopted under it by licensees and registrants; 53795
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(7) Criteria governing environmental monitoring of licensed and registered activities to assess compliance with this chapter and rules adopted under it; 53798
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(8) ~~Except as otherwise provided in division (A)(8) of this section, fees~~ Fees for the both of the following: 53801
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(a) The licensing of handlers of radioactive material, other than a facility facilities for the disposal of low-level radioactive waste, and the of radioactive material; 53803
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(b) The registration of handlers, other than facilities that are, or are operated by, medical practitioners or medical-practitioner groups, of radiation-generating equipment and a. 53806
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(9) A fee schedule for their both of the following that includes fees for reviews, conducted during an inspection, of shielding plans or the adequacy of shielding: 53810
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(a) The inspection of handlers of radioactive material; 53813

(b) The inspection of handlers, other than facilities that are, or are operated by, medical practitioners or medical-practitioner groups, of radiation-generating equipment. 53814
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~~Rules adopted under division (A)(8) of this section shall not revise any fees established in section 3748.07 or 3748.13 of the Revised Code to be paid by any handler of radiation generating equipment that is a medical practitioner or a corporation, partnership, or other business entity consisting of medical practitioners, other than a hospital as defined in section 3727.01 of the Revised Code.~~ 53817
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~~As used in division (A)(8) of this section, "medical practitioner" means a person who is authorized to practice dentistry pursuant to Chapter 4715. of the Revised Code; medicine and surgery, osteopathic medicine and surgery, or podiatry pursuant to Chapter 4731. of the Revised Code; or chiropractic pursuant to Chapter 4734. of the Revised Code.~~ 53824
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(B)(1) Identifying sources of radiation, circumstances of possession, use, or disposal of sources of radiation, and levels 53830
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of radiation that constitute an unreasonable or unnecessary risk 53832
to human health or the environment; 53833

(2) Establishing requirements for the achievement and 53834
maintenance of compliance with standards for the receipt, 53835
possession, use, storage, installation, transfer, servicing, and 53836
disposal of sources of radiation to prevent levels of radiation 53837
that constitute an unreasonable or unnecessary risk to human 53838
health or the environment; 53839

(3) Requiring the maintenance of records on the receipt, use, 53840
storage, transfer, and disposal of radioactive material and on the 53841
radiological safety aspects of the use and maintenance of 53842
radiation-generating equipment. 53843

In adopting rules under divisions (A) and (B) of this 53844
section, the council shall use standards no less stringent than 53845
the "suggested state regulations for control of radiation" 53846
prepared by the conference of radiation control program directors, 53847
inc., and regulations adopted by the United States nuclear 53848
regulatory commission, the United States environmental protection 53849
agency, and the United States department of health and human 53850
services and shall consider reports of the national council on 53851
radiation protection and measurement and the relevant standards of 53852
the American national standards institute. 53853

(C) Establishing fees, procedures, and requirements for 53854
certification as a radiation expert, including all of the 53855
following, without limitation: 53856

(1) Minimum training and experience requirements; 53857

(2) Procedures for applying for certification; 53858

(3) Procedures for review of applications and issuance of 53859
certificates; 53860

(4) Procedures for suspending and revoking certification. 53861

(D) Establishing a schedule for inspection of sources of radiation and their shielding and surroundings;	53862
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(E) Establishing the responsibilities of a radiation expert;	53864
(F) Establishing criteria for quality assurance programs for licensees of radioactive material and registrants of radiation-generating equipment;	53865
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(G) Establishing fees to be paid by any facility that, on September 8, 1995, holds a license from the United States nuclear regulatory commission in order to provide moneys necessary for the transfer of licensing and other regulatory authority from the commission to the state pursuant to section 3748.03 of the Revised Code. Rules adopted under this division shall stipulate that fees so established do not apply to any functions dealing specifically with a facility for the disposal of low-level radioactive waste. Fees collected under this division shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.	53868
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(H) Establishing fees to be collected annually from generators of low-level radioactive waste, which shall be based upon the volume and radioactivity of the waste generated and the costs of administering low-level radioactive waste management activities under this chapter and rules adopted under it. All fees collected under this division shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it. Any fee required under this division that has not been paid within ninety days after the invoice date shall be assessed at two times the original invoiced fee. Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed	53881
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at five times the original invoiced fee. 53894

(I) Establishing requirements governing closure, 53895
decontamination, decommissioning, reclamation, and long-term 53896
surveillance and care of a facility licensed under this chapter 53897
and rules adopted under it. Rules adopted under division (I) of 53898
this section shall include, without limitation, all of the 53899
following: 53900

(1) Standards and procedures to ensure that a licensee 53901
prepares a decommissioning funding plan that provides an adequate 53902
financial guaranty to permit the completion of all requirements 53903
governing the closure, decontamination, decommissioning, and 53904
reclamation of sites, structures, and equipment used in 53905
conjunction with a licensed activity; 53906

(2) For licensed activities where radioactive material that 53907
will require surveillance or care is likely to remain at the site 53908
after the licensed activities cease, as indicated in the 53909
application for the license submitted under section 3748.07 of the 53910
Revised Code, standards and procedures to ensure that the licensee 53911
prepares an additional decommissioning funding plan for long-term 53912
surveillance and care, before termination of the license, that 53913
provides an additional adequate financial guaranty as necessary to 53914
provide for that surveillance and care; 53915

(3) For the purposes of the decommissioning funding plans 53916
required in rules adopted under divisions (I)(1) and (2) of this 53917
section, the types of acceptable financial guaranties, which shall 53918
include bonds issued by fidelity or surety companies authorized to 53919
do business in the state, certificates of deposit, deposits of 53920
government securities, irrevocable letters or lines of credit, 53921
trust funds, escrow accounts, or other similar types of 53922
arrangements, but shall not include any arrangement that 53923
constitutes self-insurance; 53924

(4) A requirement that the decommissioning funding plans 53925
required in rules adopted under divisions (I)(1) and (2) of this 53926
section contain financial guaranties in amounts sufficient to 53927
ensure compliance with any standards established by the United 53928
States nuclear regulatory commission, or by the state if it has 53929
become an agreement state pursuant to section 3748.03 of the 53930
Revised Code, pertaining to closure, decontamination, 53931
decommissioning, reclamation, and long-term surveillance and care 53932
of licensed activities and sites of licensees. 53933

Standards established in rules adopted under division (I) of 53934
this section regarding any activity that resulted in the 53935
production of byproduct material, as defined in division (A)(2) of 53936
section 3748.01 of the Revised Code, to the extent practicable, 53937
shall be equivalent to or more stringent than standards 53938
established by the United States nuclear regulatory commission for 53939
sites at which ores were processed primarily for their source 53940
material content and at which byproduct material, as defined in 53941
division (A)(2) of section 3748.01 of the Revised Code, is 53942
deposited. 53943

(J) Establishing criteria governing inspections of a facility 53944
for the disposal of low-level radioactive waste, including, 53945
without limitation, the establishment of a resident inspector 53946
program at such a facility; 53947

(K) Establishing requirements and procedures governing the 53948
filing of complaints under section 3748.16 of the Revised Code, 53949
including, without limitation, those governing intervention in a 53950
hearing held under division (B)(3) of that section. 53951

Sec. 3748.07. (A) Every facility that proposes to handle 53952
radioactive material or radiation-generating equipment for which 53953
licensure or registration, respectively, by its handler is 53954
required shall apply in writing to the director of health on forms 53955

prescribed and provided by the director for licensure or 53956
registration. Terms and conditions of licenses and certificates of 53957
registration may be amended in accordance with rules adopted under 53958
section 3748.04 of the Revised Code or orders issued by the 53959
director pursuant to section 3748.05 of the Revised Code. 53960

~~(B) Until rules are adopted under section 3748.04 of the~~ 53961
~~Revised Code (1) Except as provided in division (B)(2) of this~~ 53962
~~section, an application for a license, registration certificate,~~ 53963
~~or renewal of either shall be accompanied by the appropriate fee~~ 53964
~~specified in rules adopted under section 3748.04 of the Revised~~ 53965
~~Code.~~ 53966

(2) In the case of an applicant that is, or is operated by, a 53967
medical practitioner or medical-practitioner group and proposes to 53968
handle radiation-generating equipment, an application for a 53969
certificate of registration shall be accompanied by a biennial 53970
registration fee of two hundred ~~eighteen~~ sixty-two dollars and, in 53971
the case of a renewal application, a biennial renewal fee in the 53972
same amount. ~~On and after the effective date of those rules, an~~ 53973
~~applicant for a license, registration certificate, or renewal of~~ 53974
~~either shall pay the appropriate fee established in those rules.~~ 53975

(C) All fees collected under this section shall be deposited 53977
in the state treasury to the credit of the general operations fund 53978
created in section 3701.83 of the Revised Code. The fees shall be 53979
used solely to administer and enforce this chapter and rules 53980
adopted under it. 53981

(D) Any fee required under this section that has not been 53982
paid within ninety days after the invoice date shall be assessed 53983
at two times the original invoiced fee. Any fee that has not been 53984
paid within one hundred eighty days after the invoice date shall 53985
be assessed at five times the original invoiced fee. 53986

~~(C)~~(E) The director shall grant a license or registration to any applicant who has paid the required fee and is in compliance with this chapter and rules adopted under it.

~~Until rules are adopted under section 3748.04 of the Revised Code, certificates of registration shall be effective for two years from the date of issuance. On and after the effective date of those rules~~ (F) Except as provided in division (B)(2) of this section, licenses and certificates of registration shall be effective for the applicable period established in ~~those rules adopted under section 3748.04 of the Revised Code.~~ Licenses and certificates of registration shall be renewed in accordance with the ~~standard~~ renewal procedure established in ~~Chapter 4745. rules adopted under section 3748.04~~ of the Revised Code.

Sec. 3748.12. The director of health shall certify radiation experts pursuant to rules adopted under division (C) of section 3748.04 of the Revised Code. The director shall issue a certificate to each person certified under this section. An individual certified by the director is qualified to develop, provide periodic review of, and conduct audits of the quality assurance program for sources of radiation for which such a program is required under division (A) of section 3748.13 of the Revised Code.

The public health council shall establish an application fee for applying for certification and a biennial certification renewal fee in rules adopted under division (C) of section 3748.04 of the Revised Code. ~~Until those rules are adopted, the application fee for initial certification shall be fifty dollars plus an additional twenty five dollars for each type of radiation generating equipment listed in division (B) of section 3748.13 of the Revised Code for which application is being made. The certification renewal fee shall be one hundred fifteen~~

~~dollars.~~ A certificate issued under this section shall expire two 54018
years after the date of its issuance. To maintain certification, a 54019
radiation expert shall apply to the director for renewal of 54020
certification in accordance with the standard renewal procedures 54021
established in Chapter 4745. of the Revised Code. The 54022
certification renewal fee is not required for initial 54023
certification, but shall be paid for every renewal of 54024
certification. Fees collected under this section shall be 54025
deposited into the state treasury to the credit of the general 54026
operations fund created in section 3701.83 of the Revised Code. 54027
The fees shall be used solely to administer and enforce this 54028
chapter and rules adopted under it. Any fee required under this 54029
section that has not been paid within ninety days after the 54030
invoice date shall be assessed at two times the original invoiced 54031
fee. Any fee that has not been paid within one hundred eighty days 54032
after the invoice date shall be assessed at five times the 54033
original invoiced fee. 54034

Sec. 3748.13. (A) The director of health shall inspect 54035
sources of radiation for which licensure or registration by the 54036
handler is required, and the sources' shielding and surroundings, 54037
according to the schedule established in rules adopted under 54038
division (D) of section 3748.04 of the Revised Code. In accordance 54039
with rules adopted under ~~that~~ section 3748.04 of the Revised Code, 54040
the director shall inspect all records and operating procedures of 54041
handlers that install or service sources of radiation and all 54042
sources of radiation for which licensure of radioactive material 54043
or registration of radiation-generating equipment by the handler 54044
is required. The director may make other inspections upon 54045
receiving complaints or other evidence of a violation of this 54046
chapter or rules adopted under it. 54047

The director shall require any hospital registered under 54048
division (A) of section 3701.07 of the Revised Code to develop and 54049

maintain a quality assurance program for all sources of 54050
radiation-generating equipment. A certified radiation expert shall 54051
conduct oversight and maintenance of the program and shall file a 54052
report of audits of the program with the director on forms 54053
prescribed by the director. The audit reports shall become part of 54054
the inspection record. 54055

(B) ~~Until rules are adopted under division (A)(8) of section~~ 54056
~~3748.04 of the Revised Code (1) Except as provided in division~~ 54057
~~(B)(2) of this section,~~ a facility shall pay inspection fees for 54058
radioactive material and radiation-generating equipment according 54059
to the ~~following~~ schedule and categories established in rules 54060
adopted under division (A)(9) of section 3748.04 of the Revised 54061
Code. 54062

(2) A facility that is, or is operated by, a medical 54063
practitioner or medical-practitioner group shall pay inspection 54064
fees for radiation-generating equipment according to the following 54065
schedule and categories: 54066

First dental x-ray tube	\$ 129.00 <u>155.00</u>	54067
Each additional dental x-ray tube at the same location	\$ 64.00 <u>77.00</u>	54068
First medical x-ray tube	\$ 256.00 <u>307.00</u>	54069
Each additional medical x-ray tube at the same location	\$ 136.00 <u>163.00</u>	54070
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	\$ 508.00 <u>610.00</u>	54071
First nonionizing radiation-generating equipment of any kind	\$ 256.00 <u>307.00</u>	54072
Each additional nonionizing radiation-generating equipment of	\$ 136.00 <u>163.00</u>	54073

any kind at the same location

Assembler-maintainer inspection \$ ~~317.00~~ 380.00 54074

consisting of an inspection of
records and operating procedures
of handlers that install sources
of radiation

~~Until rules are adopted under division (A)(8) of section 3748.04 of the Revised Code, the fee for an inspection to determine whether violations cited in a previous inspection have been corrected is fifty per cent of the fee applicable under the schedule in this division. Until those rules are adopted (C)(1) Except as provided in division (C)(2) of this section, the fee for the inspection of a facility that proposes to handle radioactive material or radiation-generating equipment and is not licensed or registered, and for which no license or registration application is pending at the time of inspection, is ~~three~~ four hundred ~~ninety-five~~ seventy-four dollars plus the applicable fee specified in rules adopted under division (A)(9) of section 3748.04 of the Revised Code.~~

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(2) For a facility that is, or is operated by, a medical practitioner or medical-practitioner group and proposes to handle radiation-generating equipment, the fee for an inspection if the facility is not licensed or registered, and no license or registration is pending at the time of inspection, is four hundred seventy-four dollars plus the fee applicable under the schedule in ~~this~~ division (B)(2) of this section.

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(D)(1) Except as provided in division (D)(2) of this section, for a facility that handles radioactive material or radiation-generating equipment, the fee for an inspection to determine whether violations cited in a previous inspection have been corrected is the amount specified in rules adopted under division (A)(9) of section 3748.04 of the Revised Code.

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(2) For a facility that is, or is operated by, a medical practitioner or medical-practitioner group and handles radiation-generating equipment, the fee for an inspection to determine whether violations cited in a previous inspection have been corrected is fifty per cent of the applicable fee under the schedule in division (B)(2) of this section.

(E) The director may conduct a review of shielding plans or the adequacy of shielding on the request of a licensee or registrant or an applicant for licensure or registration or during an inspection when the director considers a review to be necessary. ~~Until rules are adopted under division (A)(8) of section 3748.04 of the Revised Code~~

(1) Except as provided in division (E)(2) of this section, the fee for the review is ~~six~~ the applicable amount specified in rules adopted under division (A)(9) of section 3748.04 of the Revised Code.

(2) For a facility that is, or is operated by, a medical practitioner or medical-practitioner group and handles or proposes to handle radiation-generating equipment, the fee for the review is seven hundred ~~thirty-five~~ sixty-two dollars for each room where a source of radiation is used and is in addition to any other fee applicable under the schedule in ~~this~~ division (B)(2) of this section.

(F) All fees shall be paid to the department of health no later than thirty days after the invoice for the fee is mailed. Fees shall be deposited in the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

(G) Any fee required under this section that has not been paid within ninety days after the invoice date shall be assessed at two times the original invoiced fee. Any fee that has not been

paid within one hundred eighty days after the invoice date shall 54132
be assessed at five times the original invoiced fee. 54133

~~(C)~~(H) If the director determines that a board of health of a 54134
city or general health district is qualified to conduct 54135
inspections of radiation-generating equipment, the director may 54136
delegate to the board, by contract, the authority to conduct such 54137
inspections. In making a determination of the qualifications of a 54138
board of health to conduct those inspections, the director shall 54139
evaluate the credentials of the individuals who are to conduct the 54140
inspections of radiation-generating equipment and the radiation 54141
detection and measuring equipment available to them for that 54142
purpose. If a contract is entered into, the board shall have the 54143
same authority to make inspections of radiation-generating 54144
equipment as the director has under this chapter and rules adopted 54145
under it. The contract shall stipulate that only individuals 54146
approved by the director as qualified shall be permitted to 54147
inspect radiation-generating equipment under the contract's 54148
provisions. The contract shall provide for such compensation for 54149
services as is agreed to by the director and the board of health 54150
of the contracting health district. The director may reevaluate 54151
the credentials of the inspection personnel and their radiation 54152
detecting and measuring equipment as often as the director 54153
considers necessary and may terminate any contract with the board 54154
of health of any health district that, in the director's opinion, 54155
is not satisfactorily performing the terms of the contract. 54156

~~(D)~~(I) The director may enter at all reasonable times upon 54157
any public or private property to determine compliance with this 54158
chapter and rules adopted under it. 54159

Sec. 3749.04. (A) No person shall operate or maintain a 54160
public swimming pool, public spa, or special-use pool without a 54161
license issued by the licensor having jurisdiction. 54162

(B) Every person who intends to operate or maintain an existing public swimming pool, public spa, or special-use pool shall, during the month of April of each year, apply to the licensor having jurisdiction for a license to operate the pool or spa. Any person proposing to operate or maintain a new or otherwise unlicensed public swimming pool, public spa, or special-use pool shall apply to the licensor having jurisdiction at least thirty days prior to the intended start of operation of the pool or spa. Within thirty days of receipt of an application for licensure of a public swimming pool, public spa, or special-use pool, the licensor shall process the application and either issue a license or otherwise respond to the applicant regarding the application.

(C) Each license issued shall be effective from the date of issuance until the last day of May of the following year.

(D) Each licensor administering and enforcing sections 3749.01 to 3749.09 of the Revised Code and the rules adopted thereunder may establish licensing and inspection fees in accordance with section 3709.09 of the Revised Code, which shall not exceed the cost of licensing and inspecting public swimming pools, public spas, and special-use pools.

(E) Except as provided in division (F) of this section and in division (B) of section 3749.07 of the Revised Code, all license fees collected by a licensor shall be deposited into a swimming pool fund, which is hereby created in each health district. The fees shall be used by the licensor solely for the purpose of administering and enforcing this chapter and the rules adopted under this chapter.

(F) An annual license fee established under division (D) of this section shall include any additional amount determined by rule of the public health council, which the ~~licensor~~ board of health shall collect and transmit to the ~~treasurer of state to be~~

~~deposited in the general operations fund created by section 54195~~
~~3701.83 of the Revised Code~~ director of health pursuant to section 54196
3709.092 of the Revised Code. The amounts collected under this 54197
division shall be administered by the director of health and shall 54198
be used solely for the administration and enforcement of this 54199
chapter and the rules adopted under this chapter. 54200

Sec. 3770.05. (A) As used in this section, "person" means any 54201
person, association, corporation, partnership, club, trust, 54202
estate, society, receiver, trustee, person acting in a fiduciary 54203
or representative capacity, instrumentality of the state or any of 54204
its political subdivisions, or any other combination of 54205
individuals meeting the requirements set forth in this section or 54206
established by rule or order of the state lottery commission. 54207

(B) The director of the state lottery commission may license 54208
any person as a lottery sales agent. No license shall be issued to 54209
any person or group of persons to engage in the sale of lottery 54210
tickets as the person's or group's sole occupation or business. 54211

Before issuing any license to a lottery sales agent, the 54212
director shall consider all of the following: 54213

(1) The financial responsibility and security of the 54214
applicant and the applicant's business or activity; 54215

(2) The accessibility of the applicant's place of business or 54216
activity to the public; 54217

(3) The sufficiency of existing licensed agents to serve the 54218
public interest; 54219

(4) The volume of expected sales by the applicant; 54220

(5) Any other factors pertaining to the public interest, 54221
convenience, or trust. 54222

(C) Except as otherwise provided in division (F) of this 54223
section, the director of the state lottery commission shall refuse 54224

to grant, or shall suspend or revoke, a license if the applicant 54225
or licensee: 54226

(1) Has been convicted of a felony or has been convicted of a 54227
crime involving moral turpitude; 54228

(2) Has been convicted of an offense that involves illegal 54229
gambling; 54230

(3) Has been found guilty of fraud or misrepresentation in 54231
any connection; 54232

(4) Has been found to have violated any rule or order of the 54233
commission; or 54234

(5) Has been convicted of illegal trafficking in ~~food stamps~~ 54235
supplemental nutrition assistance program benefits. 54236

(D) Except as otherwise provided in division (F) of this 54237
section, the director of the state lottery commission shall refuse 54238
to grant, or shall suspend or revoke, a license if the applicant 54239
or licensee is a corporation and any of the following applies: 54240

(1) Any of the corporation's directors, officers, or 54241
controlling shareholders has been found guilty of any of the 54242
activities specified in divisions (C)(1) to (5) of this section; 54243

(2) It appears to the director of the state lottery 54244
commission that, due to the experience, character, or general 54245
fitness of any director, officer, or controlling shareholder of 54246
the corporation, the granting of a license as a lottery sales 54247
agent would be inconsistent with the public interest, convenience, 54248
or trust; 54249

(3) The corporation is not the owner or lessee of the 54250
business at which it would conduct a lottery sales agency pursuant 54251
to the license applied for; 54252

(4) Any person, firm, association, or corporation other than 54253
the applicant or licensee shares or will share in the profits of 54254

the applicant or licensee, other than receiving dividends or 54255
distributions as a shareholder, or participates or will 54256
participate in the management of the affairs of the applicant or 54257
licensee. 54258

(E)(1) The director of the state lottery commission shall 54259
refuse to grant a license to an applicant for a lottery sales 54260
agent license and shall revoke a lottery sales agent license if 54261
the applicant or licensee is or has been convicted of a violation 54262
of division (A) or (C)(1) of section 2913.46 of the Revised Code. 54263

(2) The director shall refuse to grant a license to an 54264
applicant for a lottery sales agent license that is a corporation 54265
and shall revoke the lottery sales agent license of a corporation 54266
if the corporation is or has been convicted of a violation of 54267
division (A) or (C)(1) of section 2913.46 of the Revised Code. 54268

(F) The director of the state lottery commission shall 54269
request the bureau of criminal identification and investigation, 54270
the department of public safety, or any other state, local, or 54271
federal agency to supply the director with the criminal records of 54272
any applicant for a lottery sales agent license, and may 54273
periodically request the criminal records of any person to whom a 54274
lottery sales agent license has been issued. At or prior to the 54275
time of making such a request, the director shall require an 54276
applicant or licensee to obtain fingerprint impressions on 54277
fingerprint cards prescribed by the superintendent of the bureau 54278
of criminal identification and investigation at a qualified law 54279
enforcement agency, and the director shall cause those fingerprint 54280
cards to be forwarded to the bureau of criminal identification and 54281
investigation, to the federal bureau of investigation, or to both 54282
bureaus. The commission shall assume the cost of obtaining the 54283
fingerprint cards. 54284

The director shall pay to each agency supplying criminal 54285
records for each investigation a reasonable fee, as determined by 54286

the agency. 54287

The commission may adopt uniform rules specifying time 54288
periods after which the persons described in divisions (C)(1) to 54289
(5) and (D)(1) to (4) of this section may be issued a license and 54290
establishing requirements for those persons to seek a court order 54291
to have records sealed in accordance with law. 54292

(G)(1) Each applicant for a lottery sales agent license shall 54293
do both of the following: 54294

(a) Pay to the state lottery commission, at the time the 54295
application is submitted, a fee in an amount that the director of 54296
the state lottery commission determines by rule adopted under 54297
Chapter 119. of the Revised Code and that the controlling board 54298
approves; 54299

(b) Prior to approval of the application, obtain a surety 54300
bond in an amount the director determines by rule adopted under 54301
Chapter 119. of the Revised Code or, alternatively, with the 54302
director's approval, deposit the same amount into a dedicated 54303
account for the benefit of the state lottery. The director also 54304
may approve the obtaining of a surety bond to cover part of the 54305
amount required, together with a dedicated account deposit to 54306
cover the remainder of the amount required. 54307

A surety bond may be with any company that complies with the 54308
bonding and surety laws of this state and the requirements 54309
established by rules of the commission pursuant to this chapter. A 54310
dedicated account deposit shall be conducted in accordance with 54311
policies and procedures the director establishes. 54312

A surety bond, dedicated account, or both, as applicable, may 54313
be used to pay for the lottery sales agent's failure to make 54314
prompt and accurate payments for lottery ticket sales, for missing 54315
or stolen lottery tickets, or for damage to equipment or materials 54316
issued to the lottery sales agent, or to pay for expenses the 54317

commission incurs in connection with the lottery sales agent's 54318
license. 54319

(2) A lottery sales agent license is effective for one year. 54320

A licensed lottery sales agent, on or before the date 54321
established by the director, shall renew the agent's license and 54322
provide at that time evidence to the director that the surety 54323
bond, dedicated account deposit, or both, required under division 54324
(G)(1)(b) of this section has been renewed or is active, whichever 54325
applies. 54326

Before the commission renews a lottery sales agent license, 54327
the lottery sales agent shall submit a renewal fee to the 54328
commission in an amount that the director determines by rule 54329
adopted under Chapter 119. of the Revised Code and that the 54330
controlling board approves. The renewal fee shall not exceed the 54331
actual cost of administering the license renewal and processing 54332
changes reflected in the renewal application. The renewal of the 54333
license is effective for up to one year. 54334

(3) A lottery sales agent license shall be complete, 54335
accurate, and current at all times during the term of the license. 54336
Any changes to an original license application or a renewal 54337
application may subject the applicant or lottery sales agent, as 54338
applicable, to paying an administrative fee that shall be in an 54339
amount that the director determines by rule adopted under Chapter 54340
119. of the Revised Code, that the controlling board approves, and 54341
that shall not exceed the actual cost of administering and 54342
processing the changes to an application. 54343

(4) The relationship between the commission and a lottery 54344
sales agent is one of trust. A lottery sales agent collects funds 54345
on behalf of the commission through the sale of lottery tickets 54346
for which the agent receives a compensation. 54347

(H) Pending a final resolution of any question arising under 54348

this section, the director of the state lottery commission may 54349
issue a temporary lottery sales agent license, subject to the 54350
terms and conditions the director considers appropriate. 54351

(I) If a lottery sales agent's rental payments for the 54352
lottery sales agent's premises are determined, in whole or in 54353
part, by the amount of retail sales the lottery sales agent makes, 54354
and if the rental agreement does not expressly provide that the 54355
amount of those retail sales includes the amounts the lottery 54356
sales agent receives from lottery ticket sales, only the amounts 54357
the lottery sales agent receives as compensation from the state 54358
lottery commission for selling lottery tickets shall be considered 54359
to be amounts the lottery sales agent receives from the retail 54360
sales the lottery sales agent makes, for the purpose of computing 54361
the lottery sales agent's rental payments. 54362

Sec. 3773.35. Any person who wishes to conduct a public or 54363
private competition that involves boxing or, wrestling match or 54364
exhibition, mixed martial arts, kick boxing, tough man contests, 54365
tough guy contests, or any other form of boxing or martial arts 54366
shall apply to the Ohio athletic commission for a promoter's 54367
license. Each application shall be filed with the commission on 54368
forms provided by the commission, and shall be accompanied by an 54369
application fee as prescribed in section 3773.43 of the Revised 54370
Code and, with the exception of wrestling events, by a ~~cash bond,~~ 54371
~~certified check, bank draft, or~~ surety bond of not less than ~~five~~ 54372
twenty thousand dollars conditioned for compliance with sections 54373
3773.31 to 3773.57 of the Revised Code and the rules of the 54374
commission. ~~The applicant shall verify the application under oath.~~ 54375

The commission shall prescribe the form of the application 54377
for the promoter's license. The application shall include the name 54378
of the applicant, the post office address of the applicant, and 54379

any other information the commission requires. 54380

Sec. 3773.36. Upon the proper filing of an application to 54381
conduct any public or private competition that involves boxing ~~or~~ 54382
~~wrestling matches or exhibitions,~~ mixed martial arts, kick boxing, 54383
tough man contests, tough guy contests, or any other form of 54384
boxing or martial arts, accompanied by the ~~cash bond, certified~~ 54385
~~check, bank draft, or surety bond required by section 3773.35,~~ and 54386
the application fee ~~required by section 3773.43 of the Revised~~ 54387
~~Code, or upon the proper filing of an application to conduct any~~ 54388
public or private competition that involves wrestling accompanied 54389
by the application fee, the Ohio athletic commission shall issue a 54390
promoter's license to the applicant if it finds that the applicant 54391
is not in default on any payment, obligation, or debt payable to 54392
the state under sections 3773.31 to 3773.57 of the Revised Code, 54393
is financially responsible, and is knowledgeable in the proper 54394
conduct of such matches or exhibitions. 54395

Each license issued pursuant to this section shall bear the 54396
name of the licensee, the post office address of the licensee, the 54397
date of ~~issue~~ expiration, ~~a serial~~ an identification number 54398
designated by the commission, and the seal of the commission, ~~and~~ 54399
~~the signature of the commission chairperson.~~ 54400

A promoter's license shall expire twelve months after its 54401
date of issuance and shall become invalid on that date unless 54402
renewed. A promoter's license may be renewed upon application to 54403
the commission and upon payment of the renewal fee prescribed in 54404
section 3773.43 of the Revised Code. The commission shall renew 54405
the license unless it denies the application for renewal for one 54406
or more reasons stated in section 3123.47 or 3773.53 of the 54407
Revised Code. 54408

Sec. 3773.43. The Ohio athletic commission shall charge the 54409

following fees: 54410

(A) For an application for or renewal of a promoter's license 54411
for a public or private competition that involves boxing matches 54412
or exhibitions, mixed martial arts, kick boxing, tough man 54413
contests, tough guy contests, or any other form of boxing or 54414
martial arts, one hundred dollars. 54415

(B) For an application for or renewal of a license to 54416
participate in a public boxing match or exhibition as a 54417
contestant, or as a referee, judge, matchmaker, manager, 54418
timekeeper, trainer, or second of a contestant, twenty dollars. 54419

(C) For a permit to conduct a public boxing match or 54420
exhibition, fifty dollars. 54421

(D) For an application for or renewal of a promoter's license 54422
for ~~professional~~ a public or private competition that involves 54423
wrestling matches or exhibitions, two hundred dollars. 54424

(E) For a permit to conduct a professional wrestling match or 54425
exhibition, one hundred dollars. 54426

The commission, subject to the approval of the controlling 54427
board, may establish fees in excess of the amounts provided in 54428
this section, provided that such fees do not exceed the amounts 54429
permitted by this section by more than fifty per cent. 54430

The fees prescribed by this section shall be paid to the 54431
treasurer of state, who shall deposit the fees in the occupational 54432
licensing and regulatory fund. 54433

Sec. 3781.03. (A) The state fire marshal, the fire chief of a 54434
municipal corporation that has a fire department, or the fire 54435
chief of a township that has a fire department shall enforce the 54436
provisions of this chapter and Chapter 3791. of the Revised Code 54437
that relate to fire prevention. 54438

(B) The superintendent of ~~the division of industrial~~ 54439

~~compliance labor~~, or the building inspector or commissioner of 54440
buildings in a municipal corporation, county, or township in which 54441
the building department is certified by the board of building 54442
standards under section 3781.10 of the Revised Code shall enforce 54443
in the jurisdiction of each entity all the provisions in this 54444
chapter and Chapter 3791. of the Revised Code and any rules 54445
adopted pursuant to those chapters that relate to the 54446
construction, arrangement, and erection of all buildings or parts 54447
of buildings, as defined in section 3781.06 of the Revised Code, 54448
including the sanitary condition of those buildings in relation to 54449
heating and ventilation. 54450

(C) The division of ~~industrial compliance labor~~ in the 54451
department of commerce, boards of health of health districts, 54452
certified departments of building inspection of municipal 54453
corporations, and county building departments that have authority 54454
to perform inspections pursuant to a contract under division 54455
(C)(1) of section 3703.01 of the Revised Code, subject to Chapter 54456
3703. of the Revised Code, shall enforce this chapter and Chapter 54457
3791. of the Revised Code and the rules adopted pursuant to those 54458
chapters that relate to plumbing. Building drains are considered 54459
plumbing for the purposes of enforcement of those chapters. 54460

(D)(1) In accordance with Chapter 3703. of the Revised Code, 54462
the department of the city engineer, in cities having such 54463
departments, the boards of health of health districts, or the 54464
sewer purveyor, as appropriate, shall have complete authority to 54465
supervise and regulate the entire sewerage and drainage system in 54466
the jurisdiction in which it is exercising the authority described 54467
in this division, including the building sewer and all laterals 54468
draining into the street sewers. 54469

(2) In accordance with Chapter 3703. of the Revised Code, the 54470
department of the city engineer, the boards of health of health 54471

districts, or the sewer purveyor, as appropriate, shall control 54472
and supervise the installation and construction of all drains and 54473
sewers that become a part of the sewerage system and shall issue 54474
all the necessary permits and licenses for the construction and 54475
installation of all building sewers and of all other lateral 54476
drains that empty into the main sewers. The department of the city 54477
engineer, the boards of health of health districts, and the sewer 54478
purveyor, as appropriate, shall keep a permanent record of the 54479
installation and location of every drain and sewer of the drainage 54480
and sewerage system of the jurisdiction in which it has exercised 54481
the authority described in this division. 54482

(E) This section does not exempt any officer or department 54483
from the obligation to enforce this chapter and Chapter 3791. of 54484
the Revised Code. 54485

Sec. 3781.102. (A) Any county or municipal building 54486
department certified pursuant to division (E) of section 3781.10 54487
of the Revised Code as of September 14, 1970, and that, as of that 54488
date, was inspecting single-family, two-family, and three-family 54489
residences, and any township building department certified 54490
pursuant to division (E) of section 3781.10 of the Revised Code, 54491
is hereby declared to be certified to inspect single-family, 54492
two-family, and three-family residences containing industrialized 54493
units, and shall inspect the buildings or classes of buildings 54494
subject to division (E) of section 3781.10 of the Revised Code. 54495
54496

(B) Each board of county commissioners may adopt, by 54497
resolution, rules establishing standards and providing for the 54498
licensing of electrical and heating, ventilating, and air 54499
conditioning contractors who are not required to hold a valid and 54500
unexpired license pursuant to Chapter 4740. of the Revised Code. 54501

Rules adopted by a board of county commissioners pursuant to 54502

this division may be enforced within the unincorporated areas of 54503
the county and within any municipal corporation where the 54504
legislative authority of the municipal corporation has contracted 54505
with the board for the enforcement of the county rules within the 54506
municipal corporation pursuant to section 307.15 of the Revised 54507
Code. The rules shall not conflict with rules adopted by the board 54508
of building standards pursuant to section 3781.10 of the Revised 54509
Code or by the department of commerce pursuant to Chapter 3703. of 54510
the Revised Code. This division does not impair or restrict the 54511
power of municipal corporations under Section 3 of Article XVIII, 54512
Ohio Constitution, to adopt rules concerning the erection, 54513
construction, repair, alteration, and maintenance of buildings and 54514
structures or of establishing standards and providing for the 54515
licensing of specialty contractors pursuant to section 715.27 of 54516
the Revised Code. 54517

A board of county commissioners, pursuant to this division, 54518
may require all electrical contractors and heating, ventilating, 54519
and air conditioning contractors, other than those who hold a 54520
valid and unexpired license issued pursuant to Chapter 4740. of 54521
the Revised Code, to successfully complete an examination, test, 54522
or demonstration of technical skills, and may impose a fee and 54523
additional requirements for a license to engage in their 54524
respective occupations within the jurisdiction of the board's 54525
rules under this division. 54526

(C) No board of county commissioners shall require any 54527
specialty contractor who holds a valid and unexpired license 54528
issued pursuant to Chapter 4740. of the Revised Code to 54529
successfully complete an examination, test, or demonstration of 54530
technical skills in order to engage in the type of contracting for 54531
which the license is held, within the unincorporated areas of the 54532
county and within any municipal corporation whose legislative 54533
authority has contracted with the board for the enforcement of 54534

county regulations within the municipal corporation, pursuant to 54535
section 307.15 of the Revised Code. 54536

(D) A board may impose a fee for registration of a specialty 54537
contractor who holds a valid and unexpired license issued pursuant 54538
to Chapter 4740. of the Revised Code before that specialty 54539
contractor may engage in the type of contracting for which the 54540
license is held within the unincorporated areas of the county and 54541
within any municipal corporation whose legislative authority has 54542
contracted with the board for the enforcement of county 54543
regulations within the municipal corporation, pursuant to section 54544
307.15 of the Revised Code, provided that the fee is the same for 54545
all specialty contractors who wish to engage in that type of 54546
contracting. If a board imposes such a fee, the board immediately 54547
shall permit a specialty contractor who presents proof of holding 54548
a valid and unexpired license and pays the required fee to engage 54549
in the type of contracting for which the license is held within 54550
the unincorporated areas of the county and within any municipal 54551
corporation whose legislative authority has contracted with the 54552
board for the enforcement of county regulations within the 54553
municipal corporation, pursuant to section 307.15 of the Revised 54554
Code. 54555

(E) The political subdivision associated with each municipal, 54556
township, and county building department the board of building 54557
standards certifies pursuant to division (E) of section 3781.10 of 54558
the Revised Code may prescribe fees to be paid by persons, 54559
political subdivisions, or any department, agency, board, 54560
commission, or institution of the state, for the acceptance and 54561
approval of plans and specifications, and for the making of 54562
inspections, pursuant to sections 3781.03 and 3791.04 of the 54563
Revised Code. 54564

(F) Each political subdivision that prescribes fees pursuant 54565
to division (E) of this section shall collect, on behalf of the 54566

board of building standards, fees equal to the following: 54567

(1) Three per cent of the fees the political subdivision 54568
collects in connection with nonresidential buildings; 54569

(2) One per cent of the fees the political subdivision 54570
collects in connection with residential buildings. 54571

(G)(1) The board shall adopt rules, in accordance with 54572
Chapter 119. of the Revised Code, specifying the manner in which 54573
the fee assessed pursuant to division (F) of this section shall be 54574
collected and remitted monthly to the board. The board shall pay 54575
the fees into the state treasury to the credit of the ~~industrial~~ 54576
~~compliance labor~~ operating fund created in section 121.084 of the 54577
Revised Code. 54578

(2) All money credited to the ~~industrial-compliance labor~~ 54579
operating fund under this division shall be used exclusively for 54580
the following: 54581

(a) Operating costs of the board; 54582

(b) Providing services, including educational programs, for 54583
the building departments that are certified by the board pursuant 54584
to division (E) of section 3781.10 of the Revised Code; 54585

(c) Paying the expenses of the residential construction 54586
advisory committee, including the expenses of committee members as 54587
provided in section 4740.14 of the Revised Code. 54588

(H) A board of county commissioners that adopts rules 54589
providing for the licensing of electrical and heating, 54590
ventilating, and air conditioning contractors, pursuant to 54591
division (B) of this section, may accept, for purposes of 54592
satisfying the requirements of rules adopted under that division, 54593
a valid and unexpired license issued pursuant to Chapter 4740. of 54594
the Revised Code that is held by an electrical or heating, 54595
ventilating, and air conditioning contractor, for the 54596

construction, replacement, maintenance, or repair of one-family, 54597
two-family, or three-family dwelling houses or accessory 54598
structures incidental to those dwelling houses. 54599

(I) A board of county commissioners shall not register a 54600
specialty contractor who is required to hold a license under 54601
Chapter 4740. of the Revised Code but does not hold a valid 54602
license issued under that chapter. 54603

(J) As used in this section, "specialty contractor" means a 54604
heating, ventilating, and air conditioning contractor, 54605
refrigeration contractor, electrical contractor, plumbing 54606
contractor, or hydronics contractor, as those contractors are 54607
described in Chapter 4740. of the Revised Code. 54608

Sec. 3781.11. (A) The rules of the board of building 54609
standards shall: 54610

(1) For nonresidential buildings, provide uniform minimum 54611
standards and requirements, and for residential buildings, provide 54612
standards and requirements that are uniform throughout the state, 54613
for construction and construction materials, including 54614
construction of industrialized units, to make residential and 54615
nonresidential buildings safe and sanitary as defined in section 54616
3781.06 of the Revised Code; 54617

(2) Formulate such standards and requirements, so far as may 54618
be practicable, in terms of performance objectives, so as to make 54619
adequate performance for the use intended the test of 54620
acceptability; 54621

(3) Permit, to the fullest extent feasible, the use of 54622
materials and technical methods, devices, and improvements, 54623
including the use of industrialized units which tend to reduce the 54624
cost of construction and erection without affecting minimum 54625
requirements for the health, safety, and security of the occupants 54626

or users of buildings or industrialized units and without 54627
preferential treatment of types or classes of materials or 54628
products or methods of construction; 54629

(4) Encourage, so far as may be practicable, the 54630
standardization of construction practices, methods, equipment, 54631
material, and techniques, including methods employed to produce 54632
industrialized units; 54633

(5) Not require any alteration or repair of any part of a 54634
school building owned by a chartered nonpublic school or a city, 54635
local, exempted village, or joint vocational school district and 54636
operated in conjunction with any primary or secondary school 54637
program that is not being altered or repaired if all of the 54638
following apply: 54639

(a) The school building meets all of the applicable building 54640
code requirements in existence at the time of the construction of 54641
the building. 54642

(b) The school building otherwise satisfies the requirements 54643
of section 3781.06 of the Revised Code. 54644

(c) The part of the school building altered or repaired 54645
conforms to all rules of the board existing on the date of the 54646
repair or alteration. 54647

(6) Not require any alteration or repair to any part of a 54648
workshop or factory that is not otherwise being altered, repaired, 54649
or added to if all of the following apply: 54650

(a) The workshop or factory otherwise satisfies the 54651
requirements of section 3781.06 of the Revised Code. 54652

(b) The part of the workshop or factory altered, repaired, or 54653
added conforms to all rules of the board existing on the date of 54654
plan approval of the repair, alteration, or addition. 54655

(B) The rules of the board shall supersede and govern any 54656

order, standard, or rule of the division of ~~industrial compliance~~ 54657
labor in the department of commerce, division of the state fire 54658
marshal, the department of health, and of counties and townships, 54659
in all cases where such orders, standards, or rules are in 54660
conflict with the rules of the board, except that rules adopted 54661
and orders issued by the state fire marshal pursuant to Chapter 54662
3743. of the Revised Code prevail in the event of a conflict. 54663

(C) The construction, alteration, erection, and repair of 54664
buildings including industrialized units, and the materials and 54665
devices of any kind used in connection with them and the heating 54666
and ventilating of them and the plumbing and electric wiring in 54667
them shall conform to the statutes of this state or the rules 54668
adopted and promulgated by the board, and to provisions of local 54669
ordinances not inconsistent therewith. Any building, structure, or 54670
part thereof, constructed, erected, altered, manufactured, or 54671
repaired not in accordance with the statutes of this state or with 54672
the rules of the board, and any building, structure, or part 54673
thereof in which there is installed, altered, or repaired any 54674
fixture, device, and material, or plumbing, heating, or 54675
ventilating system, or electric wiring not in accordance with such 54676
statutes or rules is a public nuisance. 54677

(D) As used in this section: 54678

(1) "Nonpublic school" means a chartered school for which 54679
minimum standards are prescribed by the state board of education 54680
pursuant to division (D) of section 3301.07 of the Revised Code. 54681

(2) "Workshop or factory" includes manufacturing, mechanical, 54682
electrical, mercantile, art, and laundering establishments, 54683
printing, telegraph, and telephone offices, railroad depots, and 54684
memorial buildings, but does not include hotels and tenement and 54685
apartment houses. 54686

Sec. 3783.05. The board of building standards, in accordance 54687

with Chapters 119., 3781., and 3791. of the Revised Code, shall 54688
adopt, amend, or repeal such rules as may be reasonably necessary 54689
to administer this chapter. All fees collected by the board 54690
pursuant to this chapter shall be paid into the state treasury to 54691
the credit of the ~~industrial compliance~~ labor operating fund 54692
created in section 121.084 of the Revised Code. 54693

Sec. 3791.02. No owner, or person having the control as an 54694
officer or member of a board or committee or otherwise of any 54695
opera house, hall, theater, church, schoolhouse, college, academy, 54696
seminary, infirmary, sanitarium, children's home, hospital, 54697
medical institute, asylum, memorial building, armory, assembly 54698
hall, or other building for the assemblage or betterment of people 54699
shall fail to obey any order of the state fire marshal, boards of 54700
health of city and general health districts, the building 54701
inspector or commissioner in cities having a building inspection 54702
department, or the superintendent of ~~the division of industrial~~ 54703
~~compliance~~ labor in the department of commerce under Chapters 54704
3781. and 3791. of the Revised Code or rules or regulations 54705
adopted pursuant thereto. 54706

Whoever violates this section shall be fined not more than 54707
one thousand dollars. 54708

Sec. 3791.04. (A)(1) Before beginning the construction, 54709
erection, or manufacture of any building to which section 3781.06 54710
of the Revised Code applies, including all industrialized units, 54711
the owner of that building, in addition to any other submission 54712
required by law, shall submit plans or drawings, specifications, 54713
and data prepared for the construction, erection, equipment, 54714
alteration, or addition that indicate the portions that have been 54715
approved pursuant to section 3781.12 of the Revised Code and for 54716
which no further approval is required, to the municipal, township, 54717
or county building department having jurisdiction unless one of 54718

the following applies: 54719

(a) If no municipal, township, or county building department 54720
certified for nonresidential buildings pursuant to division (E) of 54721
section 3781.10 of the Revised Code has jurisdiction, the owner 54722
shall make the submissions described in division (A)(1) of this 54723
section to the superintendent of ~~the division of industrial~~ 54724
~~compliance~~ labor. 54725

(b) If no certified municipal, township, or county building 54726
department certified for residential buildings pursuant to 54727
division (E) of section 3781.10 of the Revised Code has 54728
jurisdiction, the owner is not required to make the submissions 54729
described in division (A)(1) of this section. 54730

(2)(a) The seal of an architect registered under Chapter 54731
4703. of the Revised Code or an engineer registered under Chapter 54732
4733. of the Revised Code is required for any plans, drawings, 54733
specifications, or data submitted for approval, unless the plans, 54734
drawings, specifications, or data are permitted to be prepared by 54735
persons other than registered architects pursuant to division (C) 54736
or (D) of section 4703.18 of the Revised Code, or by persons other 54737
than registered engineers pursuant to division (C) or (D) of 54738
section 4733.18 of the Revised Code. 54739

(b) No seal is required for any plans, drawings, 54740
specifications, or data submitted for approval for any residential 54741
buildings, as defined in section 3781.06 of the Revised Code, or 54742
erected as industrialized one-, two-, or three-family units or 54743
structures within the meaning of "industrialized unit" as defined 54744
in section 3781.06 of the Revised Code. 54745

(c) No seal is required for approval of the installation of 54746
replacement equipment or systems that are similar in type or 54747
capacity to the equipment or systems being replaced. No seal is 54748
required for approval for any new construction, improvement, 54749

alteration, repair, painting, decorating, or other modification of 54750
any buildings or structures subject to sections 3781.06 to 3781.18 54751
and 3791.04 of the Revised Code if the proposed work does not 54752
involve technical design analysis, as defined by rule adopted by 54753
the board of building standards. 54754

(B) No owner shall proceed with the construction, erection, 54755
alteration, or equipment of any building until the plans or 54756
drawings, specifications, and data have been approved as this 54757
section requires, or the industrialized unit inspected at the 54758
point of origin. No plans or specifications shall be approved or 54759
inspection approval given unless the building represented would, 54760
if constructed, repaired, erected, or equipped, comply with 54761
Chapters 3781. and 3791. of the Revised Code and any rule made 54762
under those chapters. 54763

(C) The approval of plans or drawings and specifications or 54764
data pursuant to this section is invalid if construction, 54765
erection, alteration, or other work upon the building has not 54766
commenced within twelve months of the approval of the plans or 54767
drawings and specifications. One extension shall be granted for an 54768
additional twelve-month period if the owner requests at least ten 54769
days in advance of the expiration of the permit and upon payment 54770
of a fee not to exceed one hundred dollars. If in the course of 54771
construction, work is delayed or suspended for more than six 54772
months, the approval of plans or drawings and specifications or 54773
data is invalid. Two extensions shall be granted for six months 54774
each if the owner requests at least ten days in advance of the 54775
expiration of the permit and upon payment of a fee for each 54776
extension of not more than one hundred dollars. Before any work 54777
may continue on the construction, erection, alteration, or 54778
equipment of any building for which the approval is invalid, the 54779
owner of the building shall resubmit the plans or drawings and 54780
specifications for approval pursuant to this section. 54781

(D) Subject to section 3791.042 of the Revised Code, the board of building standards or the legislative authority of a municipal corporation, township, or county, by rule, may regulate the requirements for the submission of plans and specifications to the respective enforcing departments and for processing by those departments. The board of building standards or the legislative authority of a municipal corporation, township, or county may adopt rules to provide for the approval, subject to section 3791.042 of the Revised Code, by the department having jurisdiction of the plans for construction of a foundation or any other part of a building or structure before the complete plans and specifications for the entire building or structure are submitted. When any plans are approved by the department having jurisdiction, the structure and every particular represented by and disclosed in those plans shall, in the absence of fraud or a serious safety or sanitation hazard, be conclusively presumed to comply with Chapters 3781. and 3791. of the Revised Code and any rule issued pursuant to those chapters, if constructed, altered, or repaired in accordance with those plans and any rule in effect at the time of approval.

(E) The approval of plans and specifications, including inspection of industrialized units, under this section is a "license" and the failure to approve plans or specifications as submitted or to inspect the unit at the point of origin within thirty days after the plans or specifications are filed or the request to inspect the industrialized unit is made, the disapproval of plans and specifications, or the refusal to approve an industrialized unit following inspection at the point of origin is "an adjudication order denying the issuance of a license" requiring an "adjudication hearing" as provided by sections 119.07 to 119.13 of the Revised Code and as modified by sections 3781.031 and 3781.19 of the Revised Code. An adjudication order denying the issuance of a license shall specify the reasons for that denial.

(F) The board of building standards shall not require the 54815
submission of site preparation plans or plot plans to the division 54816
of ~~industrial-compliance~~ labor when industrialized units are used 54817
exclusively as one-, two-, or three-family dwellings. 54818

(G) Notwithstanding any procedures the board establishes, if 54819
the agency having jurisdiction objects to any portion of the plans 54820
or specifications, the owner or the owner's representative may 54821
request the agency to issue conditional approval to proceed with 54822
construction up to the point of the objection. Approval shall be 54823
issued only when the objection results from conflicting 54824
interpretations of the rules of the board of building standards 54825
rather than the application of specific technical requirements of 54826
the rules. Approval shall not be issued where the correction of 54827
the objection would cause extensive changes in the building design 54828
or construction. The giving of conditional approval is a 54829
"conditional license" to proceed with construction up to the point 54830
where the construction or materials objected to by the agency are 54831
to be incorporated into the building. No construction shall 54832
proceed beyond that point without the prior approval of the agency 54833
or another agency that conducts an adjudication hearing relative 54834
to the objection. The agency having jurisdiction shall specify its 54835
objections to the plans or specifications, which is an 54836
"adjudication order denying the issuance of a license" and may be 54837
appealed pursuant to sections 119.07 to 119.13 of the Revised Code 54838
and as modified by sections 3781.031 and 3781.19 of the Revised 54839
Code. 54840

(H) A certified municipal, township, or county building 54841
department having jurisdiction, or the superintendent ~~of the~~ 54842
~~division of industrial-compliance~~, as appropriate, shall review 54843
any plans, drawings, specifications, or data described in this 54844
section that are submitted to it or to the superintendent. 54845

(I) No owner or persons having control as an officer, or as a 54846

member of a board or committee, or otherwise, of a building to 54847
which section 3781.06 of the Revised Code is applicable, and no 54848
architect, designer, engineer, builder, contractor, subcontractor, 54849
or any officer or employee of a municipal, township, or county 54850
building department shall violate this section. 54851

(J) Whoever violates this section shall be fined not more 54852
than five hundred dollars. 54853

Sec. 3791.05. No owner, lessee, agent, factor, architect, or 54854
contractor engaged in and having supervision or charge of the 54855
building, erection, or construction of a block, building, or 54856
structure, shall neglect or refuse to place or have placed upon 54857
the joists of each story thereof, as soon as joists are in 54858
position, counter floors of such quality and strength as to render 54859
perfectly safe the going to and from thereon of all mechanics, 54860
laborers, and other persons engaged upon the work of construction 54861
or supervision, or in placing materials for such construction. 54862

Whoever violates this section shall be fined not less than 54863
twenty-five nor more than two hundred dollars. 54864

Each day that such person neglects or refuses to have such 54865
counter floors so placed, after notice is given by a building 54866
inspector, a chief inspector, or deputy inspector of the city 54867
building inspection department in cities where such department is 54868
organized, or by the superintendent of ~~the division of industrial~~ 54869
~~compliance~~ labor of the state, in cities where such departments 54870
are not organized, or from a person whose life or personal safety 54871
may be endangered by such neglect or refusal, is a separate 54872
offense. 54873

Sec. 3791.07. (A) The board of building standards may 54874
establish such reasonable inspection fee schedules as it 54875
determines necessary or desirable relating to the inspection of 54876

all plans and specifications submitted for approval to the 54877
division of ~~industrial compliance~~ labor, and all industrialized 54878
units inspected at the point of origin and at the construction 54879
site of the building. The inspection fee schedule established 54880
shall bear some reasonable relationship to the cost of 54881
administering and enforcing the provisions of Chapters 3781. and 54882
3791. of the Revised Code. 54883

(B) In addition to the fee assessed in division (A) of this 54884
section, the board shall assess a fee of not more than five 54885
dollars for each application for acceptance and approval of plans 54886
and specifications and for making inspections pursuant to section 54887
3791.04 of the Revised Code. The board shall adopt rules, in 54888
accordance with Chapter 119. of the Revised Code, specifying the 54889
manner by which the superintendent of ~~the division of industrial~~
~~compliance~~ labor shall collect and remit to the board the fees 54890
assessed under this division and requiring that remittance of the 54891
fees be made at least quarterly. 54892
54893

(C) Any person who fails to pay an inspection fee required 54894
for any inspection conducted by the department of commerce 54895
pursuant to Chapters 3781. and 3791. of the Revised Code, except 54896
for fees charged for the inspection of plans and specifications, 54897
within forty-five days after the inspection is conducted, shall 54898
pay a late payment fee equal to twenty-five per cent of the 54899
inspection fee. 54900

(D) The board shall pay the fees assessed under this section 54901
into the state treasury to the credit of the ~~industrial compliance~~
labor operating fund created in section 121.084 of the Revised 54902
Code. 54903
54904

Sec. 3793.02. (A) The department of alcohol and drug 54905
addiction services shall promote, assist in developing, and 54906
coordinate or conduct programs of education and research for the 54907

prevention of alcohol and drug addiction, the prevention of 54908
gambling addiction, the treatment, including intervention, of 54909
alcoholics and persons who abuse drugs of abuse, including 54910
anabolic steroids, and the treatment, including intervention, of 54911
persons with gambling addictions. Programs established by the 54912
department shall include abstinence-based prevention and treatment 54913
programs. 54914

(B) In addition to the other duties prescribed by this 54915
chapter, the department shall do all of the following: 54916

(1) Promote and coordinate efforts in the provision of 54917
alcohol and drug addiction services and of gambling addiction 54918
services by other state agencies, as defined in section 1.60 of 54919
the Revised Code; courts; hospitals; clinics; physicians in 54920
private practice; public health authorities; boards of alcohol, 54921
drug addiction, and mental health services; alcohol and drug 54922
addiction programs; law enforcement agencies; gambling addiction 54923
programs; and related groups; 54924

(2) Provide for education and training in prevention, 54925
diagnosis, treatment, and control of alcohol and drug addiction 54926
and of gambling addiction for medical students, physicians, 54927
nurses, social workers, professional counselors, psychologists, 54928
and other persons who provide alcohol and drug addiction services 54929
or gambling addiction services; 54930

(3) Provide training and consultation for persons who 54931
supervise alcohol and drug addiction programs and facilities or 54932
gambling addiction programs and facilities; 54933

(4) Develop measures for evaluating the effectiveness of 54934
alcohol and drug addiction services, including services that use 54935
methadone treatment, and of gambling addiction services, and for 54936
increasing the accountability of alcohol and drug addiction 54937
programs and of gambling addiction programs; 54938

(5) Provide to each court of record, and biennially update, a list of the treatment and education programs within that court's jurisdiction that the court may require an offender, sentenced pursuant to section 4511.19 of the Revised Code, to attend;

(6) ~~Print and distribute~~ Make the warning sign described in sections 3313.752, 3345.41, and 3707.50 of the Revised Code available on the department's internet web site;

(7) Provide a program of gambling addiction services on behalf of the state lottery commission, pursuant to an agreement entered into with the director of the commission under division (K) of section 3770.02 of the Revised Code.

(C) The department may accept and administer grants from public or private sources for carrying out any of the duties enumerated in this section.

(D) Pursuant to Chapter 119. of the Revised Code, the department shall adopt a rule defining the term "intervention" as it is used in this chapter in connection with alcohol and drug addiction services and in connection with gambling addiction services. The department may adopt other rules as necessary to implement the requirements of this chapter.

Sec. 3793.04. The department of alcohol and drug addiction services shall develop, administer, and revise as necessary a comprehensive statewide alcohol and drug addiction services plan for the implementation of this chapter. The plan shall emphasize abstinence from the use of alcohol and drugs of abuse as the primary goal of alcohol and drug addiction services. The council on alcohol and drug addiction services shall advise the department in the development and implementation of the plan.

The plan shall provide for the allocation of state and federal funds for service furnished by alcohol and drug addiction

programs under contract with boards of alcohol, drug addiction, 54969
and mental health services and for distribution of the funds to 54970
such boards. The plan shall specify the methodology that the 54971
department will use for determining how funds will be allocated 54972
and distributed. A portion of the funds shall be allocated on the 54973
basis of the ratio of the population of each alcohol, drug 54974
addiction, and mental health service district to the total 54975
population of the state as determined from the most recent federal 54976
census or the most recent official estimate made by the United 54977
States census bureau. 54978

The plan shall ensure that alcohol and drug addiction 54979
services of a high quality are accessible to, and responsive to 54980
the needs of, all persons, especially those who are members of 54981
underserved groups, including, but not limited to, African 54982
Americans, Hispanics, native Americans, Asians, juvenile and adult 54983
offenders, women, and persons with special services needs due to 54984
age or disability. The plan shall include a program to promote and 54985
protect the rights of those who receive services. 54986

To aid in formulating the plan and in evaluating the 54987
effectiveness and results of alcohol and drug addiction services, 54988
the department, in consultation with the department of mental 54989
health, shall establish and maintain an information system or 54990
systems. The department of alcohol and drug addiction services 54991
shall specify the information that must be provided by boards of 54992
alcohol, drug addiction, and mental health services and by alcohol 54993
and drug addiction programs for inclusion in the system. The 54994
department shall not collect any personal information ~~for the~~ 54995
~~purpose of identifying by name any person who receives a service~~ 54996
~~through a board, from the boards~~ except as required or permitted 54997
by the state or federal law ~~to validate appropriate reimbursement~~ 54998
for purposes related to payment, health care operations, program 54999
and service evaluation, reporting activities, research, system 55000

administration, and oversight. 55001

In consultation with boards, programs, and persons receiving 55002
services, the department shall establish guidelines for the use of 55003
state and federal funds and for the boards' development of plans 55004
for services required by sections 340.033 and 3793.05 of the 55005
Revised Code. 55006

In any fiscal year, the department shall spend, or allocate 55007
to boards, for methadone maintenance programs or any similar 55008
programs not more than eight per cent of the total amount 55009
appropriated to the department for the fiscal year. 55010

Sec. 3793.21. (A) The department of alcohol and drug 55011
addiction services shall annually establish a limit on the amount 55012
or portion of state and federal funds provided by the department 55013
to boards of alcohol, drug addiction, and mental health services 55014
that may be used for a board's administrative functions. The 55015
department may deny state or federal funds to a board that exceeds 55016
the limit established by the department. Administrative functions 55017
for which funds may be provided may include continuous quality 55018
improvement, utilization review, resource development, fiscal 55019
administration, general administration, and any other 55020
administrative function required by Chapter 340. of the Revised 55021
Code. 55022

(B) Any state or federal funds used for board administrative 55023
functions shall be from the funds allocated by the department to 55024
the boards according to the methodology specified by the 55025
department under the plan described in section 3793.04 of the 55026
Revised Code. 55027

(C) The director of alcohol and drug addiction services may 55028
waive the limit described by this section for a board of alcohol, 55029
drug addiction, and mental health services if, based on the 55030
board's prior written request, the director determines that an 55031

exception to the limit is warranted. 55032

(D) Each board shall submit an annual report to the 55033
department detailing its use of state and federal funds for the 55034
administrative functions of the board. 55035

Sec. 3901.3812. (A) If, after completion of an examination 55036
involving information collected from a six-month period, the 55037
superintendent finds that a third-party payer has committed a 55038
series of violations that, taken together, constitutes a 55039
consistent pattern or practice of violating division (A) of 55040
section 3901.3811 of the Revised Code, the superintendent may 55041
impose on the third-party payer any of the administrative remedies 55042
specified in division (B) of this section. In making a finding 55043
under this division, the superintendent shall apply the error 55044
tolerance standards for claims processing contained in the market 55045
conduct examiners handbook issued by the national association of 55046
insurance commissioners in effect at the time the claims were 55047
processed. 55048

Before imposing an administrative remedy, the superintendent 55049
shall provide written notice to the third-party payer informing 55050
the third-party payer of the reasons for the superintendent's 55051
finding, the administrative remedy the superintendent proposes to 55052
impose, and the opportunity to submit a written request for an 55053
administrative hearing regarding the finding and proposed remedy. 55054
If the third-party payer requests a hearing, the superintendent 55055
shall conduct the hearing in accordance with Chapter 119. of the 55056
Revised Code not later than fifteen days after receipt of the 55057
request. 55058

(B)(1) In imposing administrative remedies under division (A) 55059
of this section for violations of section 3901.381 of the Revised 55060
Code, the superintendent may do any of the following: 55061

(a) Levy a monetary penalty in an amount determined in 55062

accordance with division (B)(3) of this section; 55063

(b) Order the payment of interest directly to the provider in 55064
accordance with section 3901.389 of the Revised Code; 55065

(c) Order the third-party payer to cease and desist from 55066
engaging in the violations; 55067

(d) If a monetary penalty is not levied under division 55068
(B)(1)(a) of this section, impose any of the administrative 55069
remedies provided for in section 3901.22 of the Revised Code, 55070
other than those specified in divisions (D)(4) and (5) and (G) of 55071
that section. 55072

(2) In imposing administrative remedies under division (A) of 55073
this section for violations of sections 3901.384 to 3901.3810 of 55074
the Revised Code, the superintendent may do any of the following: 55075
55076

(a) Levy a monetary penalty in an amount determined in 55077
accordance with division (B)(3) of this section; 55078

(b) Order the payment of interest directly to the provider in 55079
accordance with section 3901.38 of the Revised Code; 55080

(c) Order the third-party payer to cease and desist from 55081
engaging in the violations; 55082

(d) If a monetary penalty is not levied under division 55083
(B)(2)(a) of this section, impose any of the administrative 55084
remedies provided for in section 3901.22 of the Revised Code, 55085
other than those specified in divisions (D)(4) and (5) and (G) of 55086
that section. For violations of sections 3901.384 to 3901.3810 of 55087
the Revised Code that did not comply with section 3901.381 of the 55088
Revised Code, the superintendent may also use section 3901.22 of 55089
the Revised Code except divisions (D)(4) and (5) of that section. 55090

(3) A finding by the superintendent that a third-party payer 55091
has committed a series of violations that, taken together, 55092

constitutes a consistent pattern or practice of violating division 55093
(A) of section 3901.3811 of the Revised Code, shall constitute a 55094
single offense for purposes of levying a fine under division 55095
(B)(1)(a) and (B)(2)(a) of this section. For a first offense, the 55096
superintendent may levy a fine of not more than one hundred 55097
thousand dollars. For a second offense that occurs on or earlier 55098
than four years from the first offense, the superintendent may 55099
levy a fine of not more than one hundred fifty thousand dollars. 55100
For a third or additional offense that occurs on or earlier than 55101
seven years after a first offense, the superintendent may levy a 55102
fine of not more than three hundred thousand dollars. In 55103
determining the amount of a fine to be levied within the specified 55104
limits, the superintendent shall consider the following factors: 55105

- (a) The extent and frequency of the violations; 55106
- (b) Whether the violations were due to circumstances beyond 55107
the third-party payer's control; 55108
- (c) Any remedial actions taken by the third-party payer to 55109
prevent future violations; 55110
- (d) The actual or potential harm to others resulting from the 55111
violations; 55112
- (e) If the third-party payer knowingly and willingly 55113
committed the violations; 55114
- (f) The third-party payer's financial condition; 55115
- (g) Any other factors the superintendent considers 55116
appropriate. 55117

(C) The remedies imposed by the superintendent under this 55118
section are in addition to, and not in lieu of, such other 55119
remedies as providers and beneficiaries may otherwise have by law. 55120

(D) Any fine collected under this section shall be paid into 55121
the state treasury as follows: 55122

(1) Twenty-five per cent of the total to the credit of the department of insurance operating fund created by section 3901.021 of the Revised Code; 55123
55124
55125

(2) Sixty-five per cent of the total to the credit of the general revenue fund; 55126
55127

(3) Ten per cent of the total to the credit of claims processing education ~~fund~~ account, which is hereby created within the department of insurance operating fund created by section 3901.021 of the Revised Code. 55128
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All money credited to the claims processing education ~~fund~~ account shall be used by the department of insurance to make technical assistance available to third-party payers, providers, and beneficiaries for effective implementation of the provisions of sections 3901.38 and 3901.381 to 3901.3814 of the Revised Code. 55132
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Sec. 3923.021. (A) As used in this section, ~~"benefits:~~ 55137

(1) "Benefits provided are not unreasonable in relation to the premium charged" means the rates were calculated in accordance with sound actuarial principles. 55138
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55140

(2) "Individual policy of sickness and accident insurance" includes sickness and accident insurance made available by insurers in the individual market to individuals, with or without family members or dependents, through group policies issued to one or more associations or entities. 55141
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(B) With respect to any filing, made pursuant to section 3923.02 of the Revised Code, of any premium rates for any individual policy of sickness and accident insurance or certificates made available by an insurer to individuals in the individual market through a group policy or for any indorsement or rider pertaining thereto, the superintendent of insurance may, within thirty days after filing: 55146
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(1) Disapprove such filing after finding that the benefits 55153
provided are unreasonable in relation to the premium charged. Such 55154
disapproval shall be effected by written order of the 55155
superintendent, a copy of which shall be mailed to the insurer 55156
that has made the filing. In the order, the superintendent shall 55157
specify the reasons for the disapproval and state that a hearing 55158
will be held within fifteen days after requested in writing by the 55159
insurer. If a hearing is so requested, the superintendent shall 55160
also give such public notice as the superintendent considers 55161
appropriate. The superintendent, within fifteen days after the 55162
commencement of any hearing, shall issue a written order, a copy 55163
of which shall be mailed to the insurer that has made the filing, 55164
either affirming the prior disapproval or approving such filing 55165
after finding that the benefits provided are not unreasonable in 55166
relation to the premium charged. 55167

(2) Set a date for a public hearing to commence no later than 55168
forty days after the filing. The superintendent shall give the 55169
insurer making the filing twenty days' written notice of the 55170
hearing and shall give such public notice as the superintendent 55171
considers appropriate. The superintendent, within twenty days 55172
after the commencement of a hearing, shall issue a written order, 55173
a copy of which shall be mailed to the insurer that has made the 55174
filing, either approving such filing if the superintendent finds 55175
that the benefits provided are not unreasonable in relation to the 55176
premium charged, or disapproving such filing if the superintendent 55177
finds that the benefits provided are unreasonable in relation to 55178
the premium charged. This division does not apply to any insurer 55179
organized or transacting the business of insurance under Chapter 55180
3907. or 3909. of the Revised Code. 55181

(3) Take no action, in which case such filing shall be deemed 55182
to be approved and shall become effective upon the thirty-first 55183
day after such filing, unless the superintendent has previously 55184

given to the insurer a written approval. 55185

(C) At any time after any filing has been approved pursuant 55186
to this section, the superintendent may, after a hearing of which 55187
at least twenty days' written notice has been given to the insurer 55188
that has made such filing and for which such public notice as the 55189
superintendent considers appropriate has been given, withdraw 55190
approval of such filing after finding that the benefits provided 55191
are unreasonable in relation to the premium charged. Such 55192
withdrawal of approval shall be effected by written order of the 55193
superintendent, a copy of which shall be mailed to the insurer 55194
that has made the filing, which shall state the ground for such 55195
withdrawal and the date, not less than forty days after the date 55196
of such order, when the withdrawal or approval shall become 55197
effective. 55198

(D) The superintendent may retain at the insurer's expense 55199
such attorneys, actuaries, accountants, and other experts not 55200
otherwise a part of the superintendent's staff as shall be 55201
reasonably necessary to assist in the preparation for and conduct 55202
of any public hearing under this section. The expense for 55203
retaining such experts and the expenses of the department of 55204
insurance incurred in connection with such public hearing shall be 55205
assessed against the insurer in an amount not to exceed one 55206
one-hundredth of one per cent of the sum of premiums earned plus 55207
net realized investment gain or loss of such insurer as reflected 55208
in the most current annual statement on file with the 55209
superintendent. Any person retained shall be under the direction 55210
and control of the superintendent and shall act in a purely 55211
advisory capacity. 55212

Sec. 3923.022. (A) As used in this section: 55213

(1)(a) "Administrative expense" means the amount resulting 55214
from the following: the amount of premiums ~~received~~ earned by the 55215

insurer for sickness and accident insurance business plus the 55216
amount of losses recovered from reinsurance coverage minus the sum 55217
of the amount of claims for losses paid; the amount of losses 55218
incurred but not reported; the amount ~~paid~~ incurred for state 55219
fees, federal and state taxes, and reinsurance; and the incurred 55220
costs and expenses related, either directly or indirectly, to the 55221
payment of commissions, measures to control fraud, and managed 55222
care. 55223

(b) "Administrative expense" does not include any amounts 55224
collected, or administrative expenses incurred, by an insurer for 55225
the administration of an employee health benefit plan subject to 55226
regulation by the federal "Employee Retirement Income Security Act 55227
of 1974," 88 Stat. 832, 29 U.S.C.A. 1001, as amended. "Amounts 55228
collected or administrative expenses incurred" means the total 55229
amount paid to an administrator for the administration and payment 55230
of claims minus the sum of the amount of claims for losses paid 55231
and the amount of losses incurred but not reported. 55232

(2) "Insurer" means any insurance company authorized under 55233
Title XXXIX of the Revised Code to do the business of sickness and 55234
accident insurance in this state. 55235

(3) "Sickness and accident insurance business" does not 55236
include coverage provided by an insurer for specific diseases or 55237
accidents only; any hospital indemnity, medicare supplement, 55238
long-term care, disability income, one-time-limited-duration 55239
policy of no longer than six months, or other policy that offers 55240
only supplemental benefits; or coverage provided to individuals 55241
who are not residents of this state. 55242

(4) "Individual business" includes both individual sickness 55243
and accident insurance and sickness and accident insurance made 55244
available by insurers in the individual market to individuals, 55245
with or without family members or dependents, through group 55246
policies issued to one or more associations or entities. 55247

(B) Notwithstanding section 3941.14 of the Revised Code, ~~the~~ 55248
~~following apply to every insurer:~~ 55249

~~(1) For calendar year 1993, each insurer shall have aggregate~~ 55250
~~administrative expenses of no more than forty per cent of the~~ 55251
~~premium income of the insurer, based on the premiums received in~~ 55252
~~that year on the sickness and accident insurance business of the~~ 55253
~~insurer.~~ 55254

~~(2) For calendar year 1994, each insurer shall have aggregate~~ 55255
~~administrative expenses of no more than thirty per cent of the~~ 55256
~~premium income of the insurer, based on the premiums received in~~ 55257
~~that year on the sickness and accident insurance business of the~~ 55258
~~insurer.~~ 55259

~~(3) For calendar year 1995, each insurer shall have aggregate~~ 55260
~~administrative expenses of no more than twenty five per cent of~~ 55261
~~the premium income of the insurer, based on the premiums received~~ 55262
~~in that year on the sickness and accident insurance business of~~ 55263
~~the insurer.~~ 55264

~~(4) For calendar year 1996 and every calendar year~~ 55265
~~thereafter, each insurer shall have aggregate administrative~~ 55266
~~expenses of no more than twenty per cent of the premium income of~~ 55267
~~the insurer, based on the premiums ~~received~~ earned in that year on~~ 55268
~~the sickness and accident insurance business of the insurer.~~ 55269

(C)(1) Each insurer, on the first day of January or within 55270
sixty days thereafter, shall annually prepare, under oath, and 55271
deposit in the office of the superintendent of insurance a 55272
statement of the aggregate administrative expenses of the insurer, 55273
based on the premiums ~~received~~ earned in the immediately preceding 55274
calendar year on the sickness and accident insurance business of 55275
the insurer. The statement shall itemize and separately detail all 55276
of the following information with respect to the insurer's 55277
sickness and accident insurance business: 55278

<u>(a) The amount of premiums earned by the insurer both before and after any costs related to the insurer's purchase of reinsurance coverage;</u>	55279
	55280
	55281
<u>(b) The total amount of claims for losses paid by the insurer both before and after reimbursement from reinsurance coverage;</u>	55282
	55283
<u>(c) The amount of any losses incurred by the insurer but not reported by the insurer in the current or prior year;</u>	55284
	55285
<u>(d) The amount of costs incurred by the insurer for state fees and federal and state taxes;</u>	55286
	55287
<u>(e) The amount of costs incurred by the insurer for reinsurance coverage;</u>	55288
	55289
<u>(f) The amount of costs incurred by the insurer that are related to the insurer's payment of commissions;</u>	55290
	55291
<u>(g) The amount of costs incurred by the insurer that are related to the insurer's fraud prevention measures;</u>	55292
	55293
<u>(h) The amount of costs incurred by the insurer that are related to managed care; and</u>	55294
	55295
<u>(i) Any other administrative expenses incurred by the insurer.</u>	55296
	55297
<u>(2) The statement also shall include all of the information required under division (C)(1) of this section separately detailed for the insurer's individual business, small group business, and large group business.</u>	55298
	55299
	55300
	55301
(D) No insurer shall fail to comply with division (B) of this section.	55302
	55303
(E) If the superintendent determines that an insurer has violated division (D) of this section, the superintendent, pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code, may order the suspension of the insurer's license to do the business of sickness and accident	55304
	55305
	55306
	55307
	55308

insurance in this state until the superintendent is satisfied that 55309
the insurer is in compliance with ~~division (B)~~ of this section. If 55310
the insurer continues to do the business of sickness and accident 55311
insurance in this state while under the suspension order, the 55312
superintendent shall order the insurer to pay one thousand dollars 55313
for each day of the violation. 55314

(F) Any money collected by the superintendent under division 55315
(E) of this section shall be deposited by ~~him~~ the superintendent 55316
into the state treasury to the credit of the department of 55317
insurance operating fund. 55318

Sec. 3923.122. (A) Every policy of group sickness and 55319
accident insurance providing hospital, surgical, or medical 55320
expense coverage for other than specific diseases or accidents 55321
only, and delivered, issued for delivery, or renewed in this state 55322
on or after January 1, 1976, shall include a provision giving each 55323
insured the option to convert to the following: 55324

(1) In the case of an individual who is not a federally 55325
eligible individual, any of the individual policies of hospital, 55326
surgical, or medical expense insurance then being issued by the 55327
insurer with benefit limits not to exceed those in effect under 55328
the group policy; 55329

(2) In the case of a federally eligible individual, a basic 55330
or standard plan established ~~by the board of directors of the Ohio~~ 55331
~~health reinsurance program~~ in accordance with section 3924.10 of 55332
the Revised Code or plans substantially similar to the basic and 55333
standard plan in benefit design and scope of covered services. For 55334
purposes of division (A)(2) of this section, the superintendent of 55335
insurance shall determine whether a plan is substantially similar 55336
to the basic or standard plan in benefit design and scope of 55337
covered services. 55338

(B) An option for conversion to an individual policy shall be 55339

available without evidence of insurability to every insured, 55340
including any person eligible under division (D) of this section, 55341
who terminates employment or membership in the group holding the 55342
policy after having been continuously insured thereunder for at 55343
least one year. 55344

Upon receipt of the insured's written application and upon 55345
payment of at least the first quarterly premium not later than 55346
thirty-one days after the termination of coverage under the group 55347
policy, the insurer shall issue a converted policy on a form then 55348
available for conversion. The premium shall be in accordance with 55349
the insurer's table of premium rates in effect on the later of the 55350
following dates: 55351

(1) The effective date of the converted policy; 55352

(2) The date of application therefor; and shall be applicable 55353
to the class of risk to which each person covered belongs and to 55354
the form and amount of the policy at the person's then attained 55355
age. However, premiums charged federally eligible individuals may 55356
not exceed an amount that is ~~two~~ one and one-half times the 55357
~~midpoint of the standard~~ base rate charged any other individual of 55358
a group to which the insurer is currently accepting new business 55359
and for which similar copayments and deductibles are applied. 55360

At the election of the insurer, a separate converted policy 55361
may be issued to cover any dependent of an employee or member of 55362
the group. 55363

Except as provided in division (H) of this section, any 55364
converted policy shall become effective as of the day following 55365
the date of termination of insurance under the group policy. 55366

Any probationary or waiting period set forth in the converted 55367
policy is deemed to commence on the effective date of the 55368
insured's coverage under the group policy. 55369

(C) No insurer shall be required to issue a converted policy 55370

to any person who is, or is eligible to be, covered for benefits	55371
at least comparable to the group policy under:	55372
(1) Title XVIII of the Social Security Act, as amended or	55373
superseded;	55374
(2) Any act of congress or law under this or any other state	55375
of the United States that duplicates coverage offered under	55376
division (C)(1) of this section;	55377
(3) Any policy that duplicates coverage offered under	55378
division (C)(1) of this section;	55379
(4) Any other group sickness and accident insurance providing	55380
hospital, surgical, or medical expense coverage for other than	55381
specific diseases or accidents only.	55382
(D) The option for conversion shall be available:	55383
(1) Upon the death of the employee or member, to the	55384
surviving spouse with respect to such of the spouse and dependents	55385
as are then covered by the group policy;	55386
(2) To a child solely with respect to the child upon	55387
attaining the limiting age of coverage under the group policy	55388
while covered as a dependent thereunder;	55389
(3) Upon the divorce, dissolution, or annulment of the	55390
marriage of the employee or member, to the divorced spouse, or	55391
former spouse in the event of annulment, of such employee or	55392
member, or upon the legal separation of the spouse from such	55393
employee or member, to the spouse.	55394
Persons possessing the option for conversion pursuant to this	55395
division shall be considered members for the purposes of division	55396
(H) of this section.	55397
(E) If coverage is continued under a group policy on an	55398
employee following retirement prior to the time the employee is,	55399
or is eligible to be, covered by Title XVIII of the Social	55400

Security Act, the employee may elect, in lieu of the continuance 55401
of group insurance, to have the same conversion rights as would 55402
apply had the employee's insurance terminated at retirement by 55403
reason of termination of employment. 55404

(F) If the insurer and the group policyholder agree upon one 55405
or more additional plans of benefits to be available for converted 55406
policies, the applicant for the converted policy may elect such a 55407
plan in lieu of a converted policy. 55408

(G) The converted policy may contain provisions for avoiding 55409
duplication of benefits provided pursuant to divisions (C)(1), 55410
(2), (3), and (4) of this section or provided under any other 55411
insured or noninsured plan or program. 55412

(H) If an employee or member becomes entitled to obtain a 55413
converted policy pursuant to this section, and if the employee or 55414
member has not received notice of the conversion privilege at 55415
least fifteen days prior to the expiration of the thirty-one-day 55416
conversion period provided in division (B) of this section, then 55417
the employee or member has an additional period within which to 55418
exercise the privilege. This additional period shall expire 55419
fifteen days after the employee or member receives notice, but in 55420
no event shall the period extend beyond sixty days after the 55421
expiration of the thirty-one-day conversion period. 55422

Written notice presented to the employee or member, or mailed 55423
by the policyholder to the last known address of the employee or 55424
member as indicated on its records, constitutes notice for the 55425
purpose of this division. In the case of a person who is eligible 55426
for a converted policy under division (D)(2) or (D)(3) of this 55427
section, a policyholder shall not be responsible for presenting or 55428
mailing such notice, unless such policyholder has actual knowledge 55429
of the person's eligibility for a converted policy. 55430

If an additional period is allowed by an employee or member 55431

for the exercise of a conversion privilege, and if written 55432
application for the converted policy, accompanied by at least the 55433
first quarterly premium, is made after the expiration of the 55434
thirty-one-day conversion period, but within the additional period 55435
allowed an employee or member in accordance with this division, 55436
the effective date of the converted policy shall be the date of 55437
application. 55438

(I) The converted policy may provide that any hospital, 55439
surgical, or medical expense benefits otherwise payable with 55440
respect to any person may be reduced by the amount of any such 55441
benefits payable under the group policy for the same loss after 55442
termination of coverage. 55443

(J) The converted policy may contain: 55444

(1) Any exclusion, reduction, or limitation contained in the 55445
group policy or customarily used in individual policies issued by 55446
the insurer; 55447

(2) Any provision permitted in this section; 55448

(3) Any other provision not prohibited by law. 55449

Any provision required or permitted in this section may be 55450
made a part of any converted policy by means of an endorsement or 55451
rider. 55452

(K) The time limit specified in a converted policy for 55453
certain defenses with respect to any person who was covered by a 55454
group policy shall commence on the effective date of such person's 55455
coverage under the group policy. 55456

(L) No insurer shall use deterioration of health as the basis 55457
for refusing to renew a converted policy. 55458

(M) No insurer shall use age or health status as the basis 55459
for refusing to renew a converted policy. 55460

(N) A converted policy made available pursuant to this 55461

section shall, if delivery of the policy is to be made in this 55462
state, comply with this section. If delivery of a converted policy 55463
is to be made in another state, it may be on a form offered by the 55464
insurer in the jurisdiction where the delivery is to be made and 55465
which provides benefits substantially in compliance with those 55466
required in a policy delivered in this state. 55467

(0) As used in this section, ~~"federally:~~ 55468

(1) "Base rate" means, as to any health benefit plan that is 55469
issued by an insurer in the individual market, the lowest premium 55470
rate for new or existing business prescribed by the insurer for 55471
the same or similar coverage under a plan or arrangement covering 55472
any individual with similar case characteristics. 55473

(2) "Federally eligible individual" means an eligible 55474
individual as defined in 45 C.F.R. 148.103. 55475

Sec. 3923.24. ~~Every~~ (A) Notwithstanding section 3901.71 of 55476
the Revised Code every certificate furnished by an insurer in 55477
connection with, or pursuant to any provision of, any group 55478
sickness and accident insurance policy delivered, issued for 55479
delivery, renewed, or used in this state on or after January 1, 55480
1972, and every policy of sickness and accident insurance 55481
delivered, issued for delivery, renewed, or used in this state on 55482
or after January 1, 1972, which provides that coverage of an 55483
unmarried dependent child of a parent or legal guardian will 55484
terminate upon attainment of the limiting age for dependent 55485
children specified in the contract shall also provide in substance 55486
~~that~~ both of the following: 55487

(1) That the limiting age shall not be less than twenty-nine 55488
years of age if all of the following are true: 55489

(a) The child is a resident of this state or a full-time 55490
student at an accredited public or private institution of higher 55491

education. 55492

(b) Neither the child nor any spouse of the child is employed 55493
by an employer that offers any health benefit plan under which the 55494
child is eligible for coverage. 55495

(c) The child is not eligible for coverage under the medicaid 55496
program established under Chapter 5111. of the Revised Code or the 55497
medicare program established under Title XVIII of the "Social 55498
Security Act," 42 U.S.C. 1395. 55499

(2) That attainment of such limiting age shall not operate to 55500
terminate the coverage of such child if the child is and continues 55501
to be both of the following: 55502

~~(A)~~(a) Incapable of self-sustaining employment by reason of 55503
mental retardation or physical handicap; 55504

~~(B)~~(b) Primarily dependent upon the policyholder or 55505
certificate holder for support and maintenance. 55506

(B) Proof of such incapacity and dependence shall be 55507
furnished by the policyholder or by the certificate holder to the 55508
insurer within thirty-one days of the child's attainment of the 55509
limiting age. Upon request, but not more frequently than annually 55510
after the two-year period following the child's attainment of the 55511
limiting age, the insurer may require proof satisfactory to it of 55512
the continuance of such incapacity and dependency. 55513

(C) Nothing in this section shall require an insurer to cover 55514
a dependent child who is mentally retarded or physically 55515
handicapped if the contract is underwritten on evidence of 55516
insurability based on health factors set forth in the application, 55517
or if such dependent child does not satisfy the conditions of the 55518
contract as to any requirement for evidence of insurability or 55519
other provision of the contract, satisfaction of which is required 55520
for coverage thereunder to take effect. In any such case, the 55521
terms of the contract shall apply with regard to the coverage or 55522

exclusion of the dependent from such coverage. Nothing in this 55523
section shall apply to accidental death or dismemberment benefits 55524
provided by any such policy of sickness and accident insurance. 55525

(D) Nothing in this section shall require an insurer to cover 55526
a dependent child's spouse or children as dependents on the policy 55527
of the parent or legal guardian of the dependent. 55528

(E) This section does not apply to any policies or 55529
certificates covering only accident, credit, dental, disability 55530
income, long-term care, hospital indemnity, medicare supplement, 55531
specified disease, or vision care; coverage under a 55532
one-time-limited-duration policy of not longer than six months; 55533
coverage issued as a supplement to liability insurance; insurance 55534
arising out of a workers' compensation or similar law; automobile 55535
medical-payment insurance; or insurance under which benefits are 55536
payable with or without regard to fault and that is statutorily 55537
required to be contained in any liability insurance policy or 55538
equivalent self-insurance. 55539

(F) A sickness and accident insurer that offers 55540
employer-sponsored group policies shall separately identify any 55541
additional premium costs for coverage of dependent children who 55542
are not described in division (A)(2) of this section and are 55543
either nineteen to twenty-three years of age and are not full-time 55544
students or are twenty-four years of age or older. Nothing in this 55545
section shall be construed to require an employer to offer 55546
coverage to the dependents of any employee. 55547

(G) As used in this section, "health benefit plan" has the 55548
same meaning as in section 3924.01 of the Revised Code and also 55549
includes both of the following: 55550

(1) A public employee benefit plan; 55551

(2) A health benefit plan as regulated under the "Employee 55552
Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 55553

Sec. 3923.241. (A) Notwithstanding section 3901.71 of the 55554
Revised Code, any public employee benefit plan that provides that 55555
coverage of an unmarried dependent child will terminate upon 55556
attainment of the limiting age for dependent children specified in 55557
the plan shall also provide in substance both of the following: 55558

(1) That the limiting age shall not be less than twenty-nine 55559
years of age if all of the following are true: 55560

(a) The child is a resident of this state or a full-time 55561
student at an accredited public or private institution of higher 55562
education. 55563

(b) Neither the child nor any spouse of the child is employed 55564
by an employer that offers any health benefit plan under which the 55565
child is eligible for coverage. 55566

(c) The child is not eligible for coverage under the medicaid 55567
program established under Chapter 5111. of the Revised Code or the 55568
medicare program established under Title XVIII of the "Social 55569
Security Act," 42 U.S.C. 1395. 55570

(2) That attainment of the limiting age shall not operate to 55571
terminate the coverage of the child if the child is and continues 55572
to be both of the following: 55573

(a) Incapable of self-sustaining employment by reason of 55574
mental retardation or physical handicap; 55575

(b) Primarily dependent upon the plan member for support and 55576
maintenance. 55577

(B) Proof of incapacity and dependence for purposes of 55578
division (A) of this section shall be furnished to the public 55579
employee benefit plan within thirty-one days of the child's 55580
attainment of the limiting age. Upon request, but not more 55581
frequently than annually, the public employee benefit plan may 55582
require proof satisfactory to it of the continuance of such 55583

incapacity and dependency. 55584

(C) Nothing in this section shall require a public employee benefit plan to cover a dependent child's spouse or children as dependents on the public employee benefit plan of the parent or legal guardian of the dependent. 55585
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(D) This section does not apply to any public employee benefit plan covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, or vision care; coverage under a one-time-limited-duration policy of not longer than six months; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical-payment insurance; or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance. 55589
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(E) A public employee benefit plan shall separately identify any additional premium costs for coverage of dependent children who are not described in division (A)(2) of this section and are either nineteen to twenty-three years of age and are not full-time students or are twenty-four years of age or older. Nothing in this section shall be construed to require an employer to offer coverage to the dependents of any employee. 55600
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(F) As used in this section, "health benefit plan" has the same meaning as in section 3924.01 of the Revised Code and also includes both of the following: 55607
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(1) A public employee benefit plan; 55610

(2) A health benefit plan as regulated under the "Employee Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 55611
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Sec. 3923.38. (A) As used in this section: 55613

(1) "Group policy" includes any group sickness and accident policy or contract delivered, issued for delivery, or renewed in this state on or after June 28, 1984, and any private or public employer self-insurance plan or other plan that provides, or provides payment for, health care benefits for employees resident in this state other than through an insurer or health insuring corporation, to which both of the following apply:

(a) The policy insures employees for hospital, surgical, or major medical insurance on an expense incurred or service basis, other than for specified diseases or for accidental injuries only.

(b) The policy is in effect and covers an eligible employee at the time the employee's employment is terminated.

(2) "Eligible employee" includes only an employee to whom all of the following apply:

(a) The employee has been continuously insured under a group policy or under the policy and any prior similar group coverage replaced by the policy, during the entire three-month period preceding the termination of the employee's employment.

~~(b) The employee is entitled, at the time of the termination of the employee's employment, to unemployment compensation benefits under Chapter 4141. of the Revised Code~~ The employee's termination of employment is not a result of any gross misconduct on the part of the employee.

(c) The employee is not, and does not become, covered by or eligible for coverage by medicare under Title XVIII of the Social Security Act, as amended.

(d) The employee is not, and does not become, covered by or eligible for coverage by any other insured or uninsured arrangement that provides hospital, surgical, or medical coverage for individuals in a group and under which the person was not covered immediately prior to such termination. A person eligible

for continuation of coverage under this section, who is also 55645
eligible for coverage under section 3923.123 of the Revised Code, 55646
may elect either coverage, but not both. A person who elects 55647
continuation of coverage may elect any coverage available under 55648
section 3923.123 of the Revised Code upon the termination of the 55649
continuation of coverage. 55650

(3) "Group rate" means, in the case of an employer 55651
self-insurance or other health benefits plan, the average monthly 55652
cost per employee, over a period of at least twelve months, of the 55653
operation of the plan that would represent a group insurance rate 55654
if the same coverage had been provided under a group sickness and 55655
accident insurance policy. 55656

(4) "Termination of employment" includes both voluntary and 55657
involuntary termination of employment. 55658

(B) A group policy shall provide that any eligible employee 55659
may continue the employee's hospital, surgical, and medical 55660
insurance under the policy, for the employee and the employee's 55661
eligible dependents, for a period of six months after the date 55662
that the insurance coverage would otherwise terminate by reason of 55663
the termination of the employee's employment. Each certificate of 55664
coverage, or other notice of coverage, issued to employees under 55665
the policy shall include a notice of the employee's privilege of 55666
continuation. 55667

(C) All of the following apply to the continuation of 55668
coverage required under division (B) of this section: 55669

(1) Continuation need not include dental, vision care, 55670
~~prescription drug benefits~~, or any other benefits provided under 55671
the policy in addition to its hospital, surgical, or major medical 55672
benefits except for prescription drug services. 55673

(2) The employer shall notify the employee of the right of 55674
continuation at the time the employer notifies the employee of the 55675

termination of employment. The notice shall inform the employee of 55676
the amount of contribution required by the employer under division 55677
(C)(4) of this section. 55678

(3) The employee shall file a written election of 55679
continuation with the employer and pay the employer the first 55680
contribution required under division (C)(4) of this section. The 55681
request and payment must be received by the employer no later than 55682
the earlier of any of the following dates: 55683

(a) Thirty-one days after the date on which the employee's 55684
coverage would otherwise terminate; 55685

(b) Ten days after the date on which the employee's coverage 55686
would otherwise terminate, if the employer has notified the 55687
employee of the right of continuation prior to such date; 55688

(c) Ten days after the employer notifies the employee of the 55689
right of continuation, if the notice is given after the date on 55690
which the employee's coverage would otherwise terminate. 55691

(4) The employee must pay to the employer, on a monthly 55692
basis, in advance, the amount of contribution required by the 55693
employer. The amount required shall not exceed the group rate for 55694
the insurance being continued under the policy on the due date of 55695
each payment. 55696

(5) The employee's privilege to continue coverage and the 55697
coverage under any continuation ceases if any of the following 55698
occurs: 55699

(a) The employee ceases to be an eligible employee under 55700
division (A)(2)(c) or (d) of this section; 55701

(b) A period of ~~six~~ twelve months expires after the date that 55702
the employee's insurance under the policy would otherwise have 55703
terminated because of the termination of employment; 55704

(c) The employee fails to make a timely payment of a required 55705

contribution, in which event the coverage shall cease at the end 55706
of the coverage for which contributions were made; 55707

(d) The policy is terminated, or the employer terminates 55708
participation under the policy, unless the employer replaces the 55709
coverage by similar coverage under another group policy or other 55710
group health arrangement. 55711

If the employer replaces the policy with similar group health 55712
coverage, all of the following apply: 55713

(i) The member shall be covered under the replacement 55714
coverage, for the balance of the period that the member would have 55715
remained covered under the terminated coverage if it had not been 55716
terminated. 55717

(ii) The minimum level of benefits under the replacement 55718
coverage shall be the applicable level of benefits of the policy 55719
replaced reduced by any benefits payable under the policy 55720
replaced. 55721

(iii) The policy replaced shall continue to provide benefits 55722
to the extent of its accrued liabilities and extensions of 55723
benefits as if the replacement had not occurred. 55724

(D) This section does not apply to an employer's 55725
self-insurance plan if federal law supersedes, preempts, 55726
prohibits, or otherwise precludes its application to such plans. 55727

Sec. 3923.57. Notwithstanding any provision of this chapter, 55728
every individual policy of sickness and accident insurance that is 55729
delivered, issued for delivery, or renewed in this state is 55730
subject to the following conditions, as applicable: 55731

(A) Pre-existing conditions provisions shall not exclude or 55732
limit coverage for a period beyond twelve months following the 55733
policyholder's effective date of coverage and may only relate to 55734
conditions during the six months immediately preceding the 55735

effective date of coverage. 55736

(B) In determining whether a pre-existing conditions 55737
provision applies to a policyholder or dependent, each policy 55738
shall credit the time the policyholder or dependent was covered 55739
under a previous policy, contract, or plan if the previous 55740
coverage was continuous to a date not more than ~~thirty~~ sixty-three 55741
days prior to the effective date of the new coverage, exclusive of 55742
any applicable service waiting period under the policy. 55743

(C)(1) Except as otherwise provided in division (C) of this 55744
section, an insurer that provides an individual sickness and 55745
accident insurance policy to an individual shall renew or continue 55746
in force such coverage at the option of the individual. 55747

(2) An insurer may nonrenew or discontinue coverage of an 55748
individual in the individual market based only on one or more of 55749
the following reasons: 55750

(a) The individual failed to pay premiums or contributions in 55751
accordance with the terms of the policy or the insurer has not 55752
received timely premium payments. 55753

(b) The individual performed an act or practice that 55754
constitutes fraud or made an intentional misrepresentation of 55755
material fact under the terms of the policy. 55756

(c) The insurer is ceasing to offer coverage in the 55757
individual market in accordance with division (D) of this section 55758
and the applicable laws of this state. 55759

(d) If the insurer offers coverage in the market through a 55760
network plan, the individual no longer resides, lives, or works in 55761
the service area, or in an area for which the insurer is 55762
authorized to do business; provided, however, that such coverage 55763
is terminated uniformly without regard to any health 55764
status-related factor of covered individuals. 55765

(e) If the coverage is made available in the individual market only through one or more bona fide associations, the membership of the individual in the association, on the basis of which the coverage is provided, ceases; provided, however, that such coverage is terminated under division (C)(2)(e) of this section uniformly without regard to any health status-related factor of covered individuals.

An insurer offering coverage to individuals solely through membership in a bona fide association shall not be deemed, by virtue of that offering, to be in the individual market for purposes of sections 3923.58 and 3923.581 of the Revised Code. Such an insurer shall not be required to accept applicants for coverage in the individual market pursuant to sections 3923.58 and 3923.581 of the Revised Code unless the insurer also offers coverage to individuals other than through bona fide associations.

(3) An insurer may cancel or decide not to renew the coverage of a dependent of an individual if the dependent has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage and if the cancellation or nonrenewal is not based, either directly or indirectly, on any health status-related factor in relation to the dependent.

(D)(1) If an insurer decides to discontinue offering a particular type of health insurance coverage offered in the individual market, coverage of such type may be discontinued by the insurer if the insurer does all of the following:

(a) Provides notice to each individual provided coverage of this type in such market of the discontinuation at least ninety days prior to the date of the discontinuation of the coverage;

(b) Offers to each individual provided coverage of this type in such market, the option to purchase any other individual health

insurance coverage currently being offered by the insurer for 55797
individuals in that market; 55798

(c) In exercising the option to discontinue coverage of this 55799
type and in offering the option of coverage under division 55800
(D)(1)(b) of this section, acts uniformly without regard to any 55801
health status-related factor of covered individuals or of 55802
individuals who may become eligible for such coverage. 55803

(2) If an insurer elects to discontinue offering all health 55804
insurance coverage in the individual market in this state, health 55805
insurance coverage may be discontinued by the insurer only if both 55806
of the following apply: 55807

(a) The insurer provides notice to the department of 55808
insurance and to each individual of the discontinuation at least 55809
one hundred eighty days prior to the date of the expiration of the 55810
coverage. 55811

(b) All health insurance delivered or issued for delivery in 55812
this state in such market is discontinued and coverage under that 55813
health insurance in that market is not renewed. 55814

(3) In the event of a discontinuation under division (D)(2) 55815
of this section in the individual market, the insurer shall not 55816
provide for the issuance of any health insurance coverage in the 55817
market and this state during the five-year period beginning on the 55818
date of the discontinuation of the last health insurance coverage 55819
not so renewed. 55820

(E) Notwithstanding divisions (C) and (D) of this section, an 55821
insurer may, at the time of coverage renewal, modify the health 55822
insurance coverage for a policy form offered to individuals in the 55823
individual market if the modification is consistent with the law 55824
of this state and effective on a uniform basis among all 55825
individuals with that policy form. 55826

(F) Such policies are subject to sections 2743 and 2747 of 55827

the "Health Insurance Portability and Accountability Act of 1996," 55828
Pub. L. No. 104-191, 110 Stat. 1955, 42 U.S.C.A. 300gg-43 and 55829
300gg-47, as amended. 55830

(G) Sections 3924.031 and 3924.032 of the Revised Code shall 55831
apply to sickness and accident insurance policies offered in the 55832
individual market in the same manner as they apply to health 55833
benefit plans offered in the small employer market. 55834

In accordance with 45 C.F.R. 148.102, divisions (C) to (G) of 55835
this section also apply to all group sickness and accident 55836
insurance policies that are not sold in connection with an 55837
employment-related group health plan and that provide more than 55838
short-term, limited duration coverage. 55839

In applying divisions (C) to (G) of this section with respect 55840
to health insurance coverage that is made available by an insurer 55841
in the individual market to individuals only through one or more 55842
associations, the term "individual" includes the association of 55843
which the individual is a member. 55844

For purposes of this section, any policy issued pursuant to 55845
division (C) of section 3923.13 of the Revised Code in connection 55846
with a public or private college or university student health 55847
insurance program is considered to be issued to a bona fide 55848
association. 55849

As used in this section, "bona fide association" has the same 55850
meaning as in section 3924.03 of the Revised Code, and "health 55851
status-related factor" and "network plan" have the same meanings 55852
as in section 3924.031 of the Revised Code. 55853

This section does not apply to any policy that provides 55854
coverage for specific diseases or accidents only, or to any 55855
hospital indemnity, medicare supplement, long-term care, 55856
disability income, one-time-limited-duration policy of no longer 55857
than six months, or other policy that offers only supplemental 55858

benefits. 55859

Sec. 3923.58. (A) As used in sections 3923.58 and 3923.59 of 55860
the Revised Code: 55861

(1) ~~Health~~ "Base rate" means, as to any health benefit plan 55862
that is issued by an insurer in the individual market, the lowest 55863
premium rate for new or existing business prescribed by the 55864
insurer for the same or similar coverage under a plan or 55865
arrangement covering any individual with similar case 55866
characteristics. 55867

(2) "Carrier," "health benefit plan," and "MEWA" have the 55868
same meanings as in section 3924.01 of the Revised Code. 55869

~~(2)~~(3) "Insurer" means any sickness and accident insurance 55870
company authorized to do business in this state, or MEWA 55871
authorized to issue insured health benefit plans in this state. 55872
"Insurer" does not include any health insuring corporation that is 55873
owned or operated by an insurer. 55874

~~(3)~~(4) "Ohio health care basic and standard plans" means 55875
those plans established under section 3924.10 of the Revised Code. 55876

(5) "Pre-existing conditions provision" means a policy 55877
provision that excludes or limits coverage for charges or expenses 55878
incurred during a specified period following the insured's 55879
effective date of coverage as to a condition which, during a 55880
specified period immediately preceding the effective date of 55881
coverage, had manifested itself in such a manner as would cause an 55882
ordinarily prudent person to seek medical advice, diagnosis, care, 55883
or treatment or for which medical advice, diagnosis, care, or 55884
treatment was recommended or received, or a pregnancy existing on 55885
the effective date of coverage. 55886

(B) Beginning in January of each year, insurers in the 55887
business of issuing individual policies of sickness and accident 55888

insurance as contemplated by section 3923.021 of the Revised Code, 55889
except individual policies issued pursuant to section 3923.122 of 55890
the Revised Code, shall accept applicants for open enrollment 55891
coverage, as set forth in this division, in the order in which 55892
they apply for coverage and subject to the limitation set forth in 55893
division (G) of this section. Insurers shall accept for coverage 55894
pursuant to this section individuals to whom both of the following 55895
conditions apply: 55896

(1) The individual is not applying for coverage as an 55897
employee of an employer, as a member of an association, or as a 55898
member of any other group. 55899

(2) The individual is not covered, and is not eligible for 55900
coverage, under any other private or public health benefits 55901
arrangement, including the medicare program established under 55902
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 55903
U.S.C.A. 301, as amended, or any other act of congress or law of 55904
this or any other state of the United States that provides 55905
benefits comparable to the benefits provided under this section, 55906
any medicare supplement policy, or any continuation of coverage 55907
policy under state or federal law. 55908

(C) An insurer shall offer to any individual accepted under 55909
this section the Ohio health care basic and standard plans 55910
~~established by the board of directors of the Ohio health~~ 55911
~~reinsurance program under division (A) of section 3924.10 of the~~ 55912
~~Revised Code~~ or health benefit plans that are substantially 55913
similar to the Ohio health care basic and standard plans in 55914
benefit plan design and scope of covered services. 55915

An insurer may offer other health benefit plans in addition 55916
to, but not in lieu of, the plans required to be offered under 55917
this division. A basic health benefit plan shall provide, at a 55918
minimum, the coverage provided by the Ohio health care basic plan 55919
or any health benefit plan that is substantially similar to the 55920

Ohio health care basic plan in benefit plan design and scope of 55921
covered services. A standard health benefit plan shall provide, at 55922
a minimum, the coverage provided by the Ohio health care standard 55923
plan or any health benefit plan that is substantially similar to 55924
the Ohio health care standard plan in benefit plan design and 55925
scope of covered services. 55926

For purposes of this division, the superintendent of 55927
insurance shall determine whether a health benefit plan is 55928
substantially similar to the Ohio health care basic and standard 55929
plans in benefit plan design and scope of covered services. 55930

(D)(1) Health benefit plans issued under this section may 55931
establish pre-existing conditions provisions that exclude or limit 55932
coverage for a period of up to twelve months following the 55933
individual's effective date of coverage and that may relate only 55934
to conditions during the six months immediately preceding the 55935
effective date of coverage. 55936

(2) In determining whether a pre-existing conditions 55937
provision applies to a policyholder or dependent, each policy 55938
shall credit the time the policyholder or dependent was covered 55939
under a previous policy, contract, or plan if the previous 55940
coverage was continuous to a date not more than sixty-three days 55941
prior to the effective date of the new coverage, exclusive of any 55942
applicable service waiting period under the policy. 55943

(E) Premiums charged to individuals under this section may 55944
not exceed an amount that is ~~two~~ one and one-half times the 55945
~~highest base rate charged for coverage offered to any other 55946
individual to which the insurer is currently accepting new 55947
business, and for which similar copayments and deductibles are 55948
applied.~~ 55949

(F) In offering health benefit plans under this section, an 55950
insurer may require the purchase of health benefit plans that 55951

condition the reimbursement of health services upon the use of a 55952
specific network of providers. 55953

(G)(1) ~~In no event shall an~~ An insurer shall not be required 55954
to accept new applicants under this section if the total number of 55955
new insureds accepted annually under this section ~~individuals who,~~ 55956
~~in the aggregate, would cause the insurer to have a total number~~ 55957
~~of new insureds that is more than~~ and section 3923.581 of the 55958
Revised Code exceeds four and one-half per cent of its the 55959
insurer's total number of insured individuals and nonemployer 55960
group insureds in this state per year, ~~as contemplated by section~~ 55961
~~3923.021 of the Revised Code,~~ calculated as of the immediately 55962
preceding thirty-first day of December and excluding the insurer's 55963
medicare supplement policies and conversion or continuation of 55964
coverage policies under state or federal law and any policies 55965
described in division (L) of this section. 55966

(2) An officer of the insurer shall certify to the department 55967
of insurance when it has met the enrollment limit set forth in 55968
division (G)(1) of this section. Upon providing such 55969
certification, the insurer shall be relieved of its open 55970
enrollment requirement under this section for the remainder of the 55971
calendar year. 55972

(H) An insurer shall not be required to accept under this 55973
section applicants who, at the time of enrollment, are confined to 55974
a health care facility because of chronic illness, permanent 55975
injury, or other infirmity that would cause economic impairment to 55976
the insurer if the applicants were accepted, ~~or.~~ An insurer shall 55977
not be required to make the effective date of benefits for 55978
individuals accepted under this section earlier than ninety days 55979
after the date of acceptance, except that when the individual had 55980
prior coverage with a health benefit plan that was terminated by a 55981
carrier because the carrier exited the market and the individual 55982
was accepted for open enrollment under this section within 55983

sixty-three days of that termination, the effective date of 55984
benefits shall be the date of enrollment. 55985

(I) The requirements of this section do not apply to any 55986
insurer that is currently in a state of supervision, insolvency, 55987
or liquidation. If an insurer demonstrates to the satisfaction of 55988
the superintendent that the requirements of this section would 55989
place the insurer in a state of supervision, insolvency, or 55990
liquidation, the superintendent may waive or modify the 55991
requirements of division (B) or (G) of this section. The actions 55992
of the superintendent under this division shall be effective for a 55993
period of not more than one year. At the expiration of such time, 55994
a new showing of need for a waiver or modification by the insurer 55995
shall be made before a new waiver or modification is issued or 55996
imposed. 55997

(J) No hospital, health care facility, or health care 55998
practitioner, and no person who employs any health care 55999
practitioner, shall balance bill any individual or dependent of an 56000
individual for any health care supplies or services provided to 56001
the individual or dependent who is insured under a policy issued 56002
under this section. The hospital, health care facility, or health 56003
care practitioner, or any person that employs the health care 56004
practitioner, shall accept payments made to it by the insurer 56005
under the terms of the policy or contract insuring or covering 56006
such individual as payment in full for such health care supplies 56007
or services. 56008

As used in this division, "hospital" has the same meaning as 56009
in section 3727.01 of the Revised Code; "health care practitioner" 56010
has the same meaning as in section 4769.01 of the Revised Code; 56011
and "balance bill" means charging or collecting an amount in 56012
excess of the amount reimbursable or payable under the policy or 56013
health care service contract issued to an individual under this 56014
section for such health care supply or service. "Balance bill" 56015

does not include charging for or collecting copayments or 56016
deductibles required by the policy or contract. 56017

(K) An insurer ~~shall~~ may pay an agent a commission in the 56018
amount of not more than five per cent of the premium charged for 56019
initial placement or for otherwise securing the issuance of a 56020
policy or contract issued to an individual under this section, and 56021
not more than four per cent of the premium charged for the renewal 56022
of such a policy or contract. The superintendent may adopt, in 56023
accordance with Chapter 119. of the Revised Code, such rules as 56024
are necessary to enforce this division. 56025

(L) This section does not apply to any policy that provides 56026
coverage for specific diseases or accidents only, or to any 56027
hospital indemnity, medicare supplement, long-term care, 56028
disability income, one-time-limited-duration policy of no longer 56029
than six months, or other policy that offers only supplemental 56030
benefits. 56031

Sec. 3923.581. (A) As used in this section: 56032

(1) "Base rate" means, as to any health benefit plan that is 56033
issued by a carrier in the individual market, the lowest premium 56034
rate for new or existing business prescribed by the carrier for 56035
the same or similar coverage under a plan or arrangement covering 56036
any individual with similar case characteristics. 56037

(2) "Carrier," "health benefit plan," "MEWA," and 56038
"pre-existing conditions provision" have the same meanings as in 56039
section 3924.01 of the Revised Code. 56040

~~(2)~~(3) "Federally eligible individual" means an eligible 56041
individual as defined in 45 C.F.R. 148.103. 56042

~~(3)~~(4) "Health status-related factor" means any of the 56043
following: 56044

(a) Health status; 56045

(b) Medical condition, including both physical and mental illnesses;	56046 56047
(c) Claims experience;	56048
(d) Receipt of health care;	56049
(e) Medical history;	56050
(f) Genetic information;	56051
(g) Evidence of insurability, including conditions arising out of acts of domestic violence;	56052 56053
(h) Disability.	56054
(4) "Midpoint rate" means, for individuals with similar case characteristics and plan designs and as determined by the applicable carrier for a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.	56055 56056 56057 56058 56059
(5) "Network plan" means a health benefit plan of a carrier under which the financing and delivery of medical care, including items and services paid for as medical care, are provided, in whole or in part, through a defined set of providers under contract with the carrier.	56060 56061 56062 56063 56064
<u>(6) "Ohio health care basic and standard plans" means those plans established under section 3924.10 of the Revised Code.</u>	56065 56066
(B) Beginning in January of each year, carriers in the business of issuing health benefit plans to individuals or nonemployer groups shall accept federally eligible individuals for open enrollment coverage, as provided in this section, in the order in which they apply for coverage and subject to the limitation set forth in division (J) of this section.	56067 56068 56069 56070 56071 56072
(C) No carrier shall do either of the following:	56073
(1) Decline to offer such coverage to, or deny enrollment of,	56074

such individuals; 56075

(2) Apply any pre-existing conditions provision to such 56076
coverage. 56077

(D) A carrier shall offer to federally eligible individuals 56078
the Ohio health care basic and standard ~~plan established by the~~ 56079
~~board of directors of the Ohio health reinsurance program~~ plans or 56080
plans substantially similar to the basic and standard ~~plan~~ plans 56081
in benefit design and scope of covered services. For purposes of 56082
this division, the superintendent of insurance shall determine 56083
whether a plan is substantially similar to the basic or standard 56084
plan in benefit design and scope of covered services. 56085

(E) Premiums charged to individuals under this section may 56086
not exceed an amount that is ~~two~~ one and one-half times the 56087
~~midpoint base~~ rate charged for coverage offered to any other 56088
individual to which the carrier is currently accepting new 56089
business, and for which similar copayments and deductibles are 56090
applied. 56091

(F) If a carrier offers a health benefit plan in the 56092
individual market through a network plan, the carrier may do both 56093
of the following: 56094

(1) Limit the federally eligible individuals that may apply 56095
for such coverage to those who live, work, or reside in the 56096
service area of the network plan; 56097

(2) Within the service area of the network plan, deny the 56098
coverage to federally eligible individuals if the carrier has 56099
demonstrated both of the following to the superintendent: 56100

(a) The carrier will not have the capacity to deliver 56101
services adequately ~~to~~ to any additional individuals because of the 56102
carrier's obligations to existing group contract holders and 56103
individuals. 56104

(b) The carrier is applying division (F)(2) of this section 56105
uniformly to all federally eligible individuals without regard to 56106
any health status-related factor of those individuals. 56107

(G) A carrier that, pursuant to division (F)(2) of this 56108
section, denies coverage to an individual in the service area of a 56109
network plan, shall not offer coverage in the individual market 56110
within that service area for at least one hundred eighty days 56111
after the date the coverage is denied. 56112

(H) A carrier may refuse to issue health benefit plans to 56113
federally eligible individuals if the carrier has demonstrated 56114
both of the following to the superintendent: 56115

(1) The carrier does not have the financial reserves 56116
necessary to underwrite additional coverage. 56117

(2) The carrier is applying division (H) of this section 56118
uniformly to all federally eligible individuals in this state 56119
consistent with the applicable laws and rules of this state and 56120
without regard to any health status-related factor relating to 56121
those individuals. 56122

(I) A carrier that, pursuant to division (H) of this section, 56123
refuses to issue health benefit plans to federally eligible 56124
individuals, shall not offer health benefit plans in the 56125
individual market in this state for at least one hundred eighty 56126
days after the date the coverage is denied or until the carrier 56127
has demonstrated to the superintendent that the carrier has 56128
sufficient financial reserves to underwrite additional coverage, 56129
whichever is later. 56130

(J)(1) Except as provided in division (J)(2) of this section, 56131
a carrier shall not be required to accept annually new applicants 56132
under this section ~~federally eligible individuals who, in the~~ 56133
~~aggregate, would cause the carrier to have a total number of new~~ 56134
~~insureds that is more than~~ if the total number of new insureds 56135

accepted annually under this section and section 3923.58 of the 56136
Revised Code exceeds four and one-half per cent of its the 56137
carrier's total number of insured individuals and nonemployer 56138
groups group insureds in this state per year, calculated as of the 56139
immediately preceding thirty-first day of December and excluding 56140
the carrier's medicare supplement policies and conversion or 56141
continuation of coverage policies under state or federal law and 56142
any policies described in division ~~(M)~~(L) of section 3923.58 of 56143
the Revised Code. 56144

(2) An officer of the carrier shall certify to the department 56145
of insurance when it has met the enrollment limit set forth in 56146
division (J)(1) of this section. Upon providing such 56147
certification, the carrier shall be relieved of its open 56148
enrollment requirement under this section for the remainder of the 56149
calendar year unless, prior to the end of the calendar year, all 56150
the carriers subject to this section have individually met the 56151
enrollment limit set forth in division (J)(1) of this section. In 56152
that event, carriers shall again accept applicants for open 56153
enrollment coverage pursuant to this section, subject to ~~the~~ an 56154
additional enrollment limit equal to that set forth in division 56155
(J)(1) of this section. 56156

(K) The superintendent may provide for the application of 56157
this section on a service-area-specific basis. 56158

(L) The requirements of this section do not apply to any 56159
health benefit plan described in division ~~(M)~~(L) of section 56160
3923.58 of the Revised Code. 56161

(M) A carrier may pay an agent a commission in the amount of 56162
not more than five per cent of the premium charged for initial 56163
placement or for otherwise securing the issuance of a policy or 56164
contract issued to an individual under this section, and not more 56165
than four per cent of the premium charged for the renewal of such 56166
a policy or contract. The superintendent may adopt, in accordance 56167

with Chapter 119. of the Revised Code, such rules as are necessary 56168
to enforce this division. 56169

Sec. 3923.66. (A) As used in sections 3923.66 to 3923.70 of 56170
the Revised Code: 56171

(1) "Clinical peer" and "physician" have the same meanings as 56172
in section 1751.77 of the Revised Code. 56173

(2) "Authorized person" means a parent, guardian, or other 56174
person authorized to act on behalf of an insured with respect to 56175
health care decisions. 56176

(B) Sections 3923.66 to 3923.70 of the Revised Code do not 56177
apply to any individual or group policy of sickness and accident 56178
insurance covering only accident, credit, dental, disability 56179
income, long-term care, hospital indemnity, medicare supplement, 56180
medicare, tricare, specified disease, or vision care; coverage 56181
issued as a supplement to liability insurance; insurance arising 56182
out of workers' compensation or similar law; automobile medical 56183
payment insurance; or insurance under which benefits are payable 56184
with or without regard to fault and which is statutorily required 56185
to be contained in any liability insurance policy or equivalent 56186
self-insurance. 56187

(C) The superintendent of insurance shall establish and 56188
maintain a system for receiving and reviewing requests for review 56189
from insureds who have been denied coverage of a health care 56190
service on the grounds that the service is not a service covered 56191
under the terms of the insured's policy or certificate. 56192

On receipt of a written request from an insured or authorized 56193
person, the superintendent shall consider whether the health care 56194
service is a service covered under the terms of the insured's 56195
policy or certificate, except that the superintendent shall not 56196
conduct a review under this section unless the insured has 56197

exhausted the insurer's internal review process. The insurer and 56198
the insured or authorized person shall provide the superintendent 56199
with any information required by the superintendent that is in 56200
their possession and is germane to the review. 56201

Unless the superintendent is not able to do so because making 56202
the determination requires resolution of a medical issue, the 56203
superintendent shall determine whether the health care service at 56204
issue is a service covered under the terms of the insured's policy 56205
or certificate. The superintendent shall notify the insured, or 56206
authorized person, and the insurer of its determination or that it 56207
is not able to make a determination because the determination 56208
requires the resolution of a medical issue. 56209

If the superintendent notifies the insurer that making the 56210
determination requires the resolution of a medical issue, the 56211
insurer shall ~~afford the insured an opportunity for~~ initiate an 56212
external review under section 3923.67 or 3923.68 of the Revised 56213
Code. If the superintendent notifies the insurer that the health 56214
care service is not a covered service, the insurer is not required 56215
to cover the service or afford the insured an external review. 56216

Sec. 3923.67. (A) Except as provided in divisions (B) and (C) 56217
of this section, an insurer shall afford an insured an opportunity 56218
for an external review of a coverage denial when requested by the 56219
insured or authorized person, if both of the following are the 56220
case: 56221

(1) The insurer has denied, reduced, or terminated coverage 56222
for what would be a covered health care service except that the 56223
insurer has determined that the health care service is not 56224
medically necessary. 56225

(2) Except in the case of expedited review, the proposed 56226
service, plus any ancillary services and follow-up care, will cost 56227
the insured more than five hundred dollars if the proposed service 56228

is not covered by the insurer. 56229

External review shall be conducted in accordance with this 56230
section, except that if an insured with a terminal condition meets 56231
all of the criteria of division (A) of section 3923.68 of the 56232
Revised Code, an external review shall be conducted under that 56233
section. 56234

(B) An insured need not be afforded a review under this 56235
section in any of the following circumstances: 56236

(1) The superintendent of insurance has determined under 56237
section 3923.66 of the Revised Code that the health care service 56238
is not a service covered under the terms of the insured's policy 56239
or certificate. 56240

(2) The insured has failed to exhaust the insurer's internal 56241
review process. 56242

(3) The insured has previously afforded an external review 56243
for the same denial of coverage, and no new clinical information 56244
has been submitted to the insurer. 56245

~~(C)(1) An insurer may deny a request for an external review 56246
if it is requested later than sixty days after receipt by the 56247
insured of notice from the superintendent of insurance under 56248
section 3923.66 of the Revised Code that making a determination 56249
requires the resolution of a medical issue. An external review may 56250
be requested by the insured, an authorized person, the insured's 56251
provider, or a health care facility rendering health care service 56252
to the insured. The insured may request a review without the 56253
approval of the provider or the health care facility rendering the 56254
health care service. The provider or health care facility may not 56255
request a review without the prior consent of the insured. 56256~~

(2) An external review must be requested in writing, except 56257
that if the insured has a condition that requires expedited 56258
review, the review may be requested orally or by electronic means. 56259

When an oral or electronic request for review is made, written 56260
confirmation of the request must be submitted to the insurer not 56261
later than five days after the request is made. 56262

Except in the case of an expedited review, a request for an 56263
external review must be accompanied by written certification from 56264
the insured's provider or the health care facility rendering the 56265
health care service to the insured that the proposed service, plus 56266
any ancillary services and follow-up care, will cost the insured 56267
more than five hundred dollars if the proposed service is not 56268
covered by the insurer. 56269

(3) For an expedited review, the insured's provider must 56270
certify that the insured's condition could, in the absence of 56271
immediate medical attention, result in any of the following: 56272

(a) Placing the health of the insured or, with respect to a 56273
pregnant woman, the health of the insured or the unborn child, in 56274
serious jeopardy; 56275

(b) Serious impairment to bodily functions; 56276

(c) Serious dysfunction of any bodily organ or part. 56277

(D) The procedures used in conducting an external review 56278
shall include all of the following: 56279

(1) The review shall be conducted by an independent review 56280
organization assigned by the superintendent of insurance under 56281
section 3901.80 of the Revised Code. 56282

(2) Except as provided in divisions (D)(3) and (4) of this 56283
section, neither the clinical peer nor any health care facility 56284
with which the clinical peer is affiliated shall have any 56285
professional, familial, or financial affiliation with any of the 56286
following: 56287

(a) The insurer or any officer, director, or managerial 56288
employee of the insurer; 56289

(b) The insured, the insured's provider, or the practice group of the insured's provider;	56290 56291
(c) The health care facility at which the health care service requested by the insured would be provided;	56292 56293
(d) The development or manufacture of the principal drug, device, procedure, or therapy proposed for the insured.	56294 56295
(3) Division (D)(2) of this section does not prohibit a clinical peer from conducting a review under any of the following circumstances:	56296 56297 56298
(a) The clinical peer is affiliated with an academic medical center that provides health care services to insureds of the insurer.	56299 56300 56301
(b) The clinical peer has staff privileges at a health care facility that provides health care services to insureds of the insurer.	56302 56303 56304
(c) The clinical peer has a contractual relationship with the insurer but was not involved with the insurer's coverage decision.	56305 56306
(4) Division (D)(2) of this section does not prohibit the insurer from paying the independent review organization for the conduct of the review.	56307 56308 56309
(5) An insured shall not be required to pay for any part of the cost of the review. The cost of the review shall be borne by the insurer.	56310 56311 56312
(6)(a) The insurer shall provide to the independent review organization conducting the review a copy of those records in its possession that are relevant to the insured's medical condition and the review.	56313 56314 56315 56316
Records shall be used solely for the purpose of this division. At the request of the independent review organization, the insurer, insured, provider, or health care facility rendering	56317 56318 56319

health care services to the insured shall provide any additional 56320
information the independent review organization requests to 56321
complete the review. A request for additional information may be 56322
made in writing, orally, or by electronic means. The independent 56323
review organization shall submit the request to the insured and 56324
insurer. If a request is submitted orally or by electronic means 56325
to an insured or insurer, not later than five days after the 56326
request is submitted, the independent review organization shall 56327
provide written confirmation of the request. If the review was 56328
initiated by a provider or health care facility, a copy of the 56329
request shall be submitted to the provider or health care 56330
facility. 56331

(b) An independent review organization is not required to 56332
make a decision if it has not received any requested information 56333
that it considers necessary to complete a review. An independent 56334
review organization that does not make a decision for this reason 56335
shall notify the insured and the insurer that a decision is not 56336
being made. The notice may be made in writing, orally, or by 56337
electronic means. An oral or electronic notice shall be confirmed 56338
in writing not later than five days after the oral or electronic 56339
notice is made. If the review was initiated by a provider or 56340
health care facility, a copy of the notice shall be submitted to 56341
the provider or health care facility. 56342

(7) The insurer may elect to cover the service requested and 56343
terminate the review. The insurer shall notify the insured and all 56344
other parties involved with the decision by mail, or with the 56345
consent or approval of the insured, by electronic means. 56346

(8) In making its decision, an independent review 56347
organization conducting the review shall take into account all of 56348
the following: 56349

(a) Information submitted by the insurer, the insured, the 56350
insured's provider, and the health care facility rendering the 56351

health care service, including the following: 56352

(i) The insured's medical records; 56353

(ii) The standards, criteria, and clinical rationale used by 56354
the insurer to make its decision. 56355

(b) Findings, studies, research, and other relevant documents 56356
of government agencies and nationally recognized organizations, 56357
including the national institutes of health or any board 56358
recognized by the national institutes of health, the national 56359
cancer institute, the national academy of sciences, the United 56360
States food and drug administration, the health care financing 56361
administration of the United States department of health and human 56362
services, and the agency for health care policy and research; 56363

(c) Relevant findings in peer-reviewed medical or scientific 56364
literature, published opinions of nationally recognized medical 56365
experts, and clinical guidelines adopted by relevant national 56366
medical societies. 56367

(9)(a) In the case of an expedited review, the independent 56368
review organization shall issue a written decision not later than 56369
seven days after the filing of the request for review. In all 56370
other cases, the independent review organization shall issue a 56371
written decision not later than thirty days after the filing of 56372
the request. The independent review organization shall send a copy 56373
of its decision to the insurer and the insured. If the insured's 56374
provider or the health care facility rendering health care 56375
services to the insured requested the review, the independent 56376
review organization shall also send a copy of its decision to the 56377
insured's provider or the health care facility. 56378

(b) The independent review organization's decision shall 56379
include a description of the insured's condition and the principal 56380
reasons for the decision and an explanation of the clinical 56381
rationale for the decision. 56382

(E) The independent review organization shall base its decision on the information submitted under division (D)(8) of this section. In making its decision, the independent review organization shall consider safety, efficacy, appropriateness, and cost-effectiveness.

(F) The insurer shall provide any coverage determined by the independent review organization's decision to be medically necessary, subject to the other terms, limitations, and conditions of the insured's policy or certificate.

Sec. 3923.68. (A) Each insurer shall establish a reasonable external, independent review process to examine the insurer's coverage decisions for insureds who meet all of the following criteria:

(1) The insured has a terminal condition that, according to the current diagnosis of the insured's physician, has a high probability of causing death within two years.

~~(2) The insured requests a review not later than sixty days after receipt by the insured of notice from the superintendent of insurance under section 3923.66 of the Revised Code that making a determination requires resolution of a medical issue.~~

~~(3)~~ The insured's physician certifies that the insured has the condition described in division (A)(1) of this section and any of the following situations are applicable:

(a) Standard therapies have not been effective in improving the condition of the insured.

(b) Standard therapies are not medically appropriate for the insured.

(c) There is no standard therapy covered by the insurer that is more beneficial than therapy described in division (A)~~(4)~~(3) of this section.

~~(4)~~(3) The insured's physician has recommended a drug, 56413
device, procedure, or other therapy that the physician certifies, 56414
in writing, is likely to be more beneficial to the insured, in the 56415
physician's opinion, than standard therapies, or the insured has 56416
requested a therapy that has been found in a preponderance of 56417
peer-reviewed published studies to be associated with effective 56418
clinical outcomes for the same condition. 56419

~~(5)~~(4) The insured has been denied coverage by the insurer 56420
for a drug, device, procedure, or other therapy recommended or 56421
requested pursuant to division (A)~~(4)~~(3) of this section, and has 56422
exhausted the insurer's internal review process. 56423

~~(6)~~(5) The drug, device, procedure, or other therapy, for 56424
which coverage has been denied, would be a covered health care 56425
service except for the insurer's determination that the drug, 56426
device, procedure, or other therapy is experimental or 56427
investigational. 56428

(B) A review shall be requested in writing, except that if 56429
the insured's physician determines that a therapy would be 56430
significantly less effective if not promptly initiated, the review 56431
may be requested orally or by electronic means. When an oral or 56432
electronic request for review is made, written confirmation of the 56433
request shall be submitted to the insurer not later than five days 56434
after the oral or written request is submitted. 56435

(C) The external, independent review process established by 56436
an insurer shall meet all of the following criteria: 56437

(1) Except as provided in division (E) of this section, the 56438
process shall afford all insureds who meet the criteria set forth 56439
in division (A) of this section the opportunity to have the 56440
insurer's decision to deny coverage of the recommended or 56441
requested therapy reviewed under the process. Each eligible 56442
insured shall be notified of that opportunity within thirty 56443

business days after the insurer denies coverage. 56444

(2) The review shall be conducted by an independent review 56445
organization assigned by the superintendent of insurance under 56446
section 3901.80 of the Revised Code. 56447

The independent review organization shall select a panel to 56448
conduct the review, which panel shall be composed of at least 56449
three physicians or other providers who, through clinical 56450
experience in the past three years, are experts in the treatment 56451
of the insured's medical condition and knowledgeable about the 56452
recommended or requested therapy. 56453

In either of the following circumstances, an exception may be 56454
made to the requirement that the review be conducted by an expert 56455
panel composed of a minimum of three physicians or other 56456
providers: 56457

(a) A review may be conducted by an expert panel composed of 56458
only two physicians or other providers if an insured has consented 56459
in writing to a review by the smaller panel. 56460

(b) A review may be conducted by a single expert physician or 56461
other provider if only the expert physician or other provider is 56462
available for the review. 56463

(3) Neither the insurer nor the insured shall choose, or 56464
control the choice of, the physician or other provider experts. 56465

(4) The selected experts, any health care facility with which 56466
an expert is affiliated, and the independent review organization 56467
arranging for the experts' review shall not have any professional, 56468
familial, or financial affiliation with any of the following: 56469

(a) The insurer or any officer, director, or managerial 56470
employee of the insurer; 56471

(b) The insured, the insured's physician, ~~of~~ or the practice 56472
group of the insured's physician; 56473

(c) The health care facility at which the recommended or 56474
requested therapy would be provided; 56475

(d) The development or manufacture of the principal drug, 56476
device, procedure, or therapy involved in the recommended or 56477
requested therapy. 56478

However, experts affiliated with academic medical centers who 56479
provide health care services to insureds of the insurer may serve 56480
as experts on the review panel. Further, experts with staff 56481
privileges at a health care facility that provides health care 56482
services to insureds of the insurer, as well as experts who have a 56483
contractual relationship with the insurer, but who were not 56484
involved with the insurer's denial of coverage for the therapy 56485
under review, may serve as experts on the review panel. These 56486
nonaffiliation provisions do not preclude an insurer from paying 56487
for the experts' review, as specified in division (C)(5) of this 56488
section. 56489

(5) Insureds shall not be required to pay for any part of the 56490
cost of the review. The cost of the review shall be borne by the 56491
insurer. 56492

(6) The insurer shall provide to the independent review 56493
organization arranging for the experts' review a copy of those 56494
records in the insurer's possession that are relevant to the 56495
insured's medical condition and the review. The records shall be 56496
disclosed solely to the expert reviewers and shall be used solely 56497
for the purpose of this section. At the request of the expert 56498
reviewers, the insurer or the physician requesting the therapy 56499
shall provide any additional information that the expert reviewers 56500
request to complete the review. An expert reviewer is not required 56501
to render an opinion if the reviewer has not received any 56502
requested information that the reviewer considers necessary to 56503
complete the review. 56504

(7)(a) In the case of an expedited review, the independent review organization shall issue a written decision not later than seven days after the filing of the request for review. In all other cases, the independent review organization shall issue a written decision not later than thirty days after the filing of the request. The independent review organization shall send a copy of its decision to the insurer and the insured. If the insured's provider or the health care facility rendering health care services to the insured requested the review, the independent review organization shall also send a copy of its decision to the insured's provider or the health care facility.

(b) In conducting the review, the experts on the panel shall take into account all of the following:

(i) Information submitted by the insurer, the insured, and the insured's physician, including the insured's medical records and the standards, criteria, and clinical rationale used by the insurer to reach its coverage decision;

(ii) Findings, studies, research, and other relevant documents of government agencies and nationally recognized organizations;

(iii) Relevant findings in peer-reviewed medical or scientific literature and published opinions of nationally recognized medical experts;

(iv) Clinical guidelines adopted by relevant national medical societies;

(v) Safety, efficacy, appropriateness, and cost effectiveness.

(8) Each expert on the panel shall provide the independent review organization with a professional opinion as to whether there is sufficient evidence to demonstrate that the recommended or requested therapy is likely to be more beneficial to the

insured than standard therapies. 56536

(9) Each expert's opinion shall be presented in written form 56537
and shall include the following information: 56538

(a) A description of the insured's condition; 56539

(b) A description of the indicators relevant to determining 56540
whether there is sufficient evidence to demonstrate that the 56541
recommended or requested therapy is more likely than not to be 56542
more beneficial to the insured than standard therapies; 56543

(c) A description and analysis of any relevant findings 56544
published in peer-reviewed medical or scientific literature or the 56545
published opinions of medical experts or specialty societies; 56546

(d) A description of the insured's suitability to receive the 56547
recommended or requested therapy according to a treatment protocol 56548
in a clinical trial, if applicable. 56549

(10) The independent review organization shall provide the 56550
insurer with the opinions of the experts. The insurer shall make 56551
the experts' opinions available to the insured and the insured's 56552
physician, upon request. 56553

(11) The opinion of the majority of the experts on the panel, 56554
rendered pursuant to division (C)(8) of this section, is binding 56555
on the insurer with respect to that insured. If the opinions of 56556
the experts on the panel are evenly divided as to whether the 56557
therapy should be covered, the insurer's final decision shall be 56558
in favor of coverage. If less than a majority of the experts on 56559
the panel recommend coverage of the therapy, the insurer may, in 56560
its discretion, cover the therapy. However, any coverage provided 56561
pursuant to division (C)(11) of this section is subject to the 56562
terms, limitations, and conditions of the insured's policy or 56563
certificate with the insurer. 56564

(12) The insurer shall have written policies describing the 56565

external, independent review process. 56566

(D) If an insurer's initial denial of coverage for a therapy 56567
recommended or requested pursuant to division (A)~~(3)~~(2) of this 56568
section is based upon an external, independent review of that 56569
therapy meeting the requirements of division (C) of this section, 56570
this section shall not be a basis for requiring a second external, 56571
independent review of the recommended or requested therapy. 56572

(E) At any time during the external, independent review 56573
process, the insurer may elect to cover the recommended or 56574
requested health care service and terminate the review. The 56575
insurer shall notify the insured and all other parties involved by 56576
mail or, with consent or approval of the insured, by electronic 56577
means. 56578

(F) The insurer shall annually file a certificate with the 56579
superintendent of insurance certifying its compliance with the 56580
requirements of this section. 56581

Sec. 3923.75. (A) As used in sections 3923.75 to 3923.79 of 56582
the Revised Code: 56583

(1) "Clinical peer" and "physician" have the same meanings as 56584
in section 1751.77 of the Revised Code. 56585

(2) "Authorized person" means a parent, guardian, or other 56586
person authorized to act on behalf of a plan member with respect 56587
to health care decisions. 56588

(B) Sections 3923.75 to 3923.79 of the Revised Code do not 56589
apply to any public employee benefit plan covering only accident, 56590
credit, dental, disability income, long-term care, hospital 56591
indemnity, medicare supplement, medicare, tricare, specified 56592
disease, or vision care; coverage issued as a supplement to 56593
liability insurance; insurance arising out of workers' 56594
compensation or similar law; automobile medical payment insurance; 56595

or insurance under which benefits are payable with or without 56596
regard to fault and which is statutorily required to be contained 56597
in any liability insurance policy or equivalent self-insurance. 56598

(C) The superintendent of insurance shall establish and 56599
maintain a system for receiving and reviewing requests for review 56600
from plan members who have been denied coverage of a health care 56601
service on the grounds that the service is not a service covered 56602
under the terms of the public employee benefit plan. 56603

On receipt of a written request from a plan member or 56604
authorized person, the superintendent shall consider whether the 56605
health care service is a service covered under the terms of the 56606
plan, except that the superintendent shall not conduct a review 56607
under this section unless the plan member has exhausted the plan's 56608
internal review process. The plan and the plan member or 56609
authorized person shall provide the superintendent with any 56610
information required by the superintendent that is in their 56611
possession and is germane to the review. 56612

Unless the superintendent is not able to do so because making 56613
the determination requires resolution of a medical issue, the 56614
superintendent shall determine whether the health care service at 56615
issue is a service covered under the terms of the plan. The 56616
superintendent shall notify the plan member, or authorized person, 56617
and the plan of its determination or that it is not able to make a 56618
determination because the determination requires the resolution of 56619
a medical issue. 56620

If the superintendent notifies the plan that making the 56621
determination requires the resolution of a medical issue, the plan 56622
shall ~~afford the plan member~~ initiate an ~~opportunity for~~ external 56623
review under section 3923.76 or 3923.77 of the Revised Code. If 56624
the superintendent notifies the plan that the health care service 56625
is not a covered service, the plan is not required to cover the 56626
service or afford the plan member an external review. 56627

Sec. 3923.76. (A) Except as provided in divisions (B) and (C) 56628
of this section, a public employee benefit plan shall afford a 56629
plan member an opportunity for an external review of a coverage 56630
denial when requested by the plan member or authorized person, if 56631
both of the following are the case: 56632

(1) The plan has denied, reduced, or terminated coverage for 56633
what would be a covered health care service except that the plan 56634
has determined that the health care service is not medically 56635
necessary. 56636

(2) Except in the case of expedited review, the proposed 56637
service, plus any ancillary services and follow-up care, will cost 56638
the plan member more than five hundred dollars if the proposed 56639
service is not covered by the plan. 56640

External review shall be conducted in accordance with this 56641
section, except that if a plan member with a terminal condition 56642
meets all of the criteria of division (A) of section 3923.77 of 56643
the Revised Code, an external review shall be conducted under that 56644
section. 56645

(B) A plan member need not be afforded a review under this 56646
section in any of the following circumstances: 56647

(1) The superintendent of insurance has determined under 56648
section 3923.75 of the Revised Code that the health care service 56649
is not a service covered under the terms of the plan. 56650

(2) The plan member has failed to exhaust the plan's internal 56651
review process. 56652

(3) The plan member has previously been afforded an external 56653
review for the same denial of coverage, and no new clinical 56654
information has been submitted to the plan. 56655

~~(C)(1) A plan may deny a request for an external review if it 56656
is requested later than sixty days after receipt by the plan 56657~~

~~member of notice from the superintendent of insurance under~~ 56658
~~section 3923.75 of the Revised Code that making the determination~~ 56659
~~requires the resolution of a medical issue.~~ An external review may 56660
be requested by the plan member, an authorized person, the plan 56661
member's provider, or a health care facility rendering health care 56662
service to the plan member. The plan member may request a review 56663
without the approval of the provider or the health care facility 56664
rendering the health care service. The provider or health care 56665
facility may not request a review without the prior consent of the 56666
plan member. 56667

(2) An external review must be requested in writing, except 56668
that if the plan member has a condition that requires expedited 56669
review, the review may be requested orally or by electronic means. 56670
When an oral or electronic request for review is made, written 56671
confirmation of the request must be submitted to the plan not 56672
later than five days after the request is made. 56673

Except in the case of an expedited review, a request for an 56674
external review must be accompanied by written certification from 56675
the plan member's provider or the health care facility rendering 56676
the health care service to the plan member that the proposed 56677
service, plus any ancillary services and follow-up care, will cost 56678
the plan member more than five hundred dollars if the proposed 56679
service is not covered by the plan. 56680

(3) For an expedited review, the plan member's provider must 56681
certify that the plan member's condition could, in the absence of 56682
immediate medical attention, result in any of the following: 56683

(a) Placing the health of the plan member or, with respect to 56684
a pregnant woman, the health of the plan member or the unborn 56685
child, in serious jeopardy; 56686

(b) Serious impairment to bodily functions; 56687

(c) Serious dysfunction of any bodily organ or part. 56688

(D) The procedures used in conducting an external review shall include all of the following:	56689 56690
(1) The review shall be conducted by an independent review organization assigned by the superintendent of insurance under section 3901.80 of the Revised Code.	56691 56692 56693
(2) Except as provided in divisions (D)(3) and (4) of this section, neither the clinical peer nor any health care facility with which the clinical peer is affiliated shall have any professional, familial, or financial affiliation with any of the following:	56694 56695 56696 56697 56698
(a) The plan or any officer, director, or managerial employee of the plan;	56699 56700
(b) The plan member, the plan member's provider, or the practice group of the plan member's provider;	56701 56702
(c) The health care facility at which the health care service requested by the plan member would be provided+;	56703 56704
(d) The development or manufacture of the principal drug, device, procedure, or therapy proposed for the plan member.	56705 56706
(3) Division (D)(2) of this section does not prohibit a clinical peer from conducting a review under any of the following circumstances:	56707 56708 56709
(a) The clinical peer is affiliated with an academic medical center that provides health care services to members of the plan.	56710 56711
(b) The clinical peer has staff privileges at a health care facility that provides health care services to members of the plan.	56712 56713 56714
(c) The clinical peer has a contractual relationship with the plan but was not involved with the plan's coverage decision.	56715 56716
(4) Division (D)(2) of this section does not prohibit the plan from paying the independent review organization for the	56717 56718

conduct of the review. 56719

(5) A plan member shall not be required to pay for any part 56720
of the cost of the review. The cost of the review shall be borne 56721
by the plan. 56722

(6)(a) The plan shall provide to the independent review 56723
organization conducting the review a copy of those records in its 56724
possession that are relevant to the plan member's medical 56725
condition and the review. 56726

Records shall be used solely for the purpose of this 56727
division. At the request of the independent review organization, 56728
the plan, plan member, provider, or health care facility rendering 56729
health care services to the plan member shall provide any 56730
additional information the independent review organization 56731
requests to complete the review. A request for additional 56732
information may be made in writing, orally, or by electronic 56733
means. The independent review organization shall submit the 56734
request to the plan member and the plan. If a request is submitted 56735
orally or by electronic means to a plan member or plan, not later 56736
than five days after the request is submitted, the independent 56737
review organization shall provide written confirmation of the 56738
request. If the review was initiated by a provider or health care 56739
facility, a copy of the request shall be submitted to the provider 56740
or health care facility. 56741

(b) An independent review organization is not required to 56742
make a decision if it has not received any requested information 56743
that it considers necessary to complete a review. An independent 56744
review organization that does not make a decision for this reason 56745
shall notify the plan member and the plan that a decision is not 56746
being made. The notice may be made in writing, orally, or by 56747
electronic means. An oral or electronic notice shall be confirmed 56748
in writing not later than five days after the oral or electronic 56749
notice is made. If the review was initiated by a provider or 56750

health care facility, a copy of the notice shall be submitted to 56751
the provider or health care facility. 56752

(7) The plan may elect to cover the service requested and 56753
terminate the review. The plan shall notify the plan member and 56754
all other parties involved with the decision by mail, or with the 56755
consent or approval of the plan member, by electronic means. 56756

(8) In making its decision, an independent review 56757
organization conducting the review shall take into account all of 56758
the following: 56759

(a) Information submitted by the plan, the plan member, the 56760
plan member's provider, and the health care facility rendering the 56761
health care service, including the following: 56762

(i) The plan member's medical records; 56763

(ii) The standards, criteria, and clinical rationale used by 56764
the plan to make its decision. 56765

(b) Findings, studies, research, and other relevant documents 56766
of government agencies and nationally recognized organizations, 56767
including the national institutes of health or any board 56768
recognized by the national institutes of health, the national 56769
cancer institute, the national academy of sciences, the United 56770
States food and drug administration, the health care financing 56771
administration of the United States department of health and human 56772
services, and the agency for health care policy and research; 56773

(c) Relevant findings in peer-reviewed medical or scientific 56774
literature, published opinions of nationally recognized medical 56775
experts, and clinical guidelines adopted by relevant national 56776
medical societies. 56777

(9)(a) In the case of an expedited review, the independent 56778
review organization shall issue a written decision not later than 56779
seven days after the filing of the request for review. In all 56780

other cases, the independent review organization shall issue a written decision not later than thirty days after the filing of the request. The independent review organization shall send a copy of its decision to the plan and the plan member. If the plan member's provider or the health care facility rendering health care services to the plan member requested the review, the independent review organization shall also send a copy of its decision to the plan member's provider or the health care facility.

(b) The independent review organization's decision shall include a description of the plan member's condition and the principal reasons for the decision and an explanation of the clinical rationale for the decision.

(E) The independent review organization shall base its decision on the information submitted under division (D)(8) of this section. In making its decision, the independent review organization shall consider safety, efficacy, appropriateness, and cost-effectiveness.

(F) The plan shall provide any coverage determined by the independent review organization's decision to be medically necessary, subject to the other terms, limitations, and conditions of the plan.

Sec. 3923.77. (A) Each public employee benefit plan shall establish a reasonable external review process to examine the plan's coverage decisions for plan members who meet all of the following criteria:

(1) The plan member has a terminal condition that, according to the current diagnosis of the plan member's physician, has a high probability of causing death within two years.

~~(2) The plan member requests a review not later than sixty~~

~~days after receipt by the plan member of notice from the~~ 56811
~~superintendent of insurance under section 3923.75 of the Revised~~ 56812
~~Code that making a determination requires resolution of a medical~~ 56813
~~issue.~~ 56814

~~(3)~~ The plan member's physician certifies that the plan 56815
member has the condition described in division (A)(1) of this 56816
section and any of the following situations are applicable: 56817

(a) Standard therapies have not been effective in improving 56818
the condition of the plan member. 56819

(b) Standard therapies are not medically appropriate for the 56820
plan member. 56821

(c) There is no standard therapy covered by the plan that is 56822
more beneficial than therapy described in division (A)~~(4)~~(3) of 56823
this section. 56824

~~(4)~~(3) The plan member's physician has recommended a drug, 56825
device, procedure, or other therapy that the physician certifies, 56826
in writing, is likely to be more beneficial to the plan member, in 56827
the physician's opinion, than standard therapies, or the plan 56828
member has requested a therapy that has been found in a 56829
preponderance of peer-reviewed published studies to be associated 56830
with effective clinical outcomes for the same condition. 56831

~~(5)~~(4) The plan member has been denied coverage by the plan 56832
for a drug, device, procedure, or other therapy recommended or 56833
requested pursuant to division (A)~~(4)~~(3) of this section, and has 56834
exhausted all internal appeals. 56835

~~(6)~~(5) The drug, device, procedure, or other therapy, for 56836
which coverage has been denied, would be a covered health care 56837
service except for the plan's determination that the drug, device, 56838
procedure, or other therapy is experimental or investigational. 56839

(B) A review shall be requested in writing, except that if 56840

the plan member's physician determines that a therapy would be 56841
significantly less effective if not promptly initiated, the review 56842
may be requested orally or by electronic means. When an oral or 56843
electronic request for review is made, written confirmation of the 56844
request shall be submitted to the plan not later than five days 56845
after the oral or written request is submitted. For an expedited 56846
review, the plan member's provider must certify that the requested 56847
or recommended therapy would be significantly less effective if 56848
not promptly initiated. 56849

(C) The external review process established by a plan shall 56850
meet all of the following criteria: 56851

(1) Except as provided in division (E) of this section, the 56852
process shall afford all plan members who meet the criteria set 56853
forth in division (A) of this section the opportunity to have the 56854
plan's decision to deny coverage of the recommended or requested 56855
therapy reviewed under the process. Each eligible plan member 56856
shall be notified of that opportunity within thirty business days 56857
after the plan denies coverage. 56858

(2) The review shall be conducted by an independent review 56859
organization assigned by the superintendent of insurance under 56860
section 3901.80 of the Revised Code. The independent review 56861
organization shall select a panel to conduct the review, which 56862
panel shall be composed of at least three physicians or other 56863
providers who, through clinical experience in the past three 56864
years, are experts in the treatment of the plan member's medical 56865
condition and knowledgeable about the recommended or requested 56866
therapy. If the independent review organization retained by the 56867
plan is an academic medical center, the panel may include experts 56868
affiliated with or employed by the academic medical center. 56869

In either of the following circumstances, an exception may be 56870
made to the requirement that the review be conducted by an expert 56871
panel composed of a minimum of three physicians or other 56872

providers: 56873

(a) A review may be conducted by an expert panel composed of 56874
only two physicians or other providers if a plan member has 56875
consented in writing to a review by the smaller panel. 56876

(b) A review may be conducted by a single expert physician or 56877
other provider if only the expert physician or other provider is 56878
available for the review. 56879

(3) Neither the plan nor the plan member shall choose, or 56880
control the choice of, the physician or other provider experts. 56881

(4) The selected experts, any health care facility with which 56882
an expert is affiliated, and the independent review organization 56883
arranging for the experts' review shall not have any professional, 56884
familial, or financial affiliation with any of the following: 56885

(a) The plan or any officer, director, or managerial employee 56886
of the plan; 56887

(b) The plan member, the plan member's physician, or the 56888
practice group of the plan member's physician; 56889

(c) The health care facility at which the recommended or 56890
requested therapy would be provided; 56891

(d) The development or manufacture of the principal drug, 56892
device, procedure, or therapy involved in the recommended or 56893
requested therapy. However, experts affiliated with academic 56894
medical centers who provide health care services to members of the 56895
plan may serve as experts on the review panel. Further, experts 56896
with staff privileges at a health care facility that provides 56897
health care services to members of the plan, as well as experts 56898
who have a contractual relationship with the plan, but who were 56899
not involved with the plan's denial of coverage for the therapy 56900
under review, may serve as experts on the review panel. These 56901
nonaffiliation provisions do not preclude a plan from paying for 56902

the experts' review, as specified in division (C)(5) of this section. 56903
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(5) Plan members shall not be required to pay for any part of the cost of the review. The cost of the review shall be borne by the plan. 56905
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(6) The plan shall provide to the independent review organization arranging for the experts' review a copy of those records in the plan's possession that are relevant to the plan member's medical condition and the review. The records shall be disclosed solely to the expert reviewers and shall be used solely for the purpose of this section. At the request of the expert reviewers, the plan or the physician requesting the therapy shall provide any additional information that the expert reviewers request to complete the review. An expert reviewer is not required to render an opinion if the reviewer has not received any requested information that the reviewer considers necessary to complete the review. 56908
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(7)(a) In the case of an expedited review, the independent review organization shall issue a written decision not later than seven days after the filing of the request for review. In all other cases, the independent review organization shall issue a written decision not later than thirty days after the filing of the request. The independent review organization shall send a copy of its decision to the plan and the plan member. If the plan member's provider or the health care facility rendering health care services to the plan member requested the review, the independent review organization shall also send a copy of its decision to the plan member's provider or the health care facility. 56920
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(b) In conducting the review, the experts on the panel shall take into account all of the following: 56932
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(i) Information submitted by the plan, the plan member, and the plan member's physician, including the plan member's medical records and the standards, criteria, and clinical rationale used by the plan to reach its coverage decision;	56934 56935 56936 56937
(ii) Findings, studies, research, and other relevant documents of government agencies and nationally recognized organizations;	56938 56939 56940
(iii) Relevant findings in peer-reviewed medical or scientific literature and published opinions of nationally recognized medical experts;	56941 56942 56943
(iv) Clinical guidelines adopted by relevant national medical societies;	56944 56945
(v) Safety, efficacy, appropriateness, and cost_effectiveness.	56946 56947
(8) Each expert on the panel shall provide the independent review organization with a professional opinion as to whether there is sufficient evidence to demonstrate that the recommended or requested therapy is likely to be more beneficial to the plan member than standard therapies.	56948 56949 56950 56951 56952
(9) Each expert's opinion shall be presented in written form and shall include the following information:	56953 56954
(a) A description of the plan member's condition;	56955
(b) A description of the indicators relevant to determining whether there is sufficient evidence to demonstrate that the recommended or requested therapy is more likely than not to be more beneficial to the plan member than standard therapies;	56956 56957 56958 56959
(c) A description and analysis of any relevant findings published in peer-reviewed medical or scientific literature or the published opinions of medical experts or specialty societies;	56960 56961 56962
(d) A description of the plan member's suitability to receive	56963

the recommended or requested therapy according to a treatment 56964
protocol in a clinical trial, if applicable. 56965

(10) The independent review organization shall provide the 56966
plan with the opinions of the experts. The plan shall make the 56967
experts' opinions available to the plan member and the plan 56968
member's physician, upon request. 56969

(11) The opinion of the majority of the experts on the panel, 56970
rendered pursuant to division (C)(8) of this section, is binding 56971
on the plan with respect to that plan member. If the opinions of 56972
the experts on the panel are evenly divided as to whether the 56973
therapy should be covered, the plan's final decision shall be in 56974
favor of coverage. If less than a majority of the experts on the 56975
panel recommend coverage of the therapy, the plan may, in its 56976
discretion, cover the therapy. However, any coverage provided 56977
pursuant to division (C)(11) of this section is subject to the 56978
terms, limitations, and conditions of the plan. 56979

(12) The plan shall have written policies describing the 56980
external review process. 56981

(D) If a plan's initial denial of coverage for a therapy 56982
recommended or requested pursuant to division (A)~~(3)~~(2) of this 56983
section is based upon an external review of that therapy meeting 56984
the requirements of division (C) of this section, this section 56985
shall not be a basis for requiring a second external review of the 56986
recommended or requested therapy. 56987

(E) At any time during the external review process, the plan 56988
may elect to cover the recommended or requested health care 56989
service and terminate the review. The plan shall notify the plan 56990
member and all other parties involved by mail or, with consent or 56991
approval of the plan member, by electronic means. 56992

(F) The plan shall annually file a certificate with the 56993
superintendent of insurance certifying its compliance with the 56994

requirements of this section. 56995

Sec. 3923.90. (A) There is hereby created the health care coverage and quality council to advise the governor, general assembly, entities in the public and private sectors, and consumers on strategies to expand affordable health insurance coverage to more individuals and to improve the cost and quality of the state's health insurance system and health care system. 56996
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(B) The council shall consist of the following members: 57002

(1) The superintendent of insurance or the superintendent's designee; 57003
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(2) The director of the executive medicaid management administration; 57005
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(3) The director of medicaid; 57007

(4) The director of the office of healthy Ohio within the department of health; 57008
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(5) The benefits administrator of the office of benefits administration within the department of administrative services; 57010
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(6) Two members of the house of representatives, one member appointed by the speaker of the house of representatives and one member appointed by the minority leader of the house of representatives; 57012
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(7) Two members of the senate, one member appointed by the president of the senate and one member appointed by the minority leader of the senate; 57016
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(8) The following members appointed by the governor, with the advice and consent of the senate: 57019
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(a) Two representatives of consumers of health care services; 57021

(b) Two representatives of employers that provide health care coverage to their employees; 57022
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(c) Two representatives of medical facilities, at least one of whom is a representative of a research and academic medical center; 57024
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(d) Two individuals authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; 57027
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(e) Two representatives of companies authorized under Chapter 3923. of the Revised Code to do the business of sickness and accident insurance in this state or of health insuring corporations holding certificates of authority under Chapter 1751. of the Revised Code; 57030
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(f) Two representatives of organized labor; 57035

(g) One representative of a nonprofit organization experienced in health care data collection and analysis; 57036
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(h) One individual with expertise in health information technology and exchange; 57038
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(i) One representative of a state retirement system; 57040

(j) One public health professional; 57041

(k) One other member. 57042

(C) Not later than thirty days after the effective date of this section, initial appointments shall be made to the council. The initial legislative members shall be appointed for terms ending three years from the date of appointment. Of the initial members appointed by the governor, five shall be for terms ending December 31, 2010, six shall be for terms ending December 31, 2011, and six shall be for terms ending December 31, 2012. Thereafter, terms of office for all appointed members shall be three years, with each term ending on the same day of the same month as the term it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the 57043
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member was appointed, except that a legislative member ceases to 57054
be a member of the council on ceasing to be a member of the 57055
general assembly. Members may be reappointed. 57056

Vacancies shall be filled in the same manner as original 57057
appointments. Any member appointed to fill a vacancy occurring 57058
prior to the expiration of the term for which the member's 57059
predecessor was appointed shall hold office for the remainder of 57060
that term. A member shall continue in office subsequent to the 57061
expiration date of the member's term until the member's successor 57062
takes office or until a period of sixty days has elapsed, 57063
whichever occurs first. 57064

(D) The superintendent or the superintendent's designee shall 57065
serve as chairperson of the council. The council shall meet at the 57066
call of the chair. A majority of the members of the council 57067
constitutes a quorum. 57068

(E) Members shall serve without compensation, but shall be 57069
reimbursed for mileage and actual and necessary expenses incurred 57070
in the performance of their official duties. 57071

(F) The superintendent may provide staff and other 57072
administrative support for the council to carry out its duties. In 57073
making staffing decisions, the superintendent may consider any 57074
recommendations made by the council. 57075

(G) Sections 101.82 to 101.87 of the Revised Code do not 57076
apply to the health care coverage and quality council. 57077

Sec. 3923.91. (A) The health care coverage and quality 57078
council shall do all of the following: 57079

(1) Advise the governor and general assembly on strategies to 57080
improve health care programs and health insurance policies and 57081
benefit plans, including strategies such as the use of best 57082
practices regarding health care financing, delivery of health care 57083

services, and health promotion, and thereafter promote the 57084
widespread adoption of those practices; 57085

(2) Monitor and evaluate implementation of strategies to 57086
improve access to health insurance coverage and to transform the 57087
state's health care system into a high quality, cost-effective, 57088
and high performing system and identify barriers to implementing 57089
those strategies and methods to overcome the barriers; 57090

(3) Catalog existing health care data reporting efforts and 57091
make recommendations to improve data reporting in a manner that 57092
increases transparency and consistency in the health care and 57093
insurance coverage systems; 57094

(4) Study health care financing alternatives that will 57095
increase access to health insurance coverage, promote disease 57096
prevention and injury prevention, contain costs, and improve 57097
quality; 57098

(5) Evaluate the systems that individuals use to obtain or 57099
otherwise become connected with health insurance and recommend 57100
improvements to those systems or the use of alternative systems; 57101

(6) Recommend minimum coverage standards for basic and 57102
standard health insurance plans offered by insurance carriers; 57103

(7) Recommend strategies, such as subsidies, to assist 57104
individuals in being able to afford health insurance coverage, 57105
with the assistance to be based on the availability of funds and 57106
individual affordability standards; 57107

(8) Recommend strategies to implement health information 57108
technology to support improved access, cost, and quality in the 57109
state's health care system; 57110

(9) Develop programs to assist employers in adopting 57111
cafeteria plans meeting the requirements of section 125 of the 57112
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 125, as 57113

amended; 57114

(10) Perform any other duties specified in rules adopted by 57115
the superintendent of insurance. 57116

(B) The council shall prepare and issue an annual report, 57117
which may include recommendations, on or before the thirty-first 57118
day of December of each year. The council may prepare and issue 57119
other reports and recommendations at other times that the council 57120
finds appropriate. 57121

(C) The superintendent may adopt rules as necessary for the 57122
council to carry out its duties. The rules shall be adopted under 57123
Chapter 119. of the Revised Code. In adopting the rules, the 57124
superintendent may consider any recommendations made by the 57125
council. 57126

Sec. 3924.01. As used in sections 3924.01 to 3924.14 of the 57127
Revised Code: 57128

(A) "Actuarial certification" means a written statement 57129
prepared by a member of the American academy of actuaries, or by 57130
any other person acceptable to the superintendent of insurance, 57131
that states that, based upon the person's examination, a carrier 57132
offering health benefit plans to small employers is in compliance 57133
with sections 3924.01 to 3924.14 of the Revised Code. "Actuarial 57134
certification" shall include a review of the appropriate records 57135
of, and the actuarial assumptions and methods used by, the carrier 57136
relative to establishing premium rates for the health benefit 57137
plans. 57138

(B) "Adjusted average market premium price" means the average 57139
market premium price as determined by the board of directors of 57140
the Ohio health reinsurance program either on the basis of the 57141
arithmetic mean of all carriers' premium rates for an OHC plan 57142
sold to groups with similar case characteristics by all carriers 57143

selling OHC plans in the state, or on any other equitable basis 57144
determined by the board. 57145

(C) "Base premium rate" means, as to any health benefit plan 57146
that is issued by a carrier and that covers at least two but no 57147
more than fifty employees of a small employer, the lowest premium 57148
rate for a new or existing business prescribed by the carrier for 57149
the same or similar coverage under a plan or arrangement covering 57150
any small employer with similar case characteristics. 57151

(D) "Carrier" means any sickness and accident insurance 57152
company or health insuring corporation authorized to issue health 57153
benefit plans in this state or a MEWA. A sickness and accident 57154
insurance company that owns or operates a health insuring 57155
corporation, either as a separate corporation or as a line of 57156
business, shall be considered as a separate carrier from that 57157
health insuring corporation for purposes of sections 3924.01 to 57158
3924.14 of the Revised Code. 57159

(E) "Case characteristics" means, with respect to a small 57160
employer, the geographic area in which the employees work; the age 57161
and sex of the individual employees and their dependents; the 57162
appropriate industry classification as determined by the carrier; 57163
the number of employees and dependents; and such other objective 57164
criteria as may be established by the carrier. "Case 57165
characteristics" does not include claims experience, health 57166
status, or duration of coverage from the date of issue. 57167

(F) "Dependent" means the spouse or child of an eligible 57168
employee, subject to applicable terms of the health benefits plan 57169
covering the employee. 57170

(G) "Eligible employee" means an employee who works a normal 57171
work week of twenty-five or more hours. "Eligible employee" does 57172
not include a temporary or substitute employee, or a seasonal 57173
employee who works only part of the calendar year on the basis of 57174

natural or suitable times or circumstances. 57175

(H) "Health benefit plan" means any hospital or medical 57176
expense policy or certificate or any health plan provided by a 57177
carrier, that is delivered, issued for delivery, renewed, or used 57178
in this state on or after the date occurring six months after 57179
November 24, 1995. "Health benefit plan" does not include policies 57180
covering only accident, credit, dental, disability income, 57181
long-term care, hospital indemnity, medicare supplement, specified 57182
disease, or vision care; coverage under a 57183
one-time-limited-duration policy of no longer than six months; 57184
coverage issued as a supplement to liability insurance; insurance 57185
arising out of a workers' compensation or similar law; automobile 57186
medical-payment insurance; or insurance under which benefits are 57187
payable with or without regard to fault and which is statutorily 57188
required to be contained in any liability insurance policy or 57189
equivalent self-insurance. 57190

(I) "Late enrollee" means an eligible employee or dependent 57191
who enrolls in a small employer's health benefit plan other than 57192
during the first period in which the employee or dependent is 57193
eligible to enroll under the plan or during a special enrollment 57194
period described in section 2701(f) of the "Health Insurance 57195
Portability and Accountability Act of 1996," Pub. L. No. 104-191, 57196
110 Stat. 1955, 42 U.S.C.A. 300gg, as amended. 57197

(J) "MEWA" means any "multiple employer welfare arrangement" 57198
as defined in section 3 of the "Federal Employee Retirement Income 57199
Security Act of 1974," 88 Stat. 832, 29 U.S.C.A. 1001, as amended, 57200
except for any arrangement which is fully insured as defined in 57201
division (b)(6)(D) of section 514 of that act. 57202

(K) "Midpoint rate" means, for small employers with similar 57203
case characteristics and plan designs and as determined by the 57204
applicable carrier for a rating period, the arithmetic average of 57205
the applicable base premium rate and the corresponding highest 57206

premium rate. 57207

(L) "Pre-existing conditions provision" means a policy 57208
provision that excludes or limits coverage for charges or expenses 57209
incurred during a specified period following the insured's 57210
enrollment date as to a condition for which medical advice, 57211
diagnosis, care, or treatment was recommended or received during a 57212
specified period immediately preceding the enrollment date. 57213
Genetic information shall not be treated as such a condition in 57214
the absence of a diagnosis of the condition related to such 57215
information. 57216

For purposes of this division, "enrollment date" means, with 57217
respect to an individual covered under a group health benefit 57218
plan, the date of enrollment of the individual in the plan or, if 57219
earlier, the first day of the waiting period for such enrollment. 57220

(M) "Service waiting period" means the period of time after 57221
employment begins before an employee is eligible to be covered for 57222
benefits under the terms of any applicable health benefit plan 57223
offered by the small employer. 57224

(N)(1) "Small employer" means, in connection with a group 57225
health benefit plan and with respect to a calendar year and a plan 57226
year, an employer who employed an average of at least two but no 57227
more than fifty eligible employees on business days during the 57228
preceding calendar year and who employs at least two employees on 57229
the first day of the plan year. 57230

(2) For purposes of division (N)(1) of this section, all 57231
persons treated as a single employer under subsection (b), (c), 57232
(m), or (o) of section 414 of the "Internal Revenue Code of 1986," 57233
100 Stat. 2085, 26 U.S.C.A. 1, as amended, shall be considered one 57234
employer. In the case of an employer that was not in existence 57235
throughout the preceding calendar year, the determination of 57236
whether the employer is a small or large employer shall be based 57237

on the average number of eligible employees that it is reasonably 57238
expected the employer will employ on business days in the current 57239
calendar year. Any reference in division (N) of this section to an 57240
"employer" includes any predecessor of the employer. Except as 57241
otherwise specifically provided, provisions of sections 3924.01 to 57242
3924.14 of the Revised Code that apply to a small employer that 57243
has a health benefit plan shall continue to apply until the plan 57244
anniversary following the date the employer no longer meets the 57245
requirements of this division. 57246

(O) "OHC plan" means an Ohio health care plan, which is the 57247
basic, standard, or carrier reimbursement plan for small employers 57248
and individuals established ~~by the board~~ in accordance with 57249
section 3924.10 of the Revised Code. 57250

Sec. 3924.06. (A) Compliance with the underwriting and rating 57251
requirements contained in sections 3924.01 to 3924.14 of the 57252
Revised Code shall be demonstrated through actuarial 57253
certification. Carriers offering health benefit plans to small 57254
employers shall file annually with the superintendent of insurance 57255
an actuarial certification stating that the underwriting and 57256
rating methods of the carrier do all of the following: 57257

(1) Comply with accepted actuarial practices; 57258

(2) Are uniformly applied to health benefit plans covering 57259
small employers; 57260

(3) Comply with the applicable provisions of sections 3924.01 57261
to 3924.14 of the Revised Code. 57262

(B) If a carrier has established a separate class of business 57263
for one or more small employer health care alliances in accordance 57264
with section 1731.09 of the Revised Code, this section shall apply 57265
in accordance with section 1731.09 of the Revised Code. 57266

(C) Carriers offering health benefit plans to small employers 57267

shall file premium rates with the superintendent in accordance 57268
with section 3923.02 of the Revised Code with respect to the 57269
carrier's sickness and accident insurance policies sold to small 57270
employers and in accordance with section 1751.12 of the Revised 57271
Code with respect to the carrier's health insuring corporation 57272
policies sold to small employers. 57273

Sec. 3924.09. The Ohio health reinsurance program shall have 57274
the general powers and authority granted under the laws of the 57275
state to insurance companies licensed to transact sickness and 57276
accident insurance, except the power to issue insurance. The board 57277
of directors of the program also shall have the specific authority 57278
to do all of the following: 57279

(A) Enter into contracts as are necessary or proper to carry 57280
out the provisions and purposes of sections 3924.07 to 3924.14 of 57281
the Revised Code, including the authority to enter into contracts 57282
with similar programs of other states for the joint performance of 57283
common functions, or with persons or other organizations for the 57284
performance of administrative functions; 57285

(B) Sue or be sued, including taking any legal actions 57286
necessary or proper for recovery of any assessments for, on behalf 57287
of, or against any program or board member; 57288

(C) Take such legal action as is necessary to avoid the 57289
payment of improper claims against the program; 57290

(D) ~~Design~~ Make recommendations to the superintendent of 57291
insurance regarding the design of the OHC plans which, when 57292
offered by a carrier, are eligible for reinsurance and issue 57293
reinsurance policies in accordance with the requirements of 57294
sections 3924.07 to 3924.14 of the Revised Code; 57295

(E) Establish rules, conditions, and procedures pertaining to 57296
the reinsurance of members' risks by the program; 57297

(F) Establish appropriate rates, rate schedules, rate adjustments, rate classifications, and any other actuarial functions appropriate to the operation of the program;

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(G) Assess members in accordance with division (G) of section 3924.11 and the provisions of section 3924.13 of the Revised Code, and make such advance interim assessments as may be reasonable and necessary for organizational and interim operating expenses. Any interim assessments shall be credited as offsets against any regular assessments due following the close of the calendar year.

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(H) Appoint members to appropriate legal, actuarial, and other committees if necessary to provide technical assistance with respect to the operation of the program, policy and other contract design, and any other function within the authority of the program;

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(I) Borrow money to effect the purposes of the program. Any notes or other evidence of indebtedness of the program not in default shall be legal investments for carriers and may be carried as admitted assets.

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(J) Reinsure risks, collect assessments, and otherwise carry out its duties under division (G) of section 3924.11 of the Revised Code;

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(K) Study the operation of the Ohio health reinsurance program and the open enrollment reinsurance program and, based on its findings, make legislative recommendations to the general assembly for improvements in the effectiveness, operation, and integrity of the programs;

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(L) ~~Design~~ Make recommendations to the superintendent regarding the design of a basic and standard plan for purposes of sections 1751.16, 3923.122, and 3923.581 of the Revised Code.

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Sec. 3924.10. (A) The board of directors of the Ohio health

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reinsurance program ~~shall design~~ may make recommendations to the 57328
superintendent of insurance, and the superintendent may adopt or 57329
amend by rule the OHC basic, standard, and carrier reimbursement 57330
plans which, when offered by a carrier, are eligible for 57331
reinsurance under the program. The ~~board~~ superintendent shall 57332
establish the form and level of coverage to be made available by 57333
carriers in their OHC plans. ~~In designing the~~ The plans the board 57334
~~shall also establish~~ include benefit levels, deductibles, 57335
coinsurance factors, exclusions, and limitations for the plans. 57336
The forms and levels of coverage ~~established by the board~~ shall 57337
specify which components of health benefit plans offered by a 57338
carrier may be reinsured. The OHC plans are subject to division 57339
(C) of section 3924.02 of the Revised Code and to the provisions 57340
in Chapters 1751., 1753., 3923., and any other chapter of the 57341
Revised Code that require coverage or the offer of coverage of a 57342
health care service or benefit. 57343

(B) ~~The board shall adopt the OHC plans within one hundred~~ 57344
~~eighty days after the effective date of this amendment~~ In adopting 57345
rules relating to the OHC basic and standard plans, the 57346
superintendent may also consider recommendations of the Ohio 57347
health care coverage and quality council established under section 57348
3923.90 of the Revised Code. The plans may include cost 57349
containment features including any of the following: 57350

(1) Utilization review of health care services, including 57351
review of the medical necessity of hospital and physician 57352
services; 57353

(2) Case management benefit alternatives; 57354

(3) Selective contracting with hospitals, physicians, and 57355
other health care providers; 57356

(4) Reasonable benefit differentials applicable to 57357
participating and nonparticipating providers; 57358

(5) Employee assistance program options that provide 57359
preventive and early intervention mental health and substance 57360
abuse services; 57361

(6) Other provisions for the cost-effective management of the 57362
plans. 57363

(C) OHC plans established for use by health insuring 57364
corporations shall be consistent with the basic method of 57365
operation of such corporations. 57366

(D) Each carrier shall certify to the superintendent of 57367
insurance, in the form and manner prescribed by the 57368
superintendent, that the OHC plans filed by the carrier are in 57369
substantial compliance with the provisions of the board OHC plans. 57370
Upon receipt by the superintendent of the certification, the 57371
carrier may use the certified plans. 57372

(E) Each carrier shall, on and after sixty days after the 57373
date that the program becomes operational and as a condition of 57374
transacting business in this state, renew coverage provided to any 57375
individual or group under its OHC plans. 57376

(F) The OHC plans in effect as of June 1, 2009, shall remain 57377
in effect until those plans are amended or new plans are adopted 57378
in accordance with this section. 57379

Sec. 3929.43. (A) The Ohio fair plan underwriting association 57380
is hereby created consisting of all insurers authorized to write 57381
within this state, on a direct basis, basic property insurance or 57382
any component thereof in multi-peril policies, to assist 57383
applicants in urban areas to secure basic property insurance or 57384
homeowners insurance, and to formulate and administer a program 57385
for the equitable apportionment of basic property insurance or 57386
homeowners insurance which cannot be obtained in the normal 57387
market. Every such insurer shall be a member of the association 57388

and shall remain a member as a condition of its authority to write 57389
any of such insurance in this state. 57390

(B) The association, pursuant to sections 3929.41 to 3929.49 57391
of the Revised Code, and the plan of operation, with respect to 57392
basic property insurance or homeowners insurance, may assume and 57393
cede reinsurance on insurable risks written by its members. 57394

(C) The board of governors of the association shall submit to 57395
the superintendent of insurance, for ~~his~~ approval, a proposed plan 57396
of operation which shall provide for economical, fair, and 57397
nondiscriminatory administration of a program for the equitable 57398
apportionment among members of basic property insurance or 57399
homeowners insurance which may be afforded in urban areas to 57400
applicants whose property is insurable in accordance with 57401
reasonable underwriting standards, but who are unable to procure 57402
such insurance through normal channels. The association is under 57403
no obligation to issue basic property insurance or homeowners 57404
insurance to any person, unless that person and ~~his~~ that person's 57405
property would be insurable in the normal insurance market, and 57406
such property, except for its location, would constitute an 57407
insurable risk in accordance with reasonable underwriting 57408
standards. The plan of operation shall provide that the 57409
association, in determining whether the property is insurable, 57410
shall give no consideration to the condition of surrounding 57411
property or properties, where such condition is not within the 57412
control of the applicant. Rates for basic property insurance and 57413
homeowners insurance shall ~~not exceed those rates filed with~~ be 57414
subject to the approval of the superintendent ~~by the major rating~~ 57415
~~organization in this state, except that in the case of homeowners~~ 57416
~~insurance the association may file deviations to the rating plan~~ 57417
~~previously filed by such rating organization, and such deviations~~ 57418
~~shall be subject to the approval of the superintendent in the same~~ 57419
~~manner as other deviations under Chapter 3935. of the Revised~~ 57420

Code. The plan of operation may also provide for assessment of 57421
all members in amounts sufficient to operate the association, 57422
maximum limits of liability per location to be placed through the 57423
program, reasonable underwriting standards for determining 57424
insurability of a risk, and the commission to be paid to the 57425
licensed producer designated by the applicant. The superintendent 57426
shall adopt such plan and all amendments thereto pursuant to 57427
Chapter 119. of the Revised Code. 57428

If the superintendent disapproves the proposed plan of 57429
operation, the board of governors shall, within fifteen days, 57430
submit for approval an appropriately revised plan of operation and 57431
if the board of governors fails to do so, or if the revised plan 57432
submitted is unacceptable, the superintendent shall promulgate a 57433
plan of operation. 57434

If amendment of the plan of operation is requested by the 57435
superintendent or the board of governors, the board of governors 57436
shall submit to the superintendent, for ~~his~~ approval, such 57437
amendments. If such amendments are not approved by the 57438
superintendent, the board of governors shall, within fifteen days, 57439
submit for approval an appropriately revised amendment. If the 57440
board of governors fails to do so, or if the amendment is not 57441
approved by the superintendent, the superintendent shall 57442
promulgate such amendment as ~~he~~ the superintendent finds 57443
necessary. 57444

(D)(1) The plan of operation may provide for periodic advance 57445
assessments against member insurers in amounts considered 57446
necessary to cover any deficit or projected deficit arising out of 57447
the operation of the association. Any provision in the plan for 57448
implementation of such advance assessments shall be approved by 57449
the superintendent. Any such provision in the plan shall also 57450
provide for quarterly or other periodic installment payment of 57451
such assessments. 57452

(2) Such plan shall provide a method whereby member insurers may recoup assessments levied by the association. In order to recoup such assessments the plan may also provide for the calculation and use of rates or rating factors to be applied to direct premiums for basic property insurance and homeowners insurance located in this state. Such a provision is subject to the approval of the superintendent. Member insurers of the association implementing a change in rates pursuant to this section shall file such changes with the superintendent. Such changes shall not increase rates more than the amount authorized by the association and approved by the superintendent pursuant to the plan. The association may consult with member insurers or licensed rating bureaus in connection with the establishment and operation of any such provision.

(E) Any insurer which is a member of the association shall participate in the writings, expenses, profits, and losses of the association in the proportion that its premiums written bear to the aggregate premiums written by all members of the association, except that this division shall not be construed to preclude the board of governors from taking action to adjust assessments in accordance with a program adopted pursuant to division (I) of this section.

(F) Such plan shall require the issuance of a binder providing coverage for which the applicant tenders an amount equal to the annual premium as estimated by the association, ~~such or an~~ appropriate percentage of that annual premium as determined by the association. The binder taking shall take effect fifteen days following the date of the day after the association receives the application, provided that the application meets the underwriting standards of the association, for such term, and under such conditions as are determined by the superintendent ~~of insurance~~. The superintendent may alter such time requirement on a specific

risk under such conditions as ~~he~~ the superintendent finds 57485
appropriate. 57486

(G) The association shall be governed by a board of governors 57487
consisting of twelve members, four of whom shall be appointed by 57488
the governor with the advice and consent of the senate. One of 57489
such members shall be a licensed agent writing basic property 57490
insurance for more than one insurer. None of the other three such 57491
members shall be a director, officer, salaried employee, agent, or 57492
substantial shareholder of any insurance company and not more than 57493
two of these three members shall be members of the same political 57494
party. Terms of office of members appointed by the governor shall 57495
be for two years, commencing on the nineteenth day of September 57496
and ending on the eighteenth day of September. Each member shall 57497
hold office from the date of ~~his~~ appointment until the end of the 57498
term for which ~~he~~ the member was appointed. Any member appointed 57499
to fill a vacancy occurring prior to the expiration of the term 57500
for which ~~his~~ the member's predecessor was appointed shall hold 57501
office for the remainder of such term. Any appointed member shall 57502
continue in office subsequent to the expiration date of ~~his~~ the 57503
member's term until ~~his~~ the member's successor takes office, or 57504
until a period of sixty days has elapsed, whichever occurs first. 57505
The remaining eight members shall be representatives from member 57506
companies, at least five of whom shall be Ohio domiciled members, 57507
elected annually by accumulated voting by members of the 57508
association whose votes shall be weighed in accordance with each 57509
member's premiums written during the second preceding calendar 57510
year. Not more than one insurer in a group under the same 57511
management or ownership shall serve on the board of governors at 57512
the same time. The eight representatives of member companies shall 57513
be elected at a meeting of the members or their authorized 57514
representatives, which shall be held at a time and place 57515
designated by the superintendent. 57516

(H) The plan shall be administered under the supervision of 57517
the superintendent. 57518

(I) The board of governors shall adopt a written program for 57519
decreasing the overall utilization of the association as a source 57520
of insurance. The program shall set forth actions that the board 57521
shall take to decrease such utilization, including actions 57522
intended to reduce the number of policies issued, the number of 57523
persons whose properties are insured, and the total amount and 57524
kinds of insurance written by the association, provided this 57525
division does not authorize the board to take action intended to 57526
decrease utilization of the association as a source of insurance 57527
if such action would substantially conflict with the purposes set 57528
forth in divisions (A), (B), and (D) of section 3929.41 of the 57529
Revised Code or the plan of operation of the association. 57530

Sec. 3929.67. (A) A medical liability insurance policy that 57531
insures a physician or podiatrist, written by or on behalf of the 57532
medical liability underwriting association pursuant to sections 57533
3929.62 to 3929.70 of the Revised Code, may only be cancelled 57534
during the term of the policy for one of the following reasons: 57535

(1) Nonpayment of premiums; 57536

(2) The license of the insured to practice medicine and 57537
surgery, osteopathic medicine and surgery, or podiatric medicine 57538
and surgery has been suspended or revoked; 57539

(3) The insured's failure to meet minimum eligibility and 57540
underwriting standards; 57541

(4) The occurrence of a change in the individual risk that 57542
substantially increases any hazard insured against after the 57543
coverage has been issued or renewed, except to the extent that the 57544
medical liability underwriting association reasonably should have 57545
foreseen the change or contemplated the risk in writing the 57546

policy; 57547

(5) Discovery of fraud or material misrepresentation in the 57548
procurement of insurance or with respect to any claim submitted 57549
thereunder. 57550

(B) A medical liability insurance policy that insures a 57551
hospital, written by or on behalf of the medical liability 57552
underwriting association pursuant to sections 3929.62 to 3929.70 57553
of the Revised Code, may only be cancelled during the term of the 57554
policy for one of the following reasons: 57555

(1) Nonpayment of premiums; 57556

(2) The hospital is not certified or accredited in accordance 57557
with Chapter 3727. of the Revised Code; 57558

(3) An injunction against the hospital has been granted under 57559
section ~~3727.05~~ 3727.04 of the Revised Code; 57560

(4) The insured's failure to meet minimum eligibility and 57561
underwriting standards; 57562

(5) The occurrence of a change in the individual risk that 57563
substantially increases any hazard insured against after the 57564
coverage has been issued or renewed, except to the extent that the 57565
medical liability underwriting association reasonably should have 57566
foreseen the change or contemplated the risk in writing the 57567
policy; 57568

(6) Discovery of fraud or material misrepresentation in the 57569
procurement of insurance or with respect to any claim submitted 57570
thereunder. 57571

Sec. 3953.23. (A) Every title insurance agent shall keep 57572
books of account and record and vouchers pertaining to the 57573
business of title insurance in such manner that the title 57574
insurance company may readily ascertain from time to time whether 57575
the agent has complied with this chapter. 57576

(B)(1) A title insurance agent may engage in the business of 57577
handling escrows of real property transactions ~~provided that~~ 57578
subject to all of the following: 57579

(a) The agent shall maintain a separate record of all 57580
receipts and disbursements of escrow funds ~~and shall not.~~ 57581

(b) The agent shall deposit funds held in trust at interest 57582
in either of the following accounts: 57583

(i) An account as required in section 3953.231 of the Revised 57584
Code and in accordance with all applicable rules; 57585

(ii) A separate escrow account for the benefit of one or more 57586
parties to the escrow transaction. 57587

(c) The agent shall not commingle any such funds with the 57588
agent's own funds or with funds held by the agent in any other 57589
capacity; ~~and if.~~ 57590

(d) The agent shall ensure that any person or entity 57591
delegated or assigned by the agent with the responsibility for 57592
handling escrows of real property transactions complies with all 57593
provisions of the Revised Code and any rules that are applicable 57594
to the agent. 57595

(e) If at any time the superintendent of insurance determines 57596
that an agent has failed to comply with any of the provisions of 57597
this section, the superintendent may revoke the license of the 57598
agent pursuant to section 3905.14 of the Revised Code, subject to 57599
review as provided for in Chapter 119. of the Revised Code. 57600

(C) All title insurance agents or agencies that handle 57602
escrows in real property transactions not involving the issuance 57603
of title insurance shall have coverage that protects the parties 57604
to such transactions against theft, misappropriation, fraud, or 57605
any other failure to properly disburse settlement, closing, or 57606

escrow funds. The superintendent shall adopt rules under Chapter 57607
119. of the Revised Code setting forth the minimum requirements 57608
for such coverage, including, but not limited to, the minimum 57609
amounts, terms, and conditions of such coverage. 57610

(D) The superintendent shall require every title insurance 57611
agent or agency and any subcontractors to maintain an errors and 57612
omissions policy, in any amount exceeding minimum limits 57613
established by the superintendent, that includes but is not 57614
limited to coverage for the agent's or agency's delegation of any 57615
agent or agency function. The superintendent shall adopt rules 57616
under Chapter 119. of the Revised Code setting forth the minimum 57617
requirements for that coverage, including but not limited to the 57618
minimum amounts, terms, and conditions of the coverage. 57619

Sec. 3953.231. (A)(1) Each title insurance agent or title 57620
insurance company shall establish and maintain an interest-bearing 57621
trust account for the deposit of all non-directed escrow funds 57622
~~that meet the requirements of sections 1349.20 to 1349.22 of the~~ 57623
Revised Code received by the agent to affect an escrow 57624
transaction. 57625

(2) The account established under division (A)(1) of this 57626
section shall be established and maintained in ~~any federally~~ 57627
~~insured bank, savings and loan association, credit union, or~~ 57628
~~savings bank that is authorized to transact business in this state~~ 57629
an eligible depository. 57630

(3) ~~The~~ Each account established under division (A)(1) of 57631
this section shall be in the name of the title insurance agent or 57632
company, and shall be identified as an "interest on trust account" 57633
or "IOTA." The name of the account may contain additional 57634
identifying information to distinguish it from other accounts. 57635

(4) The title insurance agent or company establishing the 57636
account shall submit, in writing, to the superintendent of 57637

insurance the name, account number, and location of the ~~bank,~~ 57638
~~savings and loan association, credit union, or savings bank~~ 57639
eligible depository in which the trust account is maintained. 57640

(B) Each title insurance agent or company shall deposit all 57641
non-directed escrow funds that are nominal in amount or are to be 57642
held for a short period of time into the account established under 57643
division (A) of this section no later than the next business day 57644
after receipt. 57645

(C) Each account established under division (A) of this 57646
section shall comply with all of the following: 57647

(1) All funds ~~in the~~ shall be deposited into an IOTA account 57648
product at an eligible depository and shall be subject to 57649
withdrawal or transfer upon request and without delay, or as soon 57650
as permitted by law; 57651

(2) ~~The rate of interest payable on the account shall not be~~ 57652
~~less than the rate paid by the bank, savings and loan, credit~~ 57653
~~union, or savings bank to its regular depositors. The rate may be~~ 57654
~~higher if there is no impairment of the right to the immediate~~ 57655
~~withdrawal or transfer of the principal;~~ (a) The approved rate of 57656
interest payable on the account shall equal or exceed the highest 57657
interest rate or dividend paid by the eligible depository on its 57658
account products that are not IOTA account products. The eligible 57659
depository shall pay on its IOTA account product any higher rates 57660
offered by it on its account products that are not IOTA account 57661
products. 57662

(b) In paying not less than the highest interest rate or 57663
dividend paid by the eligible depository on its account products 57664
that are not IOTA account products, an eligible depository shall 57665
do both of the following: 57666

(i) For IOTA accounts with balances of less than one hundred 57667
thousand dollars, pay a rate that equals or exceeds the highest 57668

rate paid on its business checking account paying preferred 57669
interest rates, such as money market or indexed rates, or any 57670
other similar, suitable interest-bearing account offered by the 57671
eligible depository on its account products that are not IOTA 57672
account products; 57673

(ii) For IOTA accounts with balances of one hundred thousand 57674
dollars or more, pay a rate that equals or exceeds the highest 57675
rate paid on its business checking account with an automated 57676
investment feature, such as an overnight sweep account, business 57677
investment or other similar premium checking account, short-term 57678
jumbo certificate of deposit, money market account, or any other 57679
similar, suitable interest-bearing account offered by the eligible 57680
depository on its account products that are not IOTA account 57681
products. 57682

(c) In determining the highest interest rate or dividend paid 57683
by the eligible depository on its account products that are not 57684
IOTA account products, an eligible depository shall consider the 57685
rates it offers its customers from internal rate sheets or through 57686
preferred or negotiated rates on a per customer basis. In 57687
considering the rate for the IOTA account product, the eligible 57688
depository may also take into consideration and discount for 57689
factors such as fees paid by the account-holder, time commitments, 57690
and withdrawal limitations. The eligible depository shall not use 57691
these factors to preclude the consideration of the rates paid on 57692
one or more of its account products that are not IOTA account 57693
products in the eligible depository's establishment of a rate for 57694
the IOTA account product. 57695

(d) If an eligible depository determines that it is unable to 57696
pay the approved rate during any reporting period, the eligible 57697
depository may request from the Ohio legal assistance foundation a 57698
waiver from the approved rate requirement for that reporting 57699
period. If an eligible depository requests a waiver from the 57700

approved rate requirement, the eligible depository shall 57701
demonstrate in the form and manner prescribed in rules adopted by 57702
the Ohio legal assistance foundation pursuant to section 120.52 of 57703
the Revised Code that the rates of interest paid on its IOTA 57704
account product are generally not less than the highest rates paid 57705
by the eligible depository on its account products that are not 57706
IOTA account products. At a minimum, the eligible depository shall 57707
demonstrate by an independent, third-party auditor's certification 57708
that not more than five per cent of the eligible depository's 57709
account products that are not IOTA account products with an 57710
average daily balance of greater than or equal to one hundred 57711
thousand dollars have rates that are higher than the rate paid on 57712
the its IOTA account product during the same reporting period. 57713

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(3) All interest earned on ~~the an~~ account, net of service 57715
~~charges and other related charges,~~ established under division 57716
(A)(1) of this section shall be transmitted to the treasurer of 57717
state for deposit in the legal aid fund established under section 57718
120.52 of the Revised Code. No part of the interest earned on 57719
funds deposited in an interest-bearing trust account established 57720
under division (A) of this section shall be paid to, or inure to 57721
the benefit of, the title insurance agent or company, the client 57722
or other person who owns or has a beneficial ownership of the 57723
funds deposited, or any other account, person, or entity other 57724
than in accordance with this section and sections 120.51 to 120.55 57725
of the Revised Code. 57726

(D) The title insurance agent or company establishing an 57727
account under division (A) of this section shall direct the ~~bank,~~ 57728
~~savings and loan association, credit union, or savings bank~~ 57729
eligible depository to do ~~both~~ all of the following: 57730

(1) Remit by the fifteenth day of each month interest or 57731
dividends on the average monthly balance in the account earned in 57732

the preceding month, or as otherwise computed in accordance with 57733
the standard accounting practice of the ~~bank, savings and loan~~ 57734
~~association, credit union, or savings bank, less reasonable~~ 57735
~~service charges and other related charges~~, eligible depository, to 57736
the treasurer of state ~~at least quarterly~~ for deposit in the legal 57737
aid fund established under section 120.52 of the Revised Code; 57738

(2) At the time of each remittance, transmit to the treasurer 57739
of state, ~~and if requested~~, to the Ohio legal assistance 57740
foundation, and, if requested, to the title insurance agent or 57741
company, a statement showing the name of the title insurance agent 57742
or company for whom the remittance is sent, the comparable 57743
accounts or product types and the rates paid as required in 57744
division (C)(2)(b) of this section, the rate of interest applied, 57745
the accounting period, the net amount remitted to the treasurer of 57746
state for each account, the total remitted, the average account 57747
balance for each month of the period for which the report is made, 57748
and the amount ~~deducted for~~ of service charges and other related 57749
charges assessed to and paid by the account holder or other party. 57750

(3) Notify the superintendent or other entity designated by 57751
the superintendent on each occasion when a properly payable 57752
instrument is presented for payment from the account and the 57753
account contains insufficient funds, provide this notice without 57754
regard to whether the instrument is honored by the eligible 57755
depository, provide this notice by electronic or other means 57756
within five banking days of the date that the instrument was 57757
honored or returned as dishonored, and include in the notice all 57758
of the following: 57759

(a) The name and address of the eligible depository; 57760

(b) The name and address of the title insurance agent or 57761
company that maintains the account; 57762

(c) The account number and either the amount of the overdraft 57763

and the date issued or the amount of the dishonored instrument and 57764
the date returned. 57765

(E) The statements and reports submitted by the ~~bank, savings~~ 57766
~~and loan association, credit union, or savings bank~~ eligible 57767
depository under this section, are confidential and are not public 57768
records subject to section 149.43 of the Revised Code and shall be 57769
used ~~only~~ by the Ohio legal assistance foundation to administer 57770
the legal aid fund and by the superintendent for the enforcement 57771
of this section. If any statement or report submitted by an 57772
eligible depository under this section is used by the 57773
superintendent for the enforcement of this section, that statement 57774
or report may become a public record subject to section 149.43 of 57775
the Revised Code. 57776

(F) No funds belonging to a title insurance agent or company 57777
shall be deposited into an account established under division (A) 57778
of this section except funds necessary to establish the account or 57779
to pay service charges and other related charges of the ~~bank,~~ 57780
~~savings and loan association, credit union, or savings bank that~~ 57781
~~are in excess of earnings on the account~~ eligible depository. 57782

(G) No liability arising out of any negligent act or omission 57783
of any title insurance agent or company with respect to any 57784
account established under division (A) of this section shall be 57785
imputed to the ~~bank, savings and loan association, credit union,~~ 57786
~~or savings bank~~ eligible depository. 57787

~~(H) No liability or responsibility arising out of any~~ 57788
~~negligent act or omission of any title insurance agent with~~ 57789
~~respect to any account established under division (A) of this~~ 57790
~~section shall be imputed to a title insurance company.~~ 57791

~~(I)~~ The superintendent may adopt, in accordance with Chapter 57792
119. of the Revised Code, rules that pertain to the use of 57793
accounts established under division (A) of this section and to the 57794

enforcement of this section. Any rules adopted by the 57795
superintendent under this division that pertain to the use of 57796
accounts established under division (A) of this section shall 57797
conform to the provisions of this section, section 3953.23 of the 57798
Revised Code, and any rules adopted by the Ohio legal assistance 57799
foundation pursuant to section 120.52 of the Revised Code. 57800

(I) As used in this section: 57801

(1) "Approved rate" means the minimum allowable rate of 57802
interest payable on an IOTA account product established and 57803
maintained under this section or an IOLTA account product 57804
established and maintained under sections 4705.09 and 4705.10 of 57805
the Revised Code. 57806

(2) "Eligible depository" means a depository or financial 57807
institution that satisfies all of the following requirements: 57808

(a) It voluntarily offers and maintains account products 57809
pursuant to sections 3953.231, 4705.09, and 4705.10 of the Revised 57810
Code and meets the requirements prescribed in those sections and 57811
any rules adopted by the Ohio legal assistance foundation pursuant 57812
to section 120.52 of the Revised Code. 57813

(b) It is a bank, savings bank, or savings and loan 57814
association authorized by federal or state law to do business in 57815
this state and insured by the Federal deposit insurance 57816
corporation or any successor insurance corporation or is a credit 57817
union authorized by federal or state law to do business in this 57818
state and insured by the national credit union administration or 57819
by a credit union share guaranty corporation in this state. 57820

(c) It has been certified by the Ohio legal assistance 57821
foundation as an eligible depository, based on the criterion 57822
provided in sections 120.52, 3953.231, 4705.09, and 4705.10 of the 57823
Revised Code, subject to a dispute resolution process established 57824
by rules adopted by the Ohio legal assistance foundation pursuant 57825

to section 120.52 of the Revised Code. 57826

(3) "Escrow transaction" means a transaction in which a 57827
person, for the purpose of effecting and closing the sale, 57828
purchase, exchange, transfer, encumbrance, or lease of an interest 57829
in commercial or residential real property located in this state 57830
to another person, provides a written instrument or document, 57831
money, negotiable instrument, check, evidence of title to real 57832
property, or anything of value to an escrow or closing agent to be 57833
held by the agent until a specified event occurs or until the 57834
performance of a prescribed condition, at which time the agent 57835
shall deliver it to a specific person in compliance with 57836
applicable instructions by filing that written instrument or 57837
document with the appropriate public entity or by direct tender to 57838
the appropriate person. 57839

(4) "IOTA account product" means a separate and unique 57840
product offered by an eligible depository that is used exclusively 57841
for the deposit of funds transferred electronically or otherwise, 57842
cash, money orders, or negotiable instruments that are received by 57843
a title insurance agent to effect an escrow transaction and fully 57844
complies with the account requirements of sections 120.52, 57845
3953.23, and 3953.231 of the Revised Code. 57846

Sec. 4104.01. As used in sections 4104.01 to 4104.20 and 57847
section 4104.99 of the Revised Code: 57848

(A) "Board of building standards" or "board" means the board 57849
established by section 3781.07 of the Revised Code. 57850

(B) "Superintendent" means the superintendent of ~~the division~~ 57851
~~of industrial compliance labor~~ created by section 121.04 of the 57852
Revised Code. 57853

(C) "Boiler" means a closed vessel in which water is heated, 57854
steam is generated, steam is superheated, or any combination 57855

thereof, under pressure or vacuum for use externally to itself by 57856
the direct application of heat from the combustion of fuels, or 57857
from electricity or nuclear energy. "Boiler" includes fired units 57858
for heating or vaporizing liquids other than water where these 57859
units are separate from processing systems and are complete within 57860
themselves. 57861

(D) "Power boiler" means a boiler in which steam or other 57862
vapor (to be used externally to itself) is generated at a pressure 57863
of more than fifteen psig. 57864

(E) "High pressure, high temperature water boiler" means a 57865
water heating boiler operating at pressures exceeding one hundred 57866
sixty psig or temperatures exceeding two hundred fifty degrees 57867
Fahrenheit. 57868

(F) "Low pressure boiler" means a steam boiler operating at 57869
pressures not exceeding fifteen psig, or a hot water heating 57870
boiler operating at pressures not exceeding one hundred sixty psig 57871
or temperatures not exceeding two hundred fifty degrees 57872
Fahrenheit. 57873

(G) "Pressure vessel" means a container for the containment 57874
of pressure, either internal or external. This pressure may be 57875
obtained from an external source or by the application of heat 57876
from a direct or indirect source or any combination thereof. 57877

(H) "Process boiler" means a boiler to which all of the 57878
following apply: 57879

(1) The steam in the boiler is either generated or 57880
superheated, or both, under pressure or vacuum for use external to 57881
itself. 57882

(2) The source of heat for the boiler is in part or in whole 57883
from a process other than the boiler itself. 57884

(3) The boiler is part of a continuous processing unit, such 57885

as used in chemical manufacture or petroleum refining, other than 57886
a steam-generated process unit. 57887

(I) "Stationary steam engine" means an engine or turbine in 57888
which the mechanical force arising from the elasticity and 57889
expansion action of steam or from its property of rapid 57890
condensation or from a combination of the two is made available as 57891
a motive power. 57892

Sec. 4104.02. The board of building standards shall: 57893

(A) Formulate rules for the construction, installation, 57894
repair, conservation of energy, and operation of boilers and the 57895
construction and repair of pressure vessels and for ascertaining 57896
the safe working pressures to be carried on such boilers and 57897
pressure vessels and the qualification of inspectors of boilers 57898
and pressure vessels; 57899

(B) Prescribe tests, if it is considered necessary, to 57900
ascertain the qualities of materials used in the construction of 57901
boilers and pressure vessels; 57902

(C) Adopt rules regulating the construction and sizes of 57903
safety valves for boilers and pressure vessels of different sizes 57904
and pressures, for the construction, use, and location of fusible 57905
plugs, appliances for indicating the pressure of steam and level 57906
of water in the boiler or pressure vessels, and such other 57907
appliances as the board considers necessary to safety in operating 57908
boilers; 57909

(D) Establish reasonable fees for the performance of reviews, 57910
surveys, or audits of manufacturer's facilities by the division of 57911
~~industrial compliance~~ labor for certification by the American 57912
society of mechanical engineers and the national board of boiler 57913
and pressure vessel inspectors; 57914

(E) The definitions and rules adopted by the board for the 57915

construction, installation, repair, conservation of energy, and 57916
operation of boilers and the construction and repair of pressure 57917
vessels and for ascertaining the safe working pressures to be used 57918
on such boilers and pressure vessels shall be based upon and 57919
follow generally accepted engineering standards, formulae, and 57920
practices established and pertaining to boilers and pressure 57921
vessel construction, operation, and safety, and the board may, for 57922
this purpose, adopt existing published standards as well as 57923
amendments thereto subsequently published by the same authority. 57924

When a person desires to manufacture a special type of boiler 57925
or pressure vessel, the design of which is not covered by the 57926
rules of the board, the person shall submit drawings and 57927
specifications of such boiler or pressure vessel to the board for 57928
investigation, after which the board may permit its installation. 57929

The provisions of sections 119.03 and 119.11 of the Revised 57930
Code in particular, and the applicable provisions of Chapter 119. 57931
of the Revised Code in general, shall govern the proceedings of 57932
the board of building standards in adopting, amending, or 57933
rescinding rules pursuant to this section. 57934

Sec. 4104.06. (A) The inspection of boilers and their 57935
appurtenances and pressure vessels shall be made by the inspectors 57936
mentioned in sections 4104.07 to 4104.20 of the Revised Code. The 57937
superintendent of ~~industrial compliance~~ labor shall administer and 57938
enforce such sections and rules adopted by the board of building 57939
standards pursuant to section 4104.02 of the Revised Code. 57940

(B) The superintendent shall adopt, amend, and repeal rules 57941
exclusively for the issuance, renewal, suspension, and revocation 57942
of certificates of competency and certificates of operation, for 57943
conducting hearings in accordance with Chapter 119. of the Revised 57944
Code related to these actions, and for the inspection of boilers 57945
57946

and their appurtenances, and pressure vessels. 57947

(C) Notwithstanding division (B) of this section, the 57948
superintendent shall not adopt rules relating to construction, 57949
maintenance, or repair of boilers and their appurtenances, or 57950
repair of pressure vessels. 57951

(D) The superintendent and each general inspector may enter 57952
any premises and any building or room at all reasonable hours to 57953
perform an examination or inspection. 57954

Sec. 4104.07. (A) An application for examination as an 57955
inspector of boilers and pressure vessels shall be in writing, 57956
accompanied by a fee of one hundred fifty dollars, upon a blank to 57957
be furnished by the superintendent of ~~industrial compliance~~ labor. 57958
Any moneys collected under this section shall be paid into the 57959
state treasury to the credit of the ~~industrial compliance~~ labor 57960
operating fund created in section 121.084 of the Revised Code. 57961
57962

(B) The superintendent shall determine if an applicant meets 57963
all the requirements for examination in accordance with rules 57964
adopted by the board of building standards under section 4104.02 57965
of the Revised Code. An application shall be rejected which 57966
contains any willful falsification, or untruthful statements. 57967

(C) An applicant shall be examined by the superintendent, by 57968
a written examination, prescribed by the board, dealing with the 57969
construction, installation, operation, maintenance, and repair of 57970
boilers and pressure vessels and their appurtenances, and the 57971
applicant shall be accepted or rejected on the merits of the 57972
applicant's application and examination. 57973

(D) Upon a favorable report by the superintendent of the 57974
result of an examination, the superintendent shall immediately 57975
issue to the successful applicant a certificate of competency to 57976

that effect. 57977

Sec. 4104.08. (A) The director of commerce may appoint from 57978
the holders of certificates of competency provided for in section 57979
4104.07 of the Revised Code, general inspectors of boilers and 57980
pressure vessels. 57981

(B) Any company authorized to insure boilers and pressure 57982
vessels against explosion in this state may designate from holders 57983
of certificates of competency issued by the superintendent of 57984
~~industrial compliance~~ labor, or holders of certificates of 57985
competency or commissions issued by other states or nations whose 57986
examinations for certificates or commissions have been approved by 57987
the board of building standards, persons to inspect and stamp 57988
boilers and pressure vessels covered by the company's policies, 57989
and the superintendent shall issue to such persons commissions 57990
authorizing them to act as special inspectors. Special inspectors 57991
shall be compensated by the company designating them. 57992

(C) The director ~~of commerce~~ shall establish an annual fee to 57993
be charged by the superintendent for each certificate of 57994
competency or commission the superintendent issues. 57995

(D) The superintendent shall issue to each general or special 57996
inspector a commission to the effect that the holder thereof is 57997
authorized to inspect boilers and pressure vessels in this state. 57998

(E) No person shall be authorized to act as a general 57999
inspector or a special inspector who is directly or indirectly 58000
interested in the manufacture or sale of boilers or pressure 58001
vessels. 58002

Sec. 4104.09. The certificate of competency issued under 58003
section 4104.07 of the Revised Code or the commission provided for 58004
in section 4104.08 of the Revised Code may be revoked by the 58005
superintendent of ~~industrial compliance~~ labor for the incompetence 58006

or untrustworthiness of the holder thereof, or for willful 58007
falsification of any matter or statement contained in the holder's 58008
application or in a report of any inspection in accordance with 58009
Chapter 119. of the Revised Code. If a certificate or commission 58010
is lost or destroyed, a new certificate or commission shall be 58011
issued in its place without another examination. 58012

Sec. 4104.10. All unfired pressure vessels, except unfired 58013
pressure vessels exempt under section 4104.04 of the Revised Code, 58014
shall be thoroughly inspected during fabrication and upon 58015
completion and shall not be operated until a copy of the 58016
manufacturers' data report, properly executed and signed by the 58017
inspector is filed in the office of the superintendent of 58018
~~industrial compliance~~ labor. All unfired pressure vessels shall 58019
conform in every detail with applicable rules adopted by the board 58020
of building standards pursuant to section 4104.02 of the Revised 58021
Code. 58022

Sec. 4104.101. (A) No person shall install or make major 58023
repairs or modifications to any boiler without first registering 58024
to do so with the division of ~~industrial compliance~~ labor. 58025

(B) No person shall make any installation or major repair or 58026
modification of any boiler without first obtaining a permit to do 58027
so from the division. The permit application form shall provide 58028
the name and address of the owner, location of the boiler, and 58029
type of repair or modification that will be made. The application 58030
permit fee shall be ~~fifty~~ one hundred dollars. 58031

(C) The superintendent of ~~industrial compliance~~ labor shall 58032
require annual registration of all contractors who install, make 58033
major repairs to, or modify any boiler. The board of building 58034
standards shall establish a reasonable fee to cover the cost of 58035
processing registrations. 58036

Sec. 4104.12. All boilers, except boilers mentioned in 58037
section 4104.04 of the Revised Code, shall be inspected when 58038
installed and shall not be operated until an appropriate 58039
certificate of operation has been issued by the superintendent of 58040
~~the division of industrial compliance~~ labor. The certificate of 58041
operation required by this section shall not be issued for any 58042
boiler which has not been thoroughly inspected during construction 58043
and upon completion, by either a general or special inspector, and 58044
which does not conform in every detail with the rules adopted by 58045
the board of building standards and unless, upon completion, such 58046
boiler is distinctly stamped under such rules by such inspector. 58047

Sec. 4104.15. (A) All certificates of inspection for boilers, 58048
issued prior to October 15, 1965, are valid and effective for the 58049
period set forth in such certificates unless sooner withdrawn by 58050
the superintendent of ~~industrial compliance~~ labor. The owner or 58051
user of any such boiler shall obtain an appropriate certificate of 58052
operation for such boiler, and shall not operate such boiler, or 58053
permit it to be operated unless a certificate of operation has 58054
been obtained in accordance with section 4104.17 of the Revised 58055
Code. 58056

(B) If, upon making the internal and external inspection 58057
required under sections 4104.11, 4104.12, and 4104.13 of the 58058
Revised Code, the inspector finds the boiler to be in safe working 58059
order, with the fittings necessary to safety, and properly set up, 58060
upon the inspector's report to the superintendent, the 58061
superintendent shall issue to the owner or user thereof, or renew, 58062
upon application and upon compliance with sections 4104.17 and 58063
4104.18 of the Revised Code, a certificate of operation which 58064
shall state the maximum pressure at which the boiler may be 58065
operated, as ascertained by the rules of the board of building 58066
standards. Such certificates shall also state the name of the 58067

owner or user, the location, size, and number of each boiler, and 58068
the date of issuance, and shall be so placed as to be easily read 58069
in the engine room or boiler room of the plant where the boiler is 58070
located, except that the certificate of operation for a portable 58071
boiler shall be kept on the premises and shall be accessible at 58072
all times. 58073

(C) If an inspector at any inspection finds that the boiler 58074
or pressure vessel is not in safe working condition, or is not 58075
provided with the fittings necessary to safety, or if the fittings 58076
are improperly arranged, the inspector shall immediately notify 58077
the owner or user and person in charge of the boiler and shall 58078
report the same to the superintendent who may revoke, suspend, or 58079
deny the certificate of operation and not renew the same until the 58080
boiler or pressure vessel and its fittings are put in condition to 58081
insure safety of operation, and the owner or user shall not 58082
operate the boiler or pressure vessel, or permit it to be operated 58083
until such certificate has been granted or restored. 58084

(D) If the superintendent or a general boiler inspector finds 58085
that a pressure vessel or boiler or a part thereof poses an 58086
explosion hazard that reasonably can be regarded as posing an 58087
imminent danger of death or serious physical harm to persons, the 58088
superintendent or the general boiler inspector shall seal the 58089
pressure vessel or boiler and order, in writing, the operator or 58090
owner of the pressure vessel or boiler to immediately cease the 58091
pressure vessel's or boiler's operation. The order shall be 58092
effective until the nonconformities are eliminated, corrected, or 58093
otherwise remedied, or for a period of seventy-two hours from the 58094
time of issuance, whichever occurs first. During the 58095
seventy-two-hour period, the superintendent may request that the 58096
prosecuting attorney or city attorney of Franklin county or of the 58097
county in which the pressure vessel or boiler is located obtain an 58098
injunction restraining the operator or owner of the pressure 58099

vessel or boiler from continuing its operation after the 58100
seventy-two-hour period expires until the nonconformities are 58101
eliminated, corrected, or otherwise remedied. 58102

(E) Each boiler which has been inspected shall be assigned a 58103
number by the superintendent, which number shall be stamped on a 58104
nonferrous metal tag affixed to the boiler or its fittings by seal 58105
or otherwise. No person except an inspector shall deface or remove 58106
any such number or tag. 58107

(F) If the owner or user of any pressure vessel or boiler 58108
disagrees with the inspector as to the necessity for shutting down 58109
a pressure vessel or boiler or for making repairs or alterations 58110
in it, or taking any other measures for safety that are requested 58111
by an inspector, the owner or user may appeal from the decision of 58112
the inspector to the superintendent, who may, after such other 58113
inspection by a general inspector or special inspector as the 58114
superintendent deems necessary, decide the issue. 58115

(G) Neither sections 4104.01 to 4104.20 of the Revised Code, 58116
nor an inspection or report by any inspector, shall relieve the 58117
owner or user of a pressure vessel or boiler of the duty of using 58118
due care in the inspection, operation, and repair of the pressure 58119
vessel or boiler or of any liability for damages for failure to 58120
inspect, repair, or operate the pressure vessel or boiler safely. 58121

Sec. 4104.16. The owner or user of any boiler required by 58122
sections 4104.01 to 4104.20 of the Revised Code, to be inspected, 58123
shall immediately notify the superintendent of ~~the division of~~ 58124
~~industrial compliance labor~~ in case a defect affecting the safety 58125
of the boiler is discovered. 58126

The owner or user of any stationary boiler required by such 58127
sections to be inspected, who moves the same, shall report to the 58128
superintendent the new location of the boiler. Such boiler shall 58129
be inspected before it is again operated. 58130

Sec. 4104.17. Certificates of operation issued for boilers 58131
subject to inspection under Chapter 4104. of the Revised Code 58132
shall be issued and renewed in accordance with and at dates 58133
prescribed by rules and regulations adopted by the superintendent 58134
of ~~industrial compliance~~ labor. 58135

Sec. 4104.18. (A) The owner or user of a boiler required 58136
under section 4104.12 of the Revised Code to be inspected upon 58137
installation, and the owner or user of a boiler for which a 58138
certificate of inspection has been issued which is replaced with 58139
an appropriate certificate of operation, shall pay to the 58140
superintendent of ~~industrial compliance~~ labor a fee in the amount 58141
of ~~forty-five~~ fifty dollars for boilers subject to annual 58142
inspections under section 4104.11 of the Revised Code, ~~ninety one~~ 58143
hundred dollars for boilers subject to biennial inspection under 58144
section 4104.13 of the Revised Code, one hundred ~~thirty-five~~ fifty 58145
dollars for boilers subject to triennial inspection under section 58146
4104.11 of the Revised Code, or two hundred ~~twenty-five~~ fifty 58147
dollars for boilers subject to quinquennial inspection under 58148
section 4104.13 of the Revised Code. 58149

~~A renewal fee in the amount of forty five dollars shall be 58150
paid to the treasurer of state before the renewal of any 58151
certificate of operation. 58152~~

(B) The fee for complete inspection during construction by a 58153
general inspector on boilers and pressure vessels manufactured 58154
within the state shall be thirty-five dollars per hour. Boiler and 58155
pressure vessel manufacturers other than those located in the 58156
state may secure inspection by a general inspector on work during 58157
construction, upon application to the superintendent, and upon 58158
payment of a fee of thirty-five dollars per hour, plus the 58159
necessary traveling and hotel expenses incurred by the inspector. 58160

(C) The application fee for applicants for steam engineer, 58161
high pressure boiler operator, or low pressure boiler operator 58162
licenses is ~~fifty~~ seventy-five dollars. The fee for each original 58163
or renewal steam engineer, high pressure boiler operator, or low 58164
pressure boiler operator license is ~~thirty-five~~ fifty dollars. 58165

(D) The director of commerce, subject to the approval of the 58166
controlling board, may establish fees in excess of the fees 58167
provided in divisions (A), (B), and (C) of this section. Any 58168
moneys collected under this section shall be paid into the state 58169
treasury to the credit of the ~~industrial compliance~~ labor 58170
operating fund created in section 121.084 of the Revised Code. 58171

(E) Any person who fails to pay an invoiced renewal fee or an 58172
invoiced inspection fee required for any inspection conducted by 58173
the division of ~~industrial compliance~~ labor pursuant to this 58174
chapter within forty-five days of the invoice date shall pay a 58175
late payment fee equal to twenty-five per cent of the invoiced 58176
fee. 58177

(F) In addition to the fees assessed in divisions (A) and (B) 58178
of this section, the board of building standards shall assess the 58179
owner or user a fee of three dollars and twenty-five cents for 58180
each certificate of operation or renewal thereof issued under 58181
division (A) of this section and for each inspection conducted 58182
under division (B) of this section. The board shall adopt rules, 58183
in accordance with Chapter 119. of the Revised Code, specifying 58184
the manner by which the superintendent shall collect and remit to 58185
the board the fees assessed under this division and requiring that 58186
remittance of the fees be made at least quarterly. 58187

Sec. 4104.19. (A) Any person seeking a license to operate as 58188
a steam engineer, high pressure boiler operator, or low pressure 58189
boiler operator shall file a written application with the 58190
superintendent of ~~industrial compliance~~ labor on a form prescribed 58191

by the superintendent with the appropriate application fee as set 58192
forth in section 4104.18 of the Revised Code. The application 58193
shall contain information satisfactory to the superintendent to 58194
demonstrate that the applicant meets the requirements of division 58195
(B) of this section. The application shall be filed with the 58196
superintendent not more than sixty days and not less than thirty 58197
days before the license examination is offered. 58198

(B) To qualify to take the examination required to obtain a 58199
steam engineer, high pressure boiler operator, or low pressure 58200
boiler operator license, a person shall meet both of the following 58201
requirements: 58202

(1) Be at least eighteen years of age; 58203

(2) Have one year of experience in the operation of steam 58204
engines, high pressure boilers, or low pressure boilers as 58205
applicable to the type of license being sought, or a combination 58206
of experience and education for the type of license sought as 58207
determined to be acceptable by the superintendent. 58208

(C) No applicant shall qualify to take an examination or to 58209
renew a license if the applicant has violated this chapter or if 58210
the applicant has obtained or renewed a license issued under this 58211
chapter by fraud, misrepresentation, or deception. 58212

(D) The superintendent shall issue a license to each 58213
applicant who receives a passing score on the examination, as 58214
determined by the superintendent, for the license for which the 58215
applicant applied. 58216

(E) The superintendent may select and contract with one or 58217
more persons to do all of the following relative to the 58218
examinations for a license to operate as a steam engineer, high 58219
pressure boiler operator, or low pressure boiler operator: 58220

(1) Prepare, administer, score, and maintain the 58221
confidentiality of the examination; 58222

(2) Maintain responsibility for all expenses required to fulfill division (E)(1) of this section;	58223 58224
(3) Charge each applicant a fee for administering the examination, in an amount authorized by the superintendent;	58225 58226
(4) Design the examination for each type of license to determine an applicant's competence to operate the equipment for which the applicant is seeking licensure.	58227 58228 58229
(F) Each license issued under this chapter expires one year after the date of issue. Each person holding a valid, unexpired license may renew the license, without reexamination, by applying to the superintendent not more than ninety days before the expiration of the license, and submitting with the application the renewal fee established in section 4104.18 of the Revised Code. Upon receipt of the renewal information and fee, the superintendent shall issue the licensee a certificate of renewal.	58230 58231 58232 58233 58234 58235 58236 58237
(G) The superintendent, in accordance with Chapter 119. of the Revised Code, may suspend or revoke any license, or may refuse to issue a license under this chapter upon finding that a licensee or an applicant for a license has violated or is violating the requirements of this chapter.	58238 58239 58240 58241 58242
Sec. 4104.21. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the superintendent of industrial compliance <u>labor</u> shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a certificate or license issued pursuant to this chapter.	58243 58244 58245 58246 58247 58248
Sec. 4104.33. There is hereby created the historical boilers licensing board consisting of seven members, three of whom shall be appointed by the governor with the advice and consent of the senate. The governor shall make initial appointments to the board	58249 58250 58251 58252

within ninety days after ~~the effective date of this section~~ 58253
October 24, 2002. Of the initial members appointed by the 58254
governor, one shall be for a term ending three years after ~~the~~ 58255
~~effective date of this section~~ October 24, 2002, one shall be for 58256
a term ending four years after ~~the effective date of this section~~ 58257
October 24, 2002, and one shall be for a term ending five years 58258
after ~~the effective date of this section~~ October 24, 2002. 58259

Thereafter, terms of office shall be for five years, each term 58260
ending on the same day of the same month of the year as did the 58261
term that it succeeds. Of the three members the governor appoints, 58262
one member shall be an employee of the division of boiler 58263
inspection in the department of commerce; one member shall be an 58264
independent mechanical engineer who is not involved in selling or 58265
inspecting historical boilers; and one shall be an active member 58266
of an association that represents managers of fairs or festivals. 58267

Two members of the board shall be appointed by the president 58268
of the senate and two members of the board shall be appointed by 58269
the speaker of the house of representatives. The president and 58270
speaker shall make initial appointments to the board within ninety 58271
days after ~~the effective date of this section~~ October 24, 2002. Of 58272
the initial members appointed by the president, one shall be for a 58273
term ending four years after ~~the effective date of this section~~ 58274
October 24, 2002 and one shall be for a term ending five years 58275
after ~~the effective date of this section~~ October 24, 2002. Of the 58276
initial members appointed by the speaker, one shall be for a term 58277
ending three years after ~~the effective date of this section~~ 58278
October 24, 2002 and one shall be for a term ending five years 58279
after ~~the effective date of this section~~ October 24, 2002. 58280

Thereafter, terms of office shall be for five years, each term 58281
ending on the same day of the same month of the year as did the 58282
term that it succeeds. Of the four members appointed by the 58283
president and speaker, each shall own a historical boiler and also 58284
have at least ten years of experience in the operation of 58285

historical boilers, and each of these four members shall reside in a different region of the state.

Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for initial appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the successor takes office or until a period of sixty days has elapsed, whichever occurs first.

The members of the board, annually, shall elect, by majority vote, a chairperson from among their members. The board shall meet at least once annually and at other times at the call of the chairperson. Board members shall receive their actual and necessary expenses incurred in the discharge of their duties as board members.

The superintendent of ~~the division of industrial compliance~~ labor shall furnish office space, staff, and supplies to the board as the superintendent determines are necessary for the board to carry out its official duties under sections 4104.33 to 4104.37 of the Revised Code.

Sec. 4104.42. (A) The owner of any power piping or process piping system shall ensure that all of the following are performed in compliance with applicable sections of the B31 standards contained in the code for pressure piping, published by the American society of mechanical engineers:

(1) The design, fabrication, assembly, installation, testing, examination, and inspection of power and process piping systems;

(2) Qualification of personnel and qualification of welding and brazing procedures;	58316 58317
(3) The implementation of an inspection program.	58318
(B) The owner of a power piping or process piping system shall do both of the following:	58319 58320
(1) Maintain for five years complete records documenting the design, examination, and testing of the piping system that include all of the following:	58321 58322 58323
(a) The specific edition of the code for pressure piping used in the design;	58324 58325
(b) The design assumptions;	58326
(c) The calculations, piping material specifications, and construction documents for the piping;	58327 58328
(d) The records of piping alterations;	58329
(e) The piping examination and inspection records.	58330
(2) Disclose the types and quantities of flammable, combustible, or hazardous materials proposed to be used in the facility to the building and fire code enforcement authorities who have inspection authority to enable those authorities to determine compliance with the rules the board of building standards adopts pursuant to section 3781.10 of the Revised Code and the rules the state fire marshal adopts pursuant to section 3737.82 of the Revised Code.	58331 58332 58333 58334 58335 58336 58337 58338
(C) No person or state agency shall require that the records described in division (B)(1) of this section be submitted to the division of industrial compliance <u>labor</u> in the department of commerce or to a certified building department for approval.	58339 58340 58341 58342
(D) Nothing in this section limits the application of Chapters 4703. and 4733. of the Revised Code.	58343 58344

Sec. 4104.43. (A)(1) The board of building standards shall 58345
adopt rules establishing requirements for the design, 58346
installation, inspection of and design review procedure for 58347
building services piping. 58348

(2) The board of building standards shall adopt rules 58349
establishing requirements for the design, installation, inspection 58350
of and design review procedure for nonflammable medical gas, 58351
medical oxygen, and medical vacuum piping systems. 58352

(B) A municipal, township, or county building department 58353
certified under division (E) of section 3781.10 of the Revised 58354
Code shall enforce the rules the board adopts pursuant to division 58355
(A)(2) of this section if that building department requests and 58356
obtains special certification to enforce those rules. 58357

(C) In a health district where no municipal, township, or 58358
county building department is specially certified under division 58359
(B) of this section, an employee of the health district shall 58360
enforce the rules adopted pursuant to division (A)(2) of this 58361
section if both of the following conditions are satisfied: 58362

(1) The health district employee requests and obtains special 58363
certification by the board to enforce those rules. 58364

(2) The health district notifies the superintendent of the 58365
division of ~~industrial compliance~~ labor in the department of 58366
commerce that the health district's specially certified employee 58367
shall enforce those rules. 58368

(D) In a jurisdiction where enforcement authority as 58369
described in divisions (B) and (C) of this section does not exist, 58370
the superintendent of ~~the division of industrial compliance~~ labor 58371
shall enforce the rules the board adopts pursuant to division 58372
(A)(2) of this section. 58373

Sec. 4104.44. All welding and brazing of metallic piping 58374

systems shall be performed in accordance with section IX of the 58375
boiler and pressure vessel code, published by the American society 58376
of mechanical engineers. The owner shall maintain, at the job 58377
site, the certified performance qualification records of all 58378
welders and brazers employed at the facility. The owner shall 58379
submit copies of all certified welding and brazing procedure 58380
specifications, procedure qualification records, and performance 58381
qualification records for building services piping for review to 58382
the superintendent of ~~the division of industrial compliance~~ labor 58383
in the department of commerce in accordance with rules the 58384
superintendent adopts. The submission shall be accompanied by the 58385
fee the superintendent establishes. 58386

Sec. 4104.48. (A) No person shall violate sections 4104.41 to 58387
4104.48 of the Revised Code, fail to perform any duty lawfully 58388
enjoined in connection with those sections, or fail to comply with 58389
any order issued by the superintendent of ~~the division of~~ 58390
~~industrial compliance~~ labor or any judgment or decree issued by 58391
any court in connection with the enforcement of sections 4104.41 58392
to 4104.48 of the Revised Code. 58393

(B) Every day during which a person violates sections 4104.41 58394
to 4104.48 of the Revised Code, fails to perform any duty lawfully 58395
enjoined in connection with those sections, or fails to comply 58396
with any order issued by the superintendent ~~of the division of~~ 58397
~~industrial compliance~~ or any judgment or decree issued by any 58398
court in connection with the enforcement of sections 4104.41 to 58399
4104.48 of the Revised Code constitutes a separate offense. 58400

Sec. 4105.01. As used in this chapter: 58401

(A) "Elevator" means a hoisting and lowering apparatus 58402
equipped with a car, cage, or platform which moves on or between 58403
permanent rails or guides and serves two or more fixed landings in 58404

a building or structure to which section 3781.06 of the Revised Code applies. "Elevator" includes dumb-waiters other than hand-powered dumb-waiters, escalators, ~~manlifts~~ peoplelifts, moving walks, of the endless belt type, other lifting or lowering apparatus permanently installed on or between rails or guides, and all equipment, machinery, and construction related to any elevator; but does not include construction hoists and other similar temporary lifting or lowering apparatuses, ski lifts, traveling, portable amusement rides or devices that are not affixed to a permanent foundation, or nonportable amusement rides or devices that are affixed to a permanent foundation.

(B) "Passenger elevator" means an elevator that is designed to carry persons to its contract capacity.

(C) "Freight elevator" means an elevator normally used for carrying freight and on which only the operator and employees in the pursuit of their duties, by the permission of the employer, are allowed to ride.

(D) "Gravity elevator" means an elevator utilizing gravity to move.

(E) "General inspector" means a state inspector examined and hired to inspect elevators and lifting apparatus for that state.

(F) "Special inspector" means an inspector examined and commissioned by the superintendent of ~~the division of industrial compliance labor~~ to inspect elevators and lifting apparatus in the state.

(G) "Inspector" means either a general or special inspector.

Sec. 4105.02. No person may act, either as a general inspector or as a special inspector, of elevators, unless ~~he~~ the person holds a certificate of competency from the division of ~~industrial compliance labor~~.

Application for examination as an inspector of elevators 58435
shall be in writing, accompanied by a fee to be established as 58436
provided in section 4105.17 of the Revised Code, and upon a blank 58437
to be furnished by the division, stating the school education of 58438
the applicant, a list of ~~his~~ the applicant's employers, ~~his~~ the 58439
applicant's period of employment, and the position held with each. 58440
An applicant shall also submit a letter from one or more of ~~his~~ 58441
the applicant's previous employers certifying as to ~~his~~ the 58442
applicant's character and experience. 58443

Applications shall be rejected which contain any willful 58444
falsification or untruthful statements. An applicant, if the 58445
division considers ~~his~~ the applicant's history and experience 58446
sufficient, shall be examined by the superintendent of ~~the~~ 58447
~~division of industrial compliance~~ labor by a written examination 58448
dealing with the construction, installation, operation, 58449
maintenance, and repair of elevators and their appurtenances, and 58450
the applicant shall be accepted or rejected on the merits of ~~his~~ 58451
the applicant's application and examination. 58452

The superintendent shall issue a certificate of competency in 58453
the inspection of elevators to any applicant found competent upon 58454
examination. A rejected applicant shall be entitled, after the 58455
expiration of ninety days and upon payment of an examination fee 58456
to be established as provided in section 4105.17 of the Revised 58457
Code, to another examination. Should an applicant fail to pass the 58458
prescribed examination on second trial, ~~he~~ the applicant will not 58459
be permitted to be an applicant for another examination for a 58460
period of one year after the second examination. 58461

Sec. 4105.03. The superintendent of ~~the division of~~ 58462
~~industrial compliance~~ labor, with the consent of the director of 58463
commerce, shall hire an assistant who has at least ten years of 58464
experience in the construction, installation, maintenance, and 58465

repair of elevators and their appurtenances. 58466

The superintendent, with the consent of the director of ~~of~~ 58467
~~commerce~~, and in compliance with Chapter 124. of the Revised Code, 58468
may appoint and hire general inspectors of elevators from the 58469
holders of certificates of competency. 58470

Sec. 4105.04. From the holders of certificates of competency 58471
in the inspection of elevators, any company that is authorized to 58472
insure elevators in the state, may designate persons to inspect 58473
elevators covered by such company's policies, and the department 58474
of public safety of any city and the clerk of any village may 58475
designate persons to inspect elevators in such city or village. 58476
Such persons shall, upon the payment of a fee to be established as 58477
provided in section 4105.17 of the Revised Code, have issued to 58478
them annually by the division of ~~industrial compliance~~ labor, 58479
commissions to serve as special inspectors of elevators in the 58480
state. 58481

Sec. 4105.05. A commission to serve as a special inspector 58482
may be suspended or revoked by the superintendent of ~~the division~~ 58483
~~of industrial compliance~~ labor, for the incompetence or 58484
untrustworthiness of the holder thereof, or for the falsification 58485
of any matter or statement contained in ~~his~~ the holder's 58486
application or in a report of any inspection. 58487

Sec. 4105.06. If a certificate or commission issued under 58488
sections 4105.02 and 4105.04 of the Revised Code is lost or 58489
destroyed a new one shall be issued in its place by the division 58490
of ~~industrial compliance~~ labor without another examination, upon 58491
the payment of a fee to be established as provided in section 58492
4105.07 of the Revised Code. 58493

Sec. 4105.09. The owner or user of any elevator shall 58494

register, with the division of ~~industrial compliance labor~~, every 58495
elevator operated by ~~him~~ the owner or user, giving the type, 58496
capacity, and description, name of manufacturer, and purpose for 58497
which each is used. Such registration shall be made on a form to 58498
be furnished by the division. 58499

Sec. 4105.11. The inspection of elevators shall be made by 58500
the inspectors authorized in sections 4105.03 and 4105.04 of the 58501
Revised Code, under the supervision of the superintendent of ~~the~~ 58502
~~division of industrial compliance labor~~, and the superintendent 58503
shall enforce this chapter and any rules adopted pursuant thereto. 58504

Every inspector shall forward to the superintendent a full 58505
and complete report of each inspection made of any elevator and 58506
shall, on the day the inspection is completed, leave a copy of 58507
such report with the owner or operator of the elevator, or ~~his~~ the 58508
owner's or operator's agent or representative. Such report shall 58509
indicate the exact condition of the elevator and shall list any 58510
and all of the provisions of this chapter and any rules adopted 58511
pursuant thereto, with which the elevator does not comply. Before 58512
attempting to enforce, by any remedy, civil or criminal, the 58513
provisions with which the inspected elevator does not comply, the 58514
chief shall issue an adjudication order within the meaning of 58515
Chapter 119. of the Revised Code. 58516

The approval of construction plans, or an application of 58517
specifications under section 4105.16 of the Revised Code is a 58518
license, and the failure to approve such plans or specifications 58519
by the chief within sixty days after they are filed is an 58520
adjudication order denying the issuance of a license. 58521

Every adjudication order shall specify what appliances, site 58522
preparations, additions, repairs, or alterations to any elevators, 58523
plans, materials, assemblages, or procedures are necessary for the 58524
same to comply with this chapter, or any rules adopted pursuant 58525

thereto. Such adjudication order shall be issued pursuant to 58526
Chapter 119. of the Revised Code and shall be effective without 58527
prior hearing, within thirty days after the receipt of such order, 58528
the owner of the elevator specified therein may appeal to the 58529
board of building appeals under section 3781.19 of the Revised 58530
Code. 58531

Notwithstanding the provisions of Chapter 119. of the Revised 58532
Code relating to adjudication hearings, a stenographic or 58533
mechanical record of the testimony and other evidence submitted 58534
before the board of building appeals shall be taken at the expense 58535
of the agency. A party adversely affected by an order issued 58536
following such adjudication hearing may appeal to the court of 58537
common pleas of the county in which ~~he~~ the party is a resident or 58538
in which the elevator affected by such order is located. The court 58539
in such case shall not be confined to the record as certified to 58540
it by the agency, but any party may produce additional evidence 58541
and the court shall hear the matter upon such record and such 58542
additional evidence as is introduced by any party. The court shall 58543
not affirm the order of the agency unless the preponderance of the 58544
evidence before it supports the reasonableness and lawfulness of 58545
such order, and of any rules upon which the order of the agency is 58546
based in its application to the facts involved in the appeal. 58547

Failure to comply with the requirements of any order issued 58548
pursuant to this section or the continued operation of any 58549
elevator after it has been sealed pursuant to section 4105.21 of 58550
the Revised Code is hereby declared a public nuisance. 58551

Sec. 4105.12. (A) The superintendent of ~~the division of~~ 58552
~~industrial compliance~~ labor shall adopt, amend, and repeal rules 58553
exclusively for the issuance, renewal, suspension, and revocation 58554
of certificates of competency and certificates of operation, for 58555
the conduct of hearings related to these actions, and for the 58556

inspection of elevators. 58557

(B) Notwithstanding division (A) of this section, the 58558
superintendent shall not adopt rules relating to construction, 58559
maintenance, and repair of elevators. 58560

Sec. 4105.13. Every elevator shall be constructed, equipped, 58561
maintained, and operated, with respect to the supporting members, 58562
elevator car, shaftways, guides, cables, doors, and gates, safety 58563
stops and mechanism, electrical apparatus and wiring, mechanical 58564
apparatus, counterweights, and all other appurtenances, in 58565
accordance with state laws and rules as are authorized in respect 58566
thereto. Where reasonable safety is obtained without complying to 58567
the literal requirements of such rules as in cases of practical 58568
difficulty or unnecessary hardship, the literal requirements of 58569
such rules shall not be required. The superintendent of ~~the~~ 58570
~~division of industrial compliance~~ labor may permit the 58571
installation of vertical wheelchair lifts in public buildings to 58572
provide for handicapped accessibility where such lifts do not meet 58573
the literal requirements of the rules adopted by the board of 58574
building standards pursuant to section 4105.011 of the Revised 58575
Code, provided that reasonable safety may be obtained. 58576

Sec. 4105.15. No certificate of operation for any elevator 58577
shall be issued by the director of commerce until such elevator 58578
has been inspected as required by this chapter. Certificates of 58579
operation shall be renewed by the owner or user of the elevator in 58580
accordance with rules adopted by the superintendent of ~~the~~ 58581
~~division of industrial compliance~~ labor pursuant to section 58582
4105.12 of the Revised Code. 58583

Sec. 4105.16. Before any new installation of an elevator of 58584
permanent nature is erected or before any existing elevator is 58585
removed to and installed in a different location, an application 58586

of specifications in duplicate shall be submitted to the division 58587
of ~~industrial compliance~~ labor giving such information concerning 58588
the construction, installation, and operation of said elevator as 58589
the division may require on forms to be furnished by the division, 58590
together with complete construction plans in duplicate. In all 58591
cases where any changes or repairs are made which alter its 58592
construction of classification, grade or rated lifting capacity, 58593
except when made pursuant to a report of an inspector, an 58594
application of specifications in duplicate shall be submitted to 58595
the division, containing such information, or approval, except in 58596
those municipal corporations which maintain their own elevator 58597
inspection departments, in which event such specifications shall 58598
be submitted to the elevator department of the municipal 58599
corporation for its approval, and if approved, a permit for the 58600
erection or repair of such elevator shall be issued by the 58601
municipal corporation. Upon approval of such application and 58602
construction plans, the superintendent of ~~industrial compliance~~ 58603
labor shall issue a permit for the erection or repair of such 58604
elevator. No new elevator shall be operated until completion in 58605
accordance with the approved plans and specifications, unless a 58606
temporary permit is granted by the division. 58607

The final inspection, before operation, of a permanent, new 58608
or repaired elevator shall be made by a general inspector or a 58609
special inspector designated by the superintendent. 58610

Sec. 4105.17. (A) The fee for each inspection, or attempted 58611
inspection that, due to no fault of a general inspector or the 58612
division of ~~industrial compliance~~ labor, is not successfully 58613
completed, by a general inspector before the operation of a 58614
permanent new elevator prior to the issuance of a certificate of 58615
operation, before operation of an elevator being put back into 58616
service after a repair or after an adjudication under section 58617
4105.11 of the Revised Code, or as a result of the operation of 58618

section 4105.08 of the Revised Code and is an elevator required to 58619
be inspected under this chapter is one hundred twenty dollars plus 58620
ten dollars for each floor where the elevator stops. The 58621
superintendent of ~~industrial compliance~~ labor may assess an 58622
additional fee of one hundred ~~twenty five~~ twenty dollars plus ~~five~~ 58623
ten dollars for each floor where an elevator stops for the 58624
reinspection of an elevator when a previous attempt to inspect 58625
that elevator has been unsuccessful through no fault of a general 58626
inspector or the division of ~~industrial compliance~~. 58627

(B) The fee for each inspection, or attempted inspection, 58628
that due to no fault of the general inspector or the division of ~~of~~ 58629
~~industrial compliance~~, is not successfully completed by a general 58630
inspector before operation of a permanent new escalator or moving 58631
walk prior to the issuance of a certificate of operation, before 58632
operation of an escalator or moving walk being put back in service 58633
after a repair, or as a result of the operation of section 4105.08 58634
of the Revised Code is three hundred dollars. The superintendent 58635
of ~~the division of industrial compliance~~ may assess an additional 58636
fee of one hundred fifty dollars for the reinspection of an 58637
escalator or moving walk when a previous attempt to inspect that 58638
escalator or moving walk has been unsuccessful through no fault of 58639
the general inspector or the division of ~~industrial compliance~~. 58640

(C) The fee for issuing or renewing a certificate of 58641
operation under section 4105.15 of the Revised Code for an 58642
elevator that is inspected every six months in accordance with 58643
division (A) of section 4105.10 of the Revised Code is two hundred 58644
twenty dollars plus ~~ten~~ twelve dollars for each floor where the 58645
elevator stops, except where the elevator has been inspected by a 58646
special inspector in accordance with section 4105.07 of the 58647
Revised Code. 58648

(D) The fee for issuing or renewing a certificate of 58649
operation under section 4105.05 of the Revised Code for an 58650

elevator that is inspected every twelve months in accordance with 58651
division (A) of section 4105.10 of the Revised Code is fifty-five 58652
dollars plus ten dollars for each floor where the elevator stops, 58653
except where the elevator has been inspected by a special 58654
inspector in accordance with section 4105.07 of the Revised Code. 58655

(E) The fee for issuing or renewing a certificate of 58656
operation under section 4105.15 of the Revised Code for an 58657
escalator or moving walk is three hundred dollars, except where 58658
the escalator or moving walk has been inspected by a special 58659
inspector in accordance section 4105.07 of the Revised Code. 58660

(F) All other fees to be charged for any examination given or 58661
other service performed by the division ~~of industrial compliance~~ 58662
pursuant to this chapter shall be prescribed by the director of 58663
commerce. The fees shall be reasonably related to the costs of 58664
such examination or other service. 58665

(G) The director ~~of commerce~~, subject to the approval of the 58666
controlling board, may establish fees in excess of the fees 58667
provided in divisions (A), (B), (C), (D), and (E) of this section. 58668
Any moneys collected under this section shall be paid into the 58669
state treasury to the credit of the ~~industrial compliance~~ labor 58670
operating fund created in section 121.084 of the Revised Code. 58671

(H) Any person who fails to pay an inspection fee required 58672
for any inspection conducted by the division pursuant to this 58673
chapter within forty-five days after the inspection is conducted 58674
shall pay a late payment fee equal to twenty-five per cent of the 58675
inspection fee. 58676

(I) In addition to the fees assessed in divisions (A), (B), 58677
(C), (D), and (E) of this section, the board of building standards 58678
shall assess a fee of three dollars and twenty-five cents for each 58679
certificate of operation or renewal thereof issued under divisions 58680
(A), (B), (C), (D), or (E) of this section and for each permit 58681

issued under section 4105.16 of the Revised Code. The board shall 58682
adopt rules, in accordance with Chapter 119. of the Revised Code, 58683
specifying the manner by which the superintendent ~~of industrial~~ 58684
~~compliance~~ shall collect and remit to the board the fees assessed 58685
under this division and requiring that remittance of the fees be 58686
made at least quarterly. 58687

(J) For purposes of this section: 58688

(1) "Escalator" means a power driven, inclined, continuous 58689
stairway used for raising or lowering passengers. 58690

(2) "Moving walk" means a passenger carrying device on which 58691
passengers stand or walk, with a passenger carrying surface that 58692
is uninterrupted and remains parallel to its direction of motion. 58693

Sec. 4105.191. Any person owning or operating any elevator 58694
subject to this chapter shall file a written report with the 58695
superintendent of ~~the division of industrial compliance~~ labor 58696
within seventy-two hours after the occurrence of any accident 58697
involving such elevator which results in death or bodily injury to 58698
any person. 58699

Sec. 4105.20. No person shall violate any law relative to the 58700
operation, construction, maintenance, and repair of elevators. All 58701
fines collected for violation of this section shall be forwarded 58702
to the superintendent of ~~the division of industrial compliance~~ 58703
labor, who shall pay them into the state treasury to the credit of 58704
the ~~industrial compliance~~ labor operating fund created in section 58705
121.084 of the Revised Code. 58706

Sec. 4105.21. The superintendent of ~~the division of~~ 58707
~~industrial compliance~~ labor shall enforce this chapter. If the 58708
superintendent or a general inspector of elevators finds that an 58709
elevator or a part thereof does not afford reasonable safety as 58710

required by section 4105.13 of the Revised Code, the 58711
superintendent or the general inspector may seal such elevator and 58712
post a notice thereon prohibiting further use of the elevator 58713
until the changes or alterations set forth in the notice have been 58714
made to the satisfaction of the superintendent or the inspector. 58715
The notice shall contain a statement that operators or passengers 58716
are subject to injury by its continued use, a description of the 58717
alteration or other change necessary to be made in order to secure 58718
safety of operation, date of such notice, name and signature of 58719
the superintendent or inspector issuing the notice. 58720

Sec. 4112.01. (A) As used in this chapter: 58721

(1) "Person" includes one or more individuals, partnerships, 58722
associations, organizations, corporations, legal representatives, 58723
trustees, trustees in bankruptcy, receivers, and other organized 58724
groups of persons. "Person" also includes, but is not limited to, 58725
any owner, lessor, assignor, builder, manager, broker, 58726
salesperson, appraiser, agent, employee, lending institution, and 58727
the state and all political subdivisions, authorities, agencies, 58728
boards, and commissions of the state. 58729

(2) "Employer" includes the state, any political subdivision 58730
of the state, any person employing four or more persons within the 58731
state, and any person acting directly or indirectly in the 58732
interest of an employer. 58733

(3) "Employee" means an individual employed by any employer 58734
but does not include any individual employed in the domestic 58735
service of any person. 58736

(4) "Labor organization" includes any organization that 58737
exists, in whole or in part, for the purpose of collective 58738
bargaining or of dealing with employers concerning grievances, 58739
terms or conditions of employment, or other mutual aid or 58740
protection in relation to employment. 58741

- (5) "Employment agency" includes any person regularly 58742
undertaking, with or without compensation, to procure 58743
opportunities to work or to procure, recruit, refer, or place 58744
employees. 58745
- (6) "Commission" means the Ohio civil rights commission 58746
created by section 4112.03 of the Revised Code. 58747
- (7) "Discriminate" includes segregate or separate. 58748
- (8) "Unlawful discriminatory practice" means any act 58749
prohibited by section 4112.02, 4112.021, or 4112.022 of the 58750
Revised Code. 58751
- (9) "Place of public accommodation" means any inn, 58752
restaurant, eating house, barbershop, public conveyance by air, 58753
land, or water, theater, store, other place for the sale of 58754
merchandise, or any other place of public accommodation or 58755
amusement of which the accommodations, advantages, facilities, or 58756
privileges are available to the public. 58757
- (10) "Housing accommodations" includes any building or 58758
structure, or portion of a building or structure, that is used or 58759
occupied or is intended, arranged, or designed to be used or 58760
occupied as the home residence, dwelling, dwelling unit, or 58761
sleeping place of one or more individuals, groups, or families 58762
whether or not living independently of each other; and any vacant 58763
land offered for sale or lease. "Housing accommodations" also 58764
includes any housing accommodations held or offered for sale or 58765
rent by a real estate broker, salesperson, or agent, by any other 58766
person pursuant to authorization of the owner, by the owner, or by 58767
the owner's legal representative. 58768
- (11) "Restrictive covenant" means any specification limiting 58769
the transfer, rental, lease, or other use of any housing 58770
accommodations because of race, color, religion, sex, military 58771
status, familial status, national origin, disability, or ancestry, 58772

or any limitation based upon affiliation with or approval by any person, directly or indirectly, employing race, color, religion, sex, military status, familial status, national origin, disability, or ancestry as a condition of affiliation or approval.

(12) "Burial lot" means any lot for the burial of deceased persons within any public burial ground or cemetery, including, but not limited to, cemeteries owned and operated by municipal corporations, townships, or companies or associations incorporated for cemetery purposes.

(13) "Disability" means a physical or mental impairment that substantially limits one or more major life activities, including the functions of caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; a record of a physical or mental impairment; or being regarded as having a physical or mental impairment.

(14) Except as otherwise provided in section 4112.021 of the Revised Code, "age" means at least forty years old.

(15) "Familial status" means either of the following:

(a) One or more individuals who are under eighteen years of age and who are domiciled with a parent or guardian having legal custody of the individual or domiciled, with the written permission of the parent or guardian having legal custody, with a designee of the parent or guardian;

(b) Any person who is pregnant or in the process of securing legal custody of any individual who is under eighteen years of age.

(16)(a) Except as provided in division (A)(16)(b) of this section, "physical or mental impairment" includes any of the following:

(i) Any physiological disorder or condition, cosmetic

disfigurement, or anatomical loss affecting one or more of the 58803
following body systems: neurological; musculoskeletal; special 58804
sense organs; respiratory, including speech organs; 58805
cardiovascular; reproductive; digestive; genito-urinary; hemic and 58806
lymphatic; skin; and endocrine; 58807

(ii) Any mental or psychological disorder, including, but not 58808
limited to, mental retardation, organic brain syndrome, emotional 58809
or mental illness, and specific learning disabilities; 58810

(iii) Diseases and conditions, including, but not limited to, 58811
orthopedic, visual, speech, and hearing impairments, cerebral 58812
palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, 58813
cancer, heart disease, diabetes, human immunodeficiency virus 58814
infection, mental retardation, emotional illness, drug addiction, 58815
and alcoholism. 58816

(b) "Physical or mental impairment" does not include any of 58817
the following: 58818

(i) Homosexuality and bisexuality; 58819

(ii) Transvestism, transsexualism, pedophilia, exhibitionism, 58820
voyeurism, gender identity disorders not resulting from physical 58821
impairments, or other sexual behavior disorders; 58822

(iii) Compulsive gambling, kleptomania, or pyromania; 58823

(iv) Psychoactive substance use disorders resulting from the 58824
current illegal use of a controlled substance or the current use 58825
of alcoholic beverages. 58826

(17) "Dwelling unit" means a single unit of residence for a 58827
family of one or more persons. 58828

(18) "Common use areas" means rooms, spaces, or elements 58829
inside or outside a building that are made available for the use 58830
of residents of the building or their guests, and includes, but is 58831
not limited to, hallways, lounges, lobbies, laundry rooms, refuse 58832

rooms, mail rooms, recreational areas, and passageways among and 58833
between buildings. 58834

(19) "Public use areas" means interior or exterior rooms or 58835
spaces of a privately or publicly owned building that are made 58836
available to the general public. 58837

(20) "Controlled substance" has the same meaning as in 58838
section 3719.01 of the Revised Code. 58839

(21) "Disabled tenant" means a tenant or prospective tenant 58840
who is a person with a disability. 58841

(22) "Military status" means a person's status in "service in 58842
the uniformed services" as defined in section 5923.05 of the 58843
Revised Code. 58844

(23) "Aggrieved person" means both of the following: 58845

(a) Any person who claims to have been injured by, or who 58846
believes that the person will be injured by, any unlawful 58847
discriminatory practice described in division (H) of section 58848
4112.02 of the Revised Code; 58849

(b) Any individual, fair housing enforcement organization as 58850
defined in 42 U.S.C. 3616a, other private nonprofit fair housing 58851
enforcement organization, or nonprofit group performing 58852
investigations and enforcement activities designed to identify, 58853
eliminate, and remedy the unlawful discriminatory practices 58854
described in division (H) of section 4112.02 of the Revised Code. 58855

(B) For the purposes of divisions (A) to (F) of section 58856
4112.02 of the Revised Code, the terms "because of sex" and "on 58857
the basis of sex" include, but are not limited to, because of or 58858
on the basis of pregnancy, any illness arising out of and 58859
occurring during the course of a pregnancy, childbirth, or related 58860
medical conditions. Women affected by pregnancy, childbirth, or 58861
related medical conditions shall be treated the same for all 58862

employment-related purposes, including receipt of benefits under 58863
fringe benefit programs, as other persons not so affected but 58864
similar in their ability or inability to work, and nothing in 58865
division (B) of section 4111.17 of the Revised Code shall be 58866
interpreted to permit otherwise. This division shall not be 58867
construed to require an employer to pay for health insurance 58868
benefits for abortion, except where the life of the mother would 58869
be endangered if the fetus were carried to term or except where 58870
medical complications have arisen from the abortion, provided that 58871
nothing in this division precludes an employer from providing 58872
abortion benefits or otherwise affects bargaining agreements in 58873
regard to abortion. 58874

Sec. 4112.04. (A) The commission shall do all of the 58875
following: 58876

(1) Establish and maintain a principal office in the city of 58877
Columbus and any other offices within the state that it considers 58878
necessary; 58879

(2) Appoint an executive director who shall serve at the 58880
pleasure of the commission and be its principal administrative 58881
officer. The executive director shall be paid a salary fixed 58882
pursuant to Chapter 124. of the Revised Code. 58883

(3) Appoint hearing examiners and other employees and agents 58884
who it considers necessary and prescribe their duties subject to 58885
Chapter 124. of the Revised Code; 58886

(4) Adopt, promulgate, amend, and rescind rules to effectuate 58887
the provisions of this chapter and the policies and practice of 58888
the commission in connection with this chapter; 58889

(5) Formulate policies to effectuate the purposes of this 58890
chapter and make recommendations to agencies and officers of the 58891
state or political subdivisions to effectuate the policies; 58892

(6) Receive, investigate, and pass upon written charges made under oath of unlawful discriminatory practices;

(7) Make periodic surveys of the existence and effect of discrimination because of race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry on the enjoyment of civil rights by persons within the state;

(8) Report, from time to time, but not less than once a year, to the general assembly and the governor, describing in detail the investigations, proceedings, and hearings it has conducted and their outcome, the decisions it has rendered, and the other work performed by it, which report shall include a copy of any surveys prepared pursuant to division (A)(7) of this section and shall include the recommendations of the commission as to legislative or other remedial action;

(9) Prepare a comprehensive educational program, in cooperation with the department of education, for the students of the public schools of this state and for all other residents of this state that is designed to eliminate prejudice on the basis of race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry in this state, to further good will among those groups, and to emphasize the origin of prejudice against those groups, its harmful effects, and its incompatibility with American principles of equality and fair play;

(10) Receive progress reports from agencies, instrumentalities, institutions, boards, commissions, and other entities of this state or any of its political subdivisions and their agencies, instrumentalities, institutions, boards, commissions, and other entities regarding affirmative action programs for the employment of persons against whom discrimination is prohibited by this chapter, or regarding any affirmative

housing accommodations programs developed to eliminate or reduce 58925
an imbalance of race, color, religion, sex, military status, 58926
familial status, national origin, disability, or ancestry. All 58927
agencies, instrumentalities, institutions, boards, commissions, 58928
and other entities of this state or its political subdivisions, 58929
and all political subdivisions, that have undertaken affirmative 58930
action programs pursuant to a conciliation agreement with the 58931
commission, an executive order of the governor, any federal 58932
statute or rule, or an executive order of the president of the 58933
United States shall file progress reports with the commission 58934
annually on or before the first day of November. The commission 58935
shall analyze and evaluate the progress reports and report its 58936
findings annually to the general assembly on or before the 58937
thirtieth day of January of the year immediately following the 58938
receipt of the reports. 58939

(B) The commission may do any of the following: 58940

(1) Meet and function at any place within the state; 58941

(2) Initiate and undertake on its own motion investigations 58942
of problems of employment or housing accommodations 58943
discrimination; 58944

(3) Hold hearings, subpoena witnesses, compel their 58945
attendance, administer oaths, take the testimony of any person 58946
under oath, require the production for examination of any books 58947
and papers relating to any matter under investigation or in 58948
question before the commission, and make rules as to the issuance 58949
of subpoenas by individual commissioners. 58950

(a) In conducting a hearing or investigation, the commission 58951
shall have access at all reasonable times to premises, records, 58952
documents, individuals, and other evidence or possible sources of 58953
evidence and may examine, record, and copy the premises, records, 58954
documents, and other evidence or possible sources of evidence and 58955

take and record the testimony or statements of the individuals as 58956
reasonably necessary for the furtherance of the hearing or 58957
investigation. In investigations, the commission shall comply with 58958
the fourth amendment to the United States Constitution relating to 58959
unreasonable searches and seizures. The commission or a member of 58960
the commission may issue subpoenas to compel access to or the 58961
production of premises, records, documents, and other evidence or 58962
possible sources of evidence or the appearance of individuals, and 58963
may issue interrogatories to a respondent, to the same extent and 58964
subject to the same limitations as would apply if the subpoenas or 58965
interrogatories were issued or served in aid of a civil action in 58966
a court of common pleas. 58967

(b) Upon written application by a ~~respondent~~ party to a 58968
hearing under division (B) of section 4112.05 of the Revised Code, 58969
the commission shall issue subpoenas in its name to the same 58970
extent and subject to the same limitations as subpoenas issued by 58971
the commission. Subpoenas issued at the request of a ~~respondent~~ 58972
party shall show on their face the name and address of the 58973
~~respondent~~ party and shall state that they were issued at the 58974
~~respondent's~~ party's request. 58975

(c) Witnesses summoned by subpoena of the commission are 58976
entitled to the witness and mileage fees provided for under 58977
section 119.094 of the Revised Code. 58978

(d) Within five days after service of a subpoena upon any 58979
person, the person may petition the commission to revoke or modify 58980
the subpoena. The commission shall grant the petition if it finds 58981
that the subpoena requires an appearance or attendance at an 58982
unreasonable time or place, that it requires production of 58983
evidence that does not relate to any matter before the commission, 58984
that it does not describe with sufficient particularity the 58985
evidence to be produced, that compliance would be unduly onerous, 58986
or for other good reason. 58987

(e) In case of contumacy or refusal to obey a subpoena, the 58988
commission or person at whose request it was issued may petition 58989
for its enforcement in the court of common pleas in the county in 58990
which the person to whom the subpoena was addressed resides, was 58991
served, or transacts business. 58992

(4) Create local or statewide advisory agencies and 58993
conciliation councils to aid in effectuating the purposes of this 58994
chapter. The commission may itself, or it may empower these 58995
agencies and councils to, do either or both of the following: 58996

(a) Study the problems of discrimination in all or specific 58997
fields of human relationships when based on race, color, religion, 58998
sex, military status, familial status, national origin, 58999
disability, age, or ancestry; 59000

(b) Foster through community effort, or otherwise, good will 59001
among the groups and elements of the population of the state. 59002

The agencies and councils may make recommendations to the 59003
commission for the development of policies and procedures in 59004
general. They shall be composed of representative citizens who 59005
shall serve without pay, except that reimbursement for actual and 59006
necessary traveling expenses shall be made to citizens who serve 59007
on a statewide agency or council. 59008

(5) Issue any publications and the results of investigations 59009
and research that in its judgment will tend to promote good will 59010
and minimize or eliminate discrimination because of race, color, 59011
religion, sex, military status, familial status, national origin, 59012
disability, age, or ancestry. 59013

Sec. 4112.051. (A)(1) Aggrieved persons may enforce the 59014
rights granted by division (H) of section 4112.02 of the Revised 59015
Code by filing a civil action in the court of common pleas of the 59016
county in which the alleged unlawful discriminatory practice 59017

occurred within one year after it allegedly occurred. Upon 59018
application by an aggrieved person, upon a proper showing, and 59019
under circumstances that it considers just, a court of common 59020
pleas may appoint an attorney for the aggrieved person and 59021
authorize the commencement of a civil action under this division 59022
without the payment of costs. 59023

Each party to a civil action under this division has the 59024
right to a jury trial of the action. To assert the right, a party 59025
shall demand a jury trial in the manner prescribed in the Rules of 59026
Civil Procedure. If a party demands a jury trial in that manner, 59027
the civil action shall be tried to a jury. 59028

(2)(a) If a complaint is issued by the commission under 59029
division (B)(5) of section 4112.05 of the Revised Code for one or 59030
more alleged unlawful discriminatory practices described in 59031
division (H) of section 4112.02 of the Revised Code, the 59032
complainant, any aggrieved person on whose behalf the complaint is 59033
issued, or the respondent may elect, following receipt of the 59034
relevant notice described in division (B)(5) of section 4112.05 of 59035
the Revised Code, to proceed with the administrative hearing 59036
process under that section or to have the alleged unlawful 59037
discriminatory practices covered by the complaint addressed in a 59038
civil action commenced in accordance with divisions (A)(1) and 59039
(2)(b) of this section. An election to have the alleged unlawful 59040
discriminatory practices so addressed shall be made in a writing 59041
that is sent by certified mail, return receipt requested, to the 59042
commission, to the civil rights section of the office of the 59043
attorney general, and to the other parties to the pending 59044
administrative process within thirty days after the electing 59045
complainant, aggrieved person, or respondent received the relevant 59046
notice described in division (B)(5) of section 4112.05 of the 59047
Revised Code. 59048

(b) Upon receipt of a timely mailed election to have the 59049

alleged unlawful discriminatory practices addressed in a civil 59050
action, the commission shall authorize the office of the attorney 59051
general to commence and maintain the civil action in the court of 59052
common pleas of the county in which the alleged unlawful 59053
discriminatory practices occurred. Notwithstanding the period of 59054
limitations specified in division (A)(1) of this section, the 59055
office of the attorney general shall commence the civil action 59056
within thirty days after the receipt of the commission's 59057
authorization to commence the civil action. 59058

(c) Upon commencement of the civil action in accordance with 59059
division (A)(2)(b) of this section, the commission shall prepare 59060
an order dismissing the complaint in the pending administrative 59061
matter and serve a copy of the order upon the complainant, each 59062
aggrieved person on whose behalf the complaint was issued, and the 59063
respondent. 59064

(d) If an election to have the alleged unlawful 59065
discriminatory practices addressed in a civil action is not filed 59066
in accordance with division (A)(2)(a) of this section, the 59067
commission shall continue with the administrative hearing process 59068
described in section 4112.05 of the Revised Code. 59069

(e) With respect to the issues to be determined in a civil 59070
action commenced in accordance with division (A)(2)(b) of this 59071
section, the complainant and any aggrieved person may intervene as 59072
a matter of right in that civil action. 59073

(B) If the court or the jury in a civil action under this 59074
section finds that a violation of division (H) of section 4112.02 59075
of the Revised Code is about to occur, the court may order any 59076
affirmative action it considers appropriate, including a permanent 59077
or ~~temporary~~ temporary injunction or temporary restraining order. 59078

(C) Any sale, encumbrance, or rental consummated prior to the 59079
issuance of any court order under the authority of this section 59080

and involving a bona fide purchaser, encumbrancer, or tenant 59081
without actual notice of the existence of a charge under division 59082
(H) of section 4112.02 of the Revised Code or a civil action under 59083
this section is not affected by the court order. 59084

(D) If the court or the jury in a civil action under this 59085
section finds that a violation of division (H) of section 4112.02 59086
of the Revised Code has occurred, the court shall award to the 59087
plaintiff or to the complainant or aggrieved person on whose 59088
behalf the office of the attorney general commenced or maintained 59089
the civil action, whichever is applicable, actual damages, 59090
reasonable attorney's fees, court costs incurred in the 59091
prosecution of the action, expert witness fees, and other 59092
litigation expenses, and may grant other relief that it considers 59093
appropriate, including a permanent or temporary injunction, a 59094
temporary restraining order, or other order and punitive damages. 59095

(E) Any civil action brought under this section shall be 59096
heard and determined as expeditiously as possible. 59097

(F) The court in a civil action under this section shall 59098
notify the commission of any finding pertaining to discriminatory 59099
housing practices within fifteen days after the entry of the 59100
finding. 59101

Sec. 4113.11. (A) As specified in division (B) of this 59102
section, all employers that employ ten or more employees shall 59103
adopt and maintain a cafeteria plan that allows the employer's 59104
employees to pay for health insurance coverage by a salary 59105
reduction arrangement as permitted under section 125 of the 59106
Internal Revenue Code. 59107

(B) Employers shall comply with the requirements of division 59108
(A) of this section as follows: 59109

(1) For employers that employ more than five hundred 59110

employees, by not later than January 1, 2011, or six months after 59111
the superintendent of insurance adopts rules as required by 59112
division (D) of this section, whichever is later. 59113

(2) For employers that employ one hundred fifty to five 59114
hundred employees, by not later than July 1, 2011, or twelve 59115
months after the superintendent adopts rules as required by 59116
division (D) of this section, whichever is later. 59117

(3) For employers that employ ten to one hundred forty-nine 59118
employees, by not later than January 1, 2012, or eighteen months 59119
after the superintendent adopts rules as required by division (D) 59120
of this section, whichever is later. 59121

(C) The health care coverage and quality council created 59122
under section 3923.90 of the Revised Code shall make 59123
recommendations to the superintendent for both of the following: 59124

(1) Development of strategies to educate, assist, and conduct 59125
outreach to employers to simplify administrative processes with 59126
respect to creating and maintaining cafeteria plans, including, 59127
but not limited to, providing employers with model cafeteria plan 59128
documents and technical assistance on creating and maintaining 59129
cafeteria plans that conform with state and federal law; and 59130

(2) Development strategies to educate, assist, and conduct 59131
outreach to employees with respect to finding, selecting, and 59132
purchasing a health insurance plan to be paid for through their 59133
employer's cafeteria plan under this section. 59134

(D) The superintendent shall adopt rules in accordance with 59135
Chapter 119. of the Revised Code to implement and enforce this 59136
section, including the strategies recommended by the council 59137
pursuant to division (C) of this section. 59138

(E) As used in this section: 59139

(1) "Cafeteria plan" has the same meaning as in section 125 59140

of the Internal Revenue Code. 59141

(2) "Employer" has the same meaning as in section 4113.51 of 59142
the Revised Code. 59143

(3) "Employee" means an individual employed for consideration 59144
who works twenty-five or more hours per week or who renders any 59145
other standard of service generally accepted by custom or 59146
specified by contract as full-time employment. 59147

Sec. 4117.01. As used in this chapter: 59148

(A) "Person," in addition to those included in division (C) 59149
of section 1.59 of the Revised Code, includes employee 59150
organizations, public employees, and public employers. 59151

(B)(1) "Public employer" means the state or any political 59152
subdivision of the state located entirely within the state, 59153
including, without limitation, any municipal corporation with a 59154
population of at least five thousand according to the most recent 59155
federal decennial census; county; township with a population of at 59156
least five thousand in the unincorporated area of the township 59157
according to the most recent federal decennial census; school 59158
district; governing authority of a community school established 59159
under Chapter 3314. of the Revised Code; state institution of 59160
higher learning; public or special district; state agency, 59161
authority, commission, or board; or other branch of public 59162
employment. 59163

(2) With respect to permanent, full-time, paid members of a 59164
fire department of a township, "public employer" also means a 59165
township, regardless of the population of the township. 59166

(C) "Public employee" means any person holding a position by 59167
appointment or employment in the service of a public employer, 59168
including any person working pursuant to a contract between a 59169
public employer and a private employer and over whom the national 59170

labor relations board has declined jurisdiction on the basis that 59171
the involved employees are employees of a public employer, except: 59172

(1) Persons holding elective office; 59173

(2) Employees of the general assembly and employees of any 59174
other legislative body of the public employer whose principal 59175
duties are directly related to the legislative functions of the 59176
body; 59177

(3) Employees on the staff of the governor or the chief 59178
executive of the public employer whose principal duties are 59179
directly related to the performance of the executive functions of 59180
the governor or the chief executive; 59181

(4) Persons who are members of the Ohio organized militia, 59182
while training or performing duty under section 5919.29 or 5923.12 59183
of the Revised Code; 59184

(5) Employees of the state employment relations board, 59185
including those employees of the state employment relations board 59186
utilized by the state personnel board of review in the exercise of 59187
the powers and the performance of the duties and functions of the 59188
state personnel board of review; 59189

(6) Confidential employees; 59190

(7) Management level employees; 59191

(8) Employees and officers of the courts, assistants to the 59192
attorney general, assistant prosecuting attorneys, and employees 59193
of the clerks of courts who perform a judicial function; 59194

(9) Employees of a public official who act in a fiduciary 59195
capacity, appointed pursuant to section 124.11 of the Revised 59196
Code; 59197

(10) Supervisors; 59198

(11) Students whose primary purpose is educational training, 59199
including graduate assistants or associates, residents, interns, 59200

or other students working as part-time public employees less than 59201
fifty per cent of the normal year in the employee's bargaining 59202
unit; 59203

(12) Employees of county boards of election; 59204

(13) Seasonal and casual employees as determined by the state 59205
employment relations board; 59206

(14) Part-time faculty members of an institution of higher 59207
education; 59208

(15) ~~Employees of the state personnel board of review;~~ 59209

~~(16)~~ Participants in a work activity, developmental activity, 59210
or alternative work activity under sections 5107.40 to 5107.69 of 59211
the Revised Code who perform a service for a public employer that 59212
the public employer needs but is not performed by an employee of 59213
the public employer if the participant is not engaged in paid 59214
employment or subsidized employment pursuant to the activity; 59215

~~(17)~~(16) Employees included in the career professional 59216
service of the department of transportation under section 5501.20 59217
of the Revised Code; 59218

~~(18) Employees of community based correctional facilities and 59219
district community based correctional facilities created under 59220
sections 2301.51 to 2301.58 of the Revised Code who are not 59221
subject to a collective bargaining agreement on June 1, 2005. 59222~~

(D) "Employee organization" means any labor or bona fide 59223
organization in which public employees participate and that exists 59224
for the purpose, in whole or in part, of dealing with public 59225
employers concerning grievances, labor disputes, wages, hours, 59226
terms, and other conditions of employment. 59227

(E) "Exclusive representative" means the employee 59228
organization certified or recognized as an exclusive 59229
representative under section 4117.05 of the Revised Code. 59230

(F) "Supervisor" means any individual who has authority, in the interest of the public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees; to responsibly direct them; to adjust their grievances; or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment, provided that:

(1) Employees of school districts who are department chairpersons or consulting teachers shall not be deemed supervisors;

(2) With respect to members of a police or fire department, no person shall be deemed a supervisor except the chief of the department or those individuals who, in the absence of the chief, are authorized to exercise the authority and perform the duties of the chief of the department. Where prior to June 1, 1982, a public employer pursuant to a judicial decision, rendered in litigation to which the public employer was a party, has declined to engage in collective bargaining with members of a police or fire department on the basis that those members are supervisors, those members of a police or fire department do not have the rights specified in this chapter for the purposes of future collective bargaining. The state employment relations board shall decide all disputes concerning the application of division (F)(2) of this section.

(3) With respect to faculty members of a state institution of higher education, heads of departments or divisions are supervisors; however, no other faculty member or group of faculty members is a supervisor solely because the faculty member or group of faculty members participate in decisions with respect to courses, curriculum, personnel, or other matters of academic policy;

(4) No teacher as defined in section 3319.09 of the Revised Code shall be designated as a supervisor or a management level employee unless the teacher is employed under a contract governed by section 3319.01, 3319.011, or 3319.02 of the Revised Code and is assigned to a position for which a license deemed to be for administrators under state board rules is required pursuant to section 3319.22 of the Revised Code.

(G) "To bargain collectively" means to perform the mutual obligation of the public employer, by its representatives, and the representatives of its employees to negotiate in good faith at reasonable times and places with respect to wages, hours, terms, and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, with the intention of reaching an agreement, or to resolve questions arising under the agreement. "To bargain collectively" includes executing a written contract incorporating the terms of any agreement reached. The obligation to bargain collectively does not mean that either party is compelled to agree to a proposal nor does it require the making of a concession.

(H) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment that are abnormal to the place of employment.

(I) "Unauthorized strike" includes, but is not limited to, concerted action during the term or extended term of a collective bargaining agreement or during the pendency of the settlement procedures set forth in section 4117.14 of the Revised Code in

failing to report to duty; willful absence from one's position; 59295
stoppage of work; slowdown, or abstinence in whole or in part from 59296
the full, faithful, and proper performance of the duties of 59297
employment for the purpose of inducing, influencing, or coercing a 59298
change in wages, hours, terms, and other conditions of employment. 59299
"Unauthorized strike" includes any such action, absence, stoppage, 59300
slowdown, or abstinence when done partially or intermittently, 59301
whether during or after the expiration of the term or extended 59302
term of a collective bargaining agreement or during or after the 59303
pendency of the settlement procedures set forth in section 4117.14 59304
of the Revised Code. 59305

(J) "Professional employee" means any employee engaged in 59306
work that is predominantly intellectual, involving the consistent 59307
exercise of discretion and judgment in its performance and 59308
requiring knowledge of an advanced type in a field of science or 59309
learning customarily acquired by a prolonged course in an 59310
institution of higher learning or a hospital, as distinguished 59311
from a general academic education or from an apprenticeship; or an 59312
employee who has completed the courses of specialized intellectual 59313
instruction and is performing related work under the supervision 59314
of a professional person to become qualified as a professional 59315
employee. 59316

(K) "Confidential employee" means any employee who works in 59317
the personnel offices of a public employer and deals with 59318
information to be used by the public employer in collective 59319
bargaining; or any employee who works in a close continuing 59320
relationship with public officers or representatives directly 59321
participating in collective bargaining on behalf of the employer. 59322

(L) "Management level employee" means an individual who 59323
formulates policy on behalf of the public employer, who 59324
responsibly directs the implementation of policy, or who may 59325
reasonably be required on behalf of the public employer to assist 59326

in the preparation for the conduct of collective negotiations, 59327
administer collectively negotiated agreements, or have a major 59328
role in personnel administration. Assistant superintendents, 59329
principals, and assistant principals whose employment is governed 59330
by section 3319.02 of the Revised Code are management level 59331
employees. With respect to members of a faculty of a state 59332
institution of higher education, no person is a management level 59333
employee because of the person's involvement in the formulation or 59334
implementation of academic or institution policy. 59335

(M) "Wages" means hourly rates of pay, salaries, or other 59336
forms of compensation for services rendered. 59337

(N) "Member of a police department" means a person who is in 59338
the employ of a police department of a municipal corporation as a 59339
full-time regular police officer as the result of an appointment 59340
from a duly established civil service eligibility list or under 59341
section 737.15 or 737.16 of the Revised Code, a full-time deputy 59342
sheriff appointed under section 311.04 of the Revised Code, a 59343
township constable appointed under section 509.01 of the Revised 59344
Code, or a member of a township police district police department 59345
appointed under section 505.49 of the Revised Code. 59346

(O) "Members of the state highway patrol" means highway 59347
patrol troopers and radio operators appointed under section 59348
5503.01 of the Revised Code. 59349

(P) "Member of a fire department" means a person who is in 59350
the employ of a fire department of a municipal corporation or a 59351
township as a fire cadet, full-time regular firefighter, or 59352
promoted rank as the result of an appointment from a duly 59353
established civil service eligibility list or under section 59354
505.38, 709.012, or 737.22 of the Revised Code. 59355

(Q) "Day" means calendar day. 59356

Sec. 4117.02. (A) There is hereby created the state 59357
employment relations board, consisting of three members to be 59358
appointed by the governor with the advice and consent of the 59359
senate. Members shall be knowledgeable about labor relations or 59360
personnel practices. No more than two of the three members shall 59361
belong to the same political party. A member of the state 59362
employment relations board during the member's period of service 59363
shall hold no other public office or public or private employment 59364
and shall allow no other responsibilities to interfere or conflict 59365
with the member's duties as a full-time state employment relations 59366
board member. Of the initial appointments made to the state 59367
employment relations board, one shall be for a term ending October 59368
6, 1984, one shall be for a term ending October 6, 1985, and one 59369
shall be for a term ending October 6, 1986. Thereafter, terms of 59370
office shall be for six years, each term ending on the same day of 59371
the same month of the year as did the term that it succeeds. Each 59372
member shall hold office from the date of the member's appointment 59373
until the end of the term for which the member is appointed. Any 59374
member appointed to fill a vacancy occurring prior to the 59375
expiration of the term for which the member's predecessor was 59376
appointed shall hold office for the remainder of the term. Any 59377
member shall continue in office subsequent to the expiration of 59378
the member's term until the member's successor takes office or 59379
until a period of sixty days has elapsed, whichever occurs first. 59380
The governor may remove any member of the state employment 59381
relations board, upon notice and public hearing, for neglect of 59382
duty or malfeasance in office, but for no other cause. 59383

(B)(1) The governor shall designate one member of the state 59384
employment relations board to serve as chairperson of the state 59385
employment relations board. The chairperson is the head of the 59386
state employment relations board and its chief executive officer. 59387

(2) The chairperson shall exercise all administrative powers 59388

and duties conferred upon the state employment relations board 59389
under this chapter and shall do all of the following: 59390

(a) ~~Except as provided in division (F)(2) of this section,~~ 59391
~~employ~~ Employ, promote, supervise, and remove all employees of the 59392
state employment relations board, and establish, change, or 59393
abolish positions and assign or reassign the duties of those 59394
employees as the chairperson determines necessary to achieve the 59395
most efficient performance of the ~~board's~~ duties of the state 59396
employment relations board under this chapter; 59397

(b) Determine the utilization by the state personnel board of 59398
review of employees of the state employment relations board as 59399
necessary for the state personnel board of review to exercise the 59400
powers and perform the duties of the state personnel board of 59401
review. 59402

(c) Maintain the office of the state employment relations 59403
board in Columbus and manage the office's daily operations, 59404
including securing offices, facilities, equipment, and supplies 59405
necessary to house the state employment relations board, employees 59406
of the state employment relations board, the state personnel board 59407
of review, and files and records under the ~~board's~~ control of the 59408
state employment relations board and under the control of the 59409
state personnel board of review; 59410

~~(e)~~(d) Prepare and submit to the office of budget and 59411
management a budget for each biennium according to section 107.03 59412
of the Revised Code, and include in the budget the costs of the 59413
state employment relations board and its staff and the ~~board's~~ 59414
costs of the state employment relations board in discharging any 59415
duty imposed by law upon the state employment relations board, the 59416
chairperson, or any of the ~~board's~~ employees or agents of the 59417
state employment relations board, and the costs of the state 59418
personnel board of review in discharging any duty imposed by law 59419
on the state personnel board of review or an agent of the state 59420

personnel board of review. 59421

(C) The vacancy on the state employment relations board does 59422
not impair the right of the remaining members to exercise all the 59423
powers of the state employment relations board, and two members of 59424
the state employment relations board, at all times, constitute a 59425
quorum. The state employment relations board shall have an 59426
official seal of which courts shall take judicial notice. 59427

(D) The state employment relations board shall make an annual 59428
report in writing to the governor and to the general assembly, 59429
stating in detail the work it has done. 59430

(E) Compensation of the chairperson and members shall be in 59431
accordance with division (J) of section 124.15 of the Revised 59432
Code. The chairperson and the members are eligible for 59433
reappointment. In addition to such compensation, all members shall 59434
be reimbursed for their necessary expenses incurred in the 59435
performance of their work as members. 59436

(F)(1) The chairperson, after consulting with the other state 59437
employment relations board members and receiving the consent of at 59438
least one other board member, shall appoint an executive director. 59439
The chairperson also shall appoint attorneys and ~~attorney trial~~ 59440
~~examiners~~ shall appoint an assistant executive director who shall 59441
be an attorney admitted to practice law in this state and who 59442
shall serve as a liaison to the attorney general on legal matters 59443
before the state employment relations board. 59444

(2) The state employment relations board shall appoint 59445
~~mediators, arbitrators,~~ members of fact-finding panels, ~~and~~ 59446
~~directors for local areas,~~ and shall prescribe their job duties. 59447

(G)(1) The executive director shall serve at the pleasure of 59448
the chairperson. The executive director, under the direction of 59449
the chairperson, shall do all of the following: 59450

(a) Act as chief administrative officer for the state 59451

employment relations board; 59452

(b) Ensure that all employees of the state employment 59453
relations board comply with the rules of the state employment 59454
relations board; 59455

(c) Do all things necessary for the efficient and effective 59456
implementation of the duties of the state employment relations 59457
board. 59458

(2) The duties of the executive director described in 59459
division (G)(1) of this section do not relieve the chairperson 59460
from final responsibility for the proper performance of the duties 59461
described in that division. 59462

(H) The attorney general shall be the legal adviser of the 59463
state employment relations board and shall appear for and 59464
represent the state employment relations board and its agents in 59465
all legal proceedings. The state employment relations board may 59466
utilize regional, local, or other agencies, and utilize voluntary 59467
and uncompensated services as needed. The state employment 59468
relations board may contract with the federal mediation and 59469
conciliation service for the assistance of mediators, arbitrators, 59470
and other personnel the service makes available. The ~~board and the~~ 59471
~~chairperson, respectively,~~ shall appoint all employees on the 59472
basis of training, practical experience, education, and character, 59473
notwithstanding the requirements established by section 119.09 of 59474
the Revised Code. The ~~board~~ chairperson shall give special regard 59475
to the practical training and experience that employees have for 59476
the particular position involved. ~~All full-time employees of the~~ 59477
~~board excepting the~~ The executive director, the head of the bureau 59478
~~of mediation~~ assistant executive director, administrative law 59479
judges, employees holding a fiduciary or administrative relation 59480
to the state employment relations board as described in division 59481
(A)(9) of section 124.11 of the Revised Code, and the personal 59482
secretaries and assistants of the state employment relations board 59483

members are in the ~~classified~~ unclassified service. All other 59484
full-time employees of the state employment relations board are in 59485
the classified service. All employees of the state employment 59486
relations board shall be paid in accordance with Chapter 124. of 59487
the Revised Code. 59488

(I) The ~~board~~ chairperson shall select and assign ~~examiners~~ 59489
administrative law judges and other agents whose functions are to 59490
conduct hearings with due regard to their impartiality, judicial 59491
temperament, and knowledge. If in any proceeding under this 59492
chapter, any party prior to five days before the hearing thereto 59493
files with the state employment relations board a sworn statement 59494
charging that the ~~examiner~~ administrative law judge or other agent 59495
designated to conduct the hearing is biased or partial in the 59496
proceeding, the state employment relations board may disqualify 59497
the person and designate another ~~examiner~~ administrative law judge 59498
or agent to conduct the proceeding. At least ten days before any 59499
hearing, the state employment relations board shall notify all 59500
parties to a proceeding of the name of the ~~examiner~~ administrative 59501
law judge or agent designated to conduct the hearing. 59502

(J) The principal office of the state employment relations 59503
board is in Columbus, but it may meet and exercise any or all of 59504
its powers at any other place within the state. The state 59505
employment relations board may, by one or more of its employees, 59506
or any agents or agencies it designates, conduct in any part of 59507
this state any proceeding, hearing, investigation, inquiry, or 59508
election necessary to the performance of its functions; provided, 59509
that no person so designated may later sit in determination of an 59510
appeal of the decision of that cause or matter. 59511

(K) In addition to the powers and functions provided in other 59512
sections of this chapter, the state employment relations board 59513
shall do all of the following: 59514

(1) Create a bureau of mediation within the state employment 59515

relations board, to perform the functions provided in section 59516
4117.14 of the Revised Code. This bureau shall also establish, 59517
after consulting representatives of employee organizations and 59518
public employers, panels of qualified persons to be available to 59519
serve as members of fact-finding panels and arbitrators. 59520

(2) Conduct studies of problems involved in representation 59521
and negotiation and make recommendations for legislation; 59522

(3) Hold hearings pursuant to this chapter and, for the 59523
purpose of the hearings and inquiries, administer oaths and 59524
affirmations, examine witnesses and documents, take testimony and 59525
receive evidence, compel the attendance of witnesses and the 59526
production of documents by the issuance of subpoenas, and delegate 59527
these powers to any members of the state employment relations 59528
board or any ~~attorney trial examiner appointed~~ administrative law 59529
judge employed by the state employment relations board for the 59530
performance of its functions; 59531

(4) Train representatives of employee organizations and 59532
public employers in the rules and techniques of collective 59533
bargaining procedures; 59534

(5) Make studies and analyses of, and act as a clearinghouse 59535
of information relating to, conditions of employment of public 59536
employees throughout the state and request assistance, services, 59537
and data from any public employee organization, public employer, 59538
or governmental unit. Public employee organizations, public 59539
employers, and governmental units shall provide such assistance, 59540
services, and data as will enable the state employment relations 59541
board to carry out its functions and powers. 59542

(6) Make available to employee organizations, public 59543
employers, mediators, fact-finding panels, arbitrators, and joint 59544
study committees statistical data relating to wages, benefits, and 59545
employment practices in public and private employment applicable 59546

to various localities and occupations to assist them to resolve 59547
issues in negotiations; 59548

(7) Notwithstanding section 119.13 of the Revised Code, 59549
establish standards of persons who practice before it; 59550

(8) Adopt, amend, and rescind rules and procedures and 59551
exercise other powers appropriate to carry out this chapter. 59552
Before the adoption, amendment, or rescission of rules and 59553
procedures under this section, the state employment relations 59554
board shall do all of the following: 59555

(a) Maintain a list of interested public employers and 59556
employee organizations and mail notice to such groups of any 59557
proposed rule or procedure, amendment thereto, or rescission 59558
thereof at least thirty days before any public hearing thereon; 59559

(b) Mail a copy of each proposed rule or procedure, amendment 59560
thereto, or rescission thereof to any person who requests a copy 59561
within five days after receipt of the request therefor; 59562

(c) Consult with appropriate statewide organizations 59563
representing public employers or employees who would be affected 59564
by the proposed rule or procedure. 59565

Although the state employment relations board is expected to 59566
discharge these duties diligently, failure to mail any notice or 59567
copy, or to so consult with any person, is not jurisdictional and 59568
shall not be construed to invalidate any proceeding or action of 59569
the state employment relations board. 59570

(L) In case of neglect or refusal to obey a subpoena issued 59571
to any person, the court of common pleas of the county in which 59572
the investigation or the public hearing occurs, upon application 59573
by the state employment relations board, may issue an order 59574
requiring the person to appear before the state employment 59575
relations board and give testimony about the matter under 59576
investigation. The court may punish a failure to obey the order as 59577

contempt. 59578

(M) Any subpoena, notice of hearing, or other process or 59579
notice of the state employment relations board issued under this 59580
section may be served personally, by certified mail, or by leaving 59581
a copy at the principal office or personal residence of the 59582
respondent required to be served. A return, made and verified by 59583
the individual making the service and setting forth the manner of 59584
service, is proof of service, and a return post office receipt, 59585
when certified mail is used, is proof of service. All process in 59586
any court to which application is made under this chapter may be 59587
served in the county wherein the persons required to be served 59588
reside or are found. 59589

(N) All expenses of the state employment relations board, 59590
including all necessary traveling and subsistence expenses 59591
incurred by the members or employees of the state employment 59592
relations board under its orders, shall be paid pursuant to 59593
itemized vouchers approved by the chairperson of the state 59594
employment relations board, the executive director, or both, or 59595
such other person as the chairperson designates for that purpose. 59596

(O) Whenever the state employment relations board determines 59597
that a substantial controversy exists with respect to the 59598
application or interpretation of this chapter and the matter is of 59599
public or great general interest, the state employment relations 59600
board shall certify its final order directly to the court of 59601
appeals having jurisdiction over the area in which the principal 59602
office of the public employer directly affected by the application 59603
or interpretation is located. The chairperson shall file with the 59604
clerk of the court a certified copy of the transcript of the 59605
proceedings before the state employment relations board pertaining 59606
to the final order. If upon hearing and consideration the court 59607
decides that the final order of the state employment relations 59608
board is unlawful or is not supported by substantial evidence on 59609

the record as a whole, the court shall reverse and vacate the 59610
final order or modify it and enter final judgment in accordance 59611
with the modification; otherwise, the court shall affirm the final 59612
order. The notice of the final order of the state employment 59613
relations board to the interested parties shall contain a 59614
certification by the chairperson of the state employment relations 59615
board that the final order is of public or great general interest 59616
and that a certified transcript of the record of the proceedings 59617
before the state employment relations board had been filed with 59618
the clerk of the court as an appeal to the court. For the purposes 59619
of this division, the state employment relations board has 59620
standing to bring its final order properly before the court of 59621
appeals. 59622

(P) Except as otherwise specifically provided in this 59623
section, the state employment relations board is subject to 59624
Chapter 119. of the Revised Code, including the procedure for 59625
submission of proposed rules to the general assembly for 59626
legislative review under division (H) of section 119.03 of the 59627
Revised Code. 59628

Sec. 4117.07. (A) When a petition is filed, in accordance 59629
with rules prescribed by the state employment relations board: 59630

(1) By any employee or group of employees, or any individual 59631
or employee organization acting in their behalf, alleging that at 59632
least thirty per cent of the employees in an appropriate unit wish 59633
to be represented for collective bargaining by an exclusive 59634
representative, or asserting that the designated exclusive 59635
representative is no longer the representative of the majority of 59636
employees in the unit, the board shall investigate the petition, 59637
and if it has reasonable cause to believe that a question of 59638
representation exists, provide for an appropriate hearing upon due 59639
notice to the parties; 59640

(2) By the employer alleging that one or more employee organizations has presented to it a claim to be recognized as the exclusive representative in an appropriate unit, the board shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, provide for an appropriate hearing upon due notice to the parties.

If the board finds upon the record of a hearing that a question of representation exists, it shall direct an election and certify the results thereof. No one may vote in an election by ~~mail or~~ proxy. The board may also certify an employee organization as an exclusive representative if it determines that a free and untrammelled election cannot be conducted because of the employer's unfair labor practices and that at one time the employee organization had the support of the majority of the employees in the unit.

(B) Only the names of those employee organizations designated by more than ten per cent of the employees in the unit found to be appropriate may be placed on the ballot. Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation, in conformity with the rules of the board, for the purpose of a consent election.

(C) The board shall conduct representation elections by secret ballot cast, at the board's discretion, by mail or electronically or in person, and at times and places selected by the board subject to the following:

(1) The board shall give no less than ten days' notice of the time and place of an election;

(2) The board shall establish rules concerning the conduct of any election including, but not limited to, rules to guarantee the secrecy of the ballot;

(3) The board may not certify a representative unless the

representative receives a majority of the valid ballots cast; 59672

(4) Except as provided in this section, the board shall 59673
include on the ballot a choice of "no representative"; 59674

(5) In an election where none of the choices on the ballot 59675
receives a majority, the board shall conduct a runoff election. In 59676
that case, the ballot shall provide for a selection between the 59677
two choices or parties receiving the highest and the second 59678
highest number of ballots cast in the election. 59679

(6) The board may not conduct an election under this section 59680
in any appropriate bargaining unit within which a board-conducted 59681
election was held in the preceding twelve-month period, nor during 59682
the term of any lawful collective bargaining agreement between a 59683
public employer and an exclusive representative. 59684

Petitions for elections may be filed with the board no sooner 59685
than one hundred twenty days or later than ninety days before the 59686
expiration date of any collective bargaining agreement, or after 59687
the expiration date, until the public employer and exclusive 59688
representative enter into a new written agreement. 59689

For the purposes of this section, extensions of agreements do 59690
not affect the expiration date of the original agreement. 59691

Sec. 4117.12. (A) Whoever violates section 4117.11 of the 59692
Revised Code is guilty of an unfair labor practice remediable by 59693
the state employment relations board as specified in this section. 59694

(B) When anyone files a charge with the board alleging that 59695
an unfair labor practice has been committed, the board or its 59696
designated agent shall investigate the charge. If the board has 59697
probable cause for believing that a violation has occurred, the 59698
board shall issue a complaint and shall conduct a hearing 59699
concerning the charge. The board shall cause the complaint to be 59700
served upon the charged party which shall contain a notice of the 59701

time at which the hearing on the complaint will be held either 59702
before the board, a board member, or ~~a hearing officer~~ an 59703
administrative law judge. The board may not issue a notice of 59704
hearing based upon any unfair labor practice occurring more than 59705
ninety days prior to the filing of the charge with the board, 59706
unless the person aggrieved thereby is prevented from filing the 59707
charge by reason of service in the armed forces, in which event 59708
the ninety-day period shall be computed from the day of ~~his~~ the 59709
person's discharge. If the board dismisses a complaint as 59710
frivolous, it shall assess costs to the complainant pursuant to 59711
its standards governing such matters, and for that purpose, the 59712
board shall adopt a rule defining the standards by which the board 59713
will declare a complaint to be frivolous and the costs that will 59714
be assessed accordingly. 59715

(1) The board, board member, or ~~hearing officer~~ 59716
administrative law judge shall hold a hearing on the charge within 59717
ten days after service of the complaint. The board may amend a 59718
complaint, upon receipt of a notice from the charging party, at 59719
any time prior to the close of the hearing, and the charged party 59720
shall within ten days from receipt of the complaint or amendment 59721
to the complaint, file an answer to the complaint or amendment to 59722
the complaint. The charged party may file an answer to an original 59723
or amended complaint. The agents of the board and the person 59724
charged are parties and may appear or otherwise give evidence at 59725
the hearing. At the discretion of the board, board member, or 59726
~~hearing officer~~ administrative law judge, any interested party may 59727
intervene and present evidence at the hearing. The board, board 59728
member, or ~~hearing officer~~ administrative law judge is not bound 59729
by the rules of evidence prevailing in the courts. 59730

(2) A board member or ~~hearing officer~~ administrative law 59731
judge who conducts the hearing shall reduce the evidence taken to 59732
writing and file it with the board. The board member or the 59733

~~hearing officer~~ administrative law judge may thereafter take 59734
further evidence or hear further argument if notice is given to 59735
all interested parties. The ~~hearing officer~~ administrative law 59736
judge or board member shall issue to the parties a proposed 59737
decision, together with a recommended order and file it with the 59738
board. If the parties file no exceptions within twenty days after 59739
service thereof, the recommended order becomes the order of the 59740
board effective as therein prescribed. If the parties file 59741
exceptions to the proposed report, the board shall determine 59742
whether substantial issues have been raised. The board may rescind 59743
or modify the proposed order of the board member or ~~hearing~~ 59744
~~officer~~ administrative law judge; however, if the board determines 59745
that the exceptions do not raise substantial issues of fact or 59746
law, it may refuse to grant review, and the recommended order 59747
becomes effective as therein prescribed. 59748

(3) If upon the preponderance of the evidence taken, the 59749
board believes that any person named in the complaint has engaged 59750
in any unfair labor practice, the board shall state its findings 59751
of fact and issue and cause to be served on the person an order 59752
requiring that ~~he~~ the person cease and desist from these unfair 59753
labor practices, and take such affirmative action, including 59754
reinstatement of employees with or without back pay, as will 59755
effectuate the policies of Chapter 4117. of the Revised Code. If 59756
upon a preponderance of the evidence taken, the board believes 59757
that the person named in the complaint has not engaged in an 59758
unfair labor practice it shall state its findings of fact and 59759
issue an order dismissing the complaint. 59760

(4) The board may order the public employer to reinstate the 59761
public employee and further may order either the public employer 59762
or the employee organization, depending on who was responsible for 59763
the discrimination suffered by the public employee, to make such 59764
payment of back pay to the public employee as the board 59765

determines. No order of the board shall require the reinstatement 59766
of any individual as an employee who has been suspended or 59767
discharged, or require the payment to ~~him~~ the employee of any back 59768
pay, if the suspension or discharge was for just cause not related 59769
to rights provided in section 4117.03 of the Revised Code and the 59770
procedure contained in the collective bargaining agreement 59771
governing suspension or discharge was followed. The order of the 59772
board may require the party against whom the order is issued to 59773
make periodic reports showing the extent to which ~~he~~ the party has 59774
complied with the order. 59775

(C) Whenever a complaint alleges that a person has engaged in 59776
an unfair labor practice and that the complainant will suffer 59777
substantial and irreparable injury if not granted temporary 59778
relief, the board may petition the court of common pleas for any 59779
county wherein the alleged unfair labor practice in question 59780
occurs, or wherein any person charged with the commission of any 59781
unfair labor practice resides or transacts business for 59782
appropriate injunctive relief, pending the final adjudication by 59783
the board with respect to the matter. Upon the filing of any 59784
petition, the court shall cause notice thereof to be served upon 59785
the parties, and thereupon has jurisdiction to grant the temporary 59786
relief or restraining order it considers just and proper. 59787

(D) Until the record in a case is filed in a court, as 59788
specified in Chapter 4117. of the Revised Code, the board may at 59789
any time upon reasonable notice and in a manner it considers 59790
proper, modify or set aside, in whole or in part, any finding or 59791
order made or issued by it. 59792

Sec. 4117.14. (A) The procedures contained in this section 59793
govern the settlement of disputes between an exclusive 59794
representative and a public employer concerning the termination or 59795
modification of an existing collective bargaining agreement or 59796

negotiation of a successor agreement, or the negotiation of an initial collective bargaining agreement. 59797
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(B)(1) In those cases where there exists a collective bargaining agreement, any public employer or exclusive representative desiring to terminate, modify, or negotiate a successor collective bargaining agreement shall: 59799
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(a) Serve written notice upon the other party of the proposed termination, modification, or successor agreement. The party must serve the notice not less than sixty days prior to the expiration date of the existing agreement or, in the event the existing collective bargaining agreement does not contain an expiration date, not less than sixty days prior to the time it is proposed to make the termination or modifications or to make effective a successor agreement. 59803
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(b) Offer to bargain collectively with the other party for the purpose of modifying or terminating any existing agreement or negotiating a successor agreement; 59811
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(c) Notify the state employment relations board of the offer by serving upon the board a copy of the written notice to the other party and a copy of the existing collective bargaining agreement. 59814
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(2) In the case of initial negotiations between a public employer and an exclusive representative, where a collective bargaining agreement has not been in effect between the parties, any party may serve notice upon the board and the other party setting forth the names and addresses of the parties and offering to meet, for a period of ninety days, with the other party for the purpose of negotiating a collective bargaining agreement. 59818
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If the settlement procedures specified in divisions (B), (C), and (D) of this section govern the parties, where those procedures refer to the expiration of a collective bargaining agreement, it 59825
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means the expiration of the sixty-day period to negotiate a collective bargaining agreement referred to in this subdivision, or in the case of initial negotiations, it means the ninety-day period referred to in this subdivision.

(3) The parties shall continue in full force and effect all the terms and conditions of any existing collective bargaining agreement, without resort to strike or lock-out, for a period of sixty days after the party gives notice or until the expiration date of the collective bargaining agreement, whichever occurs later, or for a period of ninety days where applicable.

(4) Upon receipt of the notice, the parties shall enter into collective bargaining.

(C) In the event the parties are unable to reach an agreement, they may submit, at any time prior to forty-five days before the expiration date of the collective bargaining agreement, the issues in dispute to any mutually agreed upon dispute settlement procedure which supersedes the procedures contained in this section.

(1) The procedures may include:

(a) Conventional arbitration of all unsettled issues;

(b) Arbitration confined to a choice between the last offer of each party to the agreement as a single package;

(c) Arbitration confined to a choice of the last offer of each party to the agreement on each issue submitted;

(d) The procedures described in division (C)(1)(a), (b), or (c) of this section and including among the choices for the arbitrator, the recommendations of the fact finder, if there are recommendations, either as a single package or on each issue submitted;

(e) Settlement by a citizens' conciliation council composed

of three residents within the jurisdiction of the public employer. 59858
The public employer shall select one member and the exclusive 59859
representative shall select one member. The two members selected 59860
shall select the third member who shall chair the council. If the 59861
two members cannot agree upon a third member within five days 59862
after their appointments, the board shall appoint the third 59863
member. Once appointed, the council shall make a final settlement 59864
of the issues submitted to it pursuant to division (G) of this 59865
section. 59866

(f) Any other dispute settlement procedure mutually agreed to 59867
by the parties. 59868

(2) If, fifty days before the expiration date of the 59869
collective bargaining agreement, the parties are unable to reach 59870
an agreement, any party may request the state employment relations 59871
board to intervene. The request shall set forth the names and 59872
addresses of the parties, the issues involved, and, if applicable, 59873
the expiration date of any agreement. 59874

The board shall intervene and investigate the dispute to 59875
determine whether the parties have engaged in collective 59876
bargaining. 59877

If an impasse exists or forty-five days before the expiration 59878
date of the collective bargaining agreement if one exists, the 59879
board shall appoint a mediator to assist the parties in the 59880
collective bargaining process. 59881

(3) Any time after the appointment of a mediator, either 59882
party may request the appointment of a fact-finding panel. Within 59883
fifteen days after receipt of a request for a fact-finding panel, 59884
the board shall appoint a fact-finding panel of not more than 59885
three members who have been selected by the parties in accordance 59886
with rules established by the board, from a list of qualified 59887
persons maintained by the board. 59888

(a) The fact-finding panel shall, in accordance with rules 59889
and procedures established by the board that include the 59890
regulation of costs and expenses of fact-finding, gather facts and 59891
make recommendations for the resolution of the matter. The board 59892
shall by its rules require each party to specify in writing the 59893
unresolved issues and its position on each issue to the 59894
fact-finding panel. The fact-finding panel shall make final 59895
recommendations as to all the unresolved issues. 59896

(b) The board may continue mediation, order the parties to 59897
engage in collective bargaining until the expiration date of the 59898
agreement, or both. 59899

(4) The following guidelines apply to fact-finding: 59900

(a) The fact-finding panel may establish times and place of 59901
hearings which shall be, where feasible, in the jurisdiction of 59902
the state. 59903

(b) The fact-finding panel shall conduct the hearing pursuant 59904
to rules established by the board. 59905

(c) Upon request of the fact-finding panel, the board shall 59906
issue subpoenas for hearings conducted by the panel. 59907

(d) The fact-finding panel may administer oaths. 59908

(e) The board shall prescribe guidelines for the fact-finding 59909
panel to follow in making findings. In making its recommendations, 59910
the fact-finding panel shall take into consideration the factors 59911
listed in divisions (G)(7)(a) to (f) of this section. 59912

(f) The fact-finding panel may attempt mediation at any time 59913
during the fact-finding process. From the time of appointment 59914
until the fact-finding panel makes a final recommendation, it 59915
shall not discuss the recommendations for settlement of the 59916
dispute with parties other than the direct parties to the dispute. 59917

(5) The fact-finding panel, acting by a majority of its 59918

members, shall transmit its findings of fact and recommendations 59919
on the unresolved issues to the public employer and employee 59920
organization involved and to the board no later than fourteen days 59921
after the appointment of the fact-finding panel, unless the 59922
parties mutually agree to an extension. The parties shall share 59923
the cost of the fact-finding panel in a manner agreed to by the 59924
parties. 59925

(6)(a) Not later than seven days after the findings and 59926
recommendations are sent, the legislative body, by a three-fifths 59927
vote of its total membership, and in the case of the public 59928
employee organization, the membership, by a three-fifths vote of 59929
the total membership, may reject the recommendations; if neither 59930
rejects the recommendations, the recommendations shall be deemed 59931
agreed upon as the final resolution of the issues submitted and a 59932
collective bargaining agreement shall be executed between the 59933
parties, including the fact-finding panel's recommendations, 59934
except as otherwise modified by the parties by mutual agreement. 59935
If either the legislative body or the public employee organization 59936
rejects the recommendations, the board shall publicize the 59937
findings of fact and recommendations of the fact-finding panel. 59938
The board shall adopt rules governing the procedures and methods 59939
for public employees to vote on the recommendations of the 59940
fact-finding panel. 59941

(b) As used in division (C)(6)(a) of this section, 59942
"legislative body" means the controlling board when the state or 59943
any of its agencies, authorities, commissions, boards, or other 59944
branch of public employment is party to the fact-finding process. 59945

(D) If the parties are unable to reach agreement within seven 59946
days after the publication of findings and recommendations from 59947
the fact-finding panel or the collective bargaining agreement, if 59948
one exists, has expired, then the: 59949

(1) Public employees, who are members of a police or fire 59950

department, members of the state highway patrol, deputy sheriffs, 59951
dispatchers employed by a police, fire, or sheriff's department or 59952
the state highway patrol or civilian dispatchers employed by a 59953
public employer other than a police, fire, or sheriff's department 59954
to dispatch police, fire, sheriff's department, or emergency 59955
medical or rescue personnel and units, an exclusive nurse's unit, 59956
department of education employees ~~of~~ who work at the state school 59957
for the deaf or the state school for the blind, employees of any 59958
public employee retirement system, corrections officers, guards at 59959
penal or mental institutions, special police officers appointed in 59960
accordance with sections 5119.14 and 5123.13 of the Revised Code, 59961
psychiatric attendants employed at mental health forensic 59962
facilities, youth leaders employed at juvenile correctional 59963
facilities, or members of a law enforcement security force that is 59964
established and maintained exclusively by a board of county 59965
commissioners and whose members are employed by that board, shall 59966
submit the matter to a final offer settlement procedure pursuant 59967
to a board order issued forthwith to the parties to settle by a 59968
conciliator selected by the parties. The parties shall request 59969
from the board a list of five qualified conciliators and the 59970
parties shall select a single conciliator from the list by 59971
alternate striking of names. If the parties cannot agree upon a 59972
conciliator within five days after the board order, the board 59973
shall on the sixth day after its order appoint a conciliator from 59974
a list of qualified persons maintained by the board or shall 59975
request a list of qualified conciliators from the American 59976
arbitration association and appoint therefrom. 59977

(2) Public employees other than those listed in division 59978
(D)(1) of this section have the right to strike under Chapter 59979
4117. of the Revised Code provided that the employee organization 59980
representing the employees has given a ten-day prior written 59981
notice of an intent to strike to the public employer and to the 59982
board, and further provided that the strike is for full, 59983

consecutive work days and the beginning date of the strike is at 59984
least ten work days after the ending date of the most recent prior 59985
strike involving the same bargaining unit; however, the board, at 59986
its discretion, may attempt mediation at any time. 59987

(E) Nothing in this section shall be construed to prohibit 59988
the parties, at any time, from voluntarily agreeing to submit any 59989
or all of the issues in dispute to any other alternative dispute 59990
settlement procedure. An agreement or statutory requirement to 59991
arbitrate or to settle a dispute pursuant to a final offer 59992
settlement procedure and the award issued in accordance with the 59993
agreement or statutory requirement is enforceable in the same 59994
manner as specified in division (B) of section 4117.09 of the 59995
Revised Code. 59996

(F) Nothing in this section shall be construed to prohibit a 59997
party from seeking enforcement of a collective bargaining 59998
agreement or a conciliator's award as specified in division (B) of 59999
section 4117.09 of the Revised Code. 60000

(G) The following guidelines apply to final offer settlement 60001
proceedings under division (D)(1) of this section: 60002

(1) The parties shall submit to final offer settlement those 60003
issues that are subject to collective bargaining as provided by 60004
section 4117.08 of the Revised Code and upon which the parties 60005
have not reached agreement and other matters mutually agreed to by 60006
the public employer and the exclusive representative; except that 60007
the conciliator may attempt mediation at any time. 60008

(2) The conciliator shall hold a hearing within thirty days 60009
of the board's order to submit to a final offer settlement 60010
procedure, or as soon thereafter as is practicable. 60011

(3) The conciliator shall conduct the hearing pursuant to 60012
rules developed by the board. The conciliator shall establish the 60013
hearing time and place, but it shall be, where feasible, within 60014

the jurisdiction of the state. Not later than five calendar days 60015
before the hearing, each of the parties shall submit to the 60016
conciliator, to the opposing party, and to the board, a written 60017
report summarizing the unresolved issues, the party's final offer 60018
as to the issues, and the rationale for that position. 60019

(4) Upon the request by the conciliator, the board shall 60020
issue subpoenas for the hearing. 60021

(5) The conciliator may administer oaths. 60022

(6) The conciliator shall hear testimony from the parties and 60023
provide for a written record to be made of all statements at the 60024
hearing. The board shall submit for inclusion in the record and 60025
for consideration by the conciliator the written report and 60026
recommendation of the fact-finders. 60027

(7) After hearing, the conciliator shall resolve the dispute 60028
between the parties by selecting, on an issue-by-issue basis, from 60029
between each of the party's final settlement offers, taking into 60030
consideration the following: 60031

(a) Past collectively bargained agreements, if any, between 60032
the parties; 60033

(b) Comparison of the issues submitted to final offer 60034
settlement relative to the employees in the bargaining unit 60035
involved with those issues related to other public and private 60036
employees doing comparable work, giving consideration to factors 60037
peculiar to the area and classification involved; 60038

(c) The interests and welfare of the public, the ability of 60039
the public employer to finance and administer the issues proposed, 60040
and the effect of the adjustments on the normal standard of public 60041
service; 60042

(d) The lawful authority of the public employer; 60043

(e) The stipulations of the parties; 60044

(f) Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or in private employment.

(8) Final offer settlement awards made under Chapter 4117. of the Revised Code are subject to Chapter 2711. of the Revised Code.

(9) If more than one conciliator is used, the determination must be by majority vote.

(10) The conciliator shall make written findings of fact and promulgate a written opinion and order upon the issues presented to the conciliator, and upon the record made before the conciliator and shall mail or otherwise deliver a true copy thereof to the parties and the board.

(11) Increases in rates of compensation and other matters with cost implications awarded by the conciliator may be effective only at the start of the fiscal year next commencing after the date of the final offer settlement award; provided that if a new fiscal year has commenced since the issuance of the board order to submit to a final offer settlement procedure, the awarded increases may be retroactive to the commencement of the new fiscal year. The parties may, at any time, amend or modify a conciliator's award or order by mutual agreement.

(12) The parties shall bear equally the cost of the final offer settlement procedure.

(13) Conciliators appointed pursuant to this section shall be residents of the state.

(H) All final offer settlement awards and orders of the conciliator made pursuant to Chapter 4117. of the Revised Code are subject to review by the court of common pleas having jurisdiction

over the public employer as provided in Chapter 2711. of the 60076
Revised Code. If the public employer is located in more than one 60077
court of common pleas district, the court of common pleas in which 60078
the principal office of the chief executive is located has 60079
jurisdiction. 60080

(I) The issuance of a final offer settlement award 60081
constitutes a binding mandate to the public employer and the 60082
exclusive representative to take whatever actions are necessary to 60083
implement the award. 60084

Sec. 4117.15. (A) Whenever a strike by members of a police or 60085
fire department, members of the state highway patrol, deputy 60086
sheriffs, dispatchers employed by a police, fire, or sheriff's 60087
department or the state highway patrol or civilian dispatchers 60088
employed by a public employer other than a police, fire, or 60089
sheriff's department to dispatch police, fire, sheriff's 60090
department, or emergency medical or rescue personnel and units, an 60091
exclusive nurse's unit, department of education employees ~~of~~ who 60092
work at the state school for the deaf or the state school for the 60093
blind, employees of any public employee retirement system, 60094
correction officers, guards at penal or mental institutions, or 60095
special police officers appointed in accordance with sections 60096
5119.14 and 5123.13 of the Revised Code, psychiatric attendants 60097
employed at mental health forensic facilities, youth leaders 60098
employed at juvenile correctional facilities, or members of a law 60099
enforcement security force that is established and maintained 60100
exclusively by a board of county commissioners and whose members 60101
are employed by that board, a strike by other public employees 60102
during the pendency of the settlement procedures set forth in 60103
section 4117.14 of the Revised Code, or a strike during the term 60104
or extended term of a collective bargaining agreement occurs, the 60105
public employer may seek an injunction against the strike in the 60106
court of common pleas of the county in which the strike is 60107

located. 60108

(B) An unfair labor practice by a public employer is not a 60109
defense to the injunction proceeding noted in division (A) of this 60110
section. Allegations of unfair labor practices during the 60111
settlement procedures set forth in section 4117.14 of the Revised 60112
Code shall receive priority by the state employment relations 60113
board. 60114

(C) No public employee is entitled to pay or compensation 60115
from the public employer for the period engaged in any strike. 60116

Sec. 4117.24. (A) The training, publications, and grants fund 60117
is hereby created in the state treasury. The state employment 60118
relations board shall deposit into the training, publications, and 60119
grants fund all moneys received from the following sources: 60120

~~(A)~~(1) Payments received by the state employment relations 60121
board for copies of documents, rulebooks, and other publications; 60122

~~(B)~~(2) Fees received from seminar participants; 60123

~~(C)~~(3) Receipts from the sale of clearinghouse data; 60124

~~(D)~~(4) Moneys received from grants, donations, awards, 60125
bequests, gifts, reimbursements, and similar funds; 60126

~~(E)~~(5) Reimbursement received for professional services and 60127
expenses related to professional services; 60128

~~(F)~~(6) Funds received to support the development of labor 60129
relations services and programs. ~~The;~~ 60130

(7) Moneys received by the state personnel board of review 60131
pursuant to division (C) of section 124.03 of the Revised Code. 60132

(B) The state employment relations board shall use all moneys 60133
deposited into the training, publications, and grants fund to 60134
defray ~~the~~ all of the following: 60135

(1) The costs of furnishing and making available copies of 60136

documents, rulebooks, and other publications; ~~the~~ 60137

(2) The costs of planning, organizing, and conducting 60138
training seminars; ~~the~~ 60139

(3) The costs associated with grant projects, innovative 60140
labor-management cooperation programs, research projects related 60141
to these grants and programs, and the advancement in 60142
professionalism of public sector relations; ~~the~~ 60143

(4) The professional development of state employment 60144
relations board employees; ~~and the~~ 60145

(5) The costs of compiling clearinghouse data; 60146

(6) The cost of producing the administrative record of the 60147
state personnel board of review. 60148

The state employment relations board may seek, solicit, apply 60149
for, receive, and accept grants, gifts, and contributions of 60150
money, property, labor, and other things of value to be held for, 60151
used for, and applied to only the purpose for which the grants, 60152
gifts, and contributions are made, from individuals, private and 60153
public corporations, the United States or any agency thereof, the 60154
state or any agency thereof, and any political subdivision of the 60155
state, and may enter into any contract with any such public or 60156
private source in connection therewith to be held for, used for, 60157
and applied to only the purposes for which such grants are made 60158
and contracts are entered into, all subject to and in accordance 60159
with the purposes of this chapter. Any money received from the 60160
grants, gifts, contributions, or contracts shall be deposited into 60161
the training, publications, and grants fund. 60162

Sec. 4121.125. (A) The bureau of workers' compensation board 60163
of directors, based upon recommendations of the workers' 60164
compensation actuarial committee, may contract with one or more 60165
outside actuarial firms and other professional persons, as the 60166

board determines necessary, to assist the board in measuring the performance of Ohio's workers' compensation system and in comparing Ohio's workers' compensation system to other state and private workers' compensation systems. The board, actuarial firm or firms, and professional persons shall make such measurements and comparisons using accepted insurance industry standards, including, but not limited to, standards promulgated by the National Council on Compensation Insurance.

(B) The board may contract with one or more outside firms to conduct management and financial audits of the workers' compensation system, including audits of the reserve fund belonging to the state insurance fund, and to establish objective quality management principles and methods by which to review the performance of the workers' compensation system.

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

(1) Contract to have prepared annually by or under the supervision of an actuary a report that meets the requirements specified under division (E) of this section and that consists of an actuarial valuation of the assets, liabilities, and funding requirements of the state insurance fund and all other funds specified in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;

(2) Require that the actuary or person supervised by an actuary referred to in division (C)(1) of this section complete the valuation in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries;

(3) Submit the report referred to in division (C)(1) of this section to the workers' compensation council and the standing committees of the house of representatives and the senate with primary responsibility for workers' compensation legislation not

later than the first day of September following the year for which 60198
the valuation was made; 60199

(4) Have an actuary or a person who provides actuarial 60200
services under the supervision of an actuary, at such time as the 60201
board determines, and at least once during the five-year period 60202
that commences on ~~the effective date of this amendment~~ September 60203
10, 2007, and once within each five-year period thereafter, 60204
conduct an actuarial investigation of the experience of employers, 60205
the mortality, service, and injury rate of employees, and the 60206
payment of temporary total disability, permanent partial 60207
disability, and permanent total disability under sections 4123.56 60208
to 4123.58 of the Revised Code to update the actuarial assumptions 60209
used in the report required by division (C)(1) of this section; 60210
60211

(5) Submit the report required under division (F) of this 60212
section to the council and the standing committees of the house of 60213
representatives and the senate with primary responsibility for 60214
workers' compensation legislation not later than the first day of 60215
November following the fifth year of the period that the report 60216
covers; 60217

(6) Have prepared by or under the supervision of an actuary 60218
an actuarial analysis of any introduced legislation expected to 60219
have a measurable financial impact on the workers' compensation 60220
system; 60221

(7) Submit the report required under division (G) of this 60222
section to the legislative service commission, the standing 60223
committees of the house of representatives and the senate with 60224
primary responsibility for workers' compensation legislation, and 60225
the council not later than sixty days after the date of 60226
introduction of the legislation. 60227

(D) The administrator of workers' compensation and the 60228

industrial commission shall compile information and provide access 60229
to records of the bureau and the industrial commission to the 60230
board to the extent necessary for fulfillment of both of the 60231
following requirements: 60232

(1) Conduct of the measurements and comparisons described in 60233
division (A) of this section; 60234

(2) Conduct of the management and financial audits and 60235
establishment of the principles and methods described in division 60236
(B) of this section. 60237

(E) The firm or person with whom the board contracts pursuant 60238
to division (C)(1) of this section shall prepare a report of the 60239
valuation and submit the report to the board. The firm or person 60240
shall include all of the following information in the report that 60241
is required under division (C)(1) of this section: 60242

(1) A summary of the compensation and benefit provisions 60243
evaluated; 60244

(2) A summary of the census data and financial information 60245
used in the valuation; 60246

(3) A description of the actuarial assumptions, actuarial 60247
cost method, and asset valuation method used in the valuation; 60248

(4) A summary of findings that includes a statement of the 60249
actuarial accrued compensation and benefit liabilities and 60250
unfunded actuarial accrued compensation and benefit liabilities; 60251

(5) A schedule showing the effect of any changes in the 60252
compensation and benefit provisions, actuarial assumptions, or 60253
cost methods since the previous annual actuarial valuation report 60254
was submitted to the board. 60255

(F) The actuary or person whom the board designates to 60256
conduct an actuarial investigation under division (C)(4) of this 60257
section shall prepare a report of the actuarial investigation and 60258

shall submit the report to the board. The actuary or person shall 60259
prepare the report and make any recommended changes in actuarial 60260
assumptions in accordance with the actuarial standards of practice 60261
promulgated by the actuarial standards board of the American 60262
academy of actuaries. The actuary or person shall include all of 60263
the following information in the report: 60264

(1) A summary of relevant decrement and economic assumption 60265
experience; 60266

(2) Recommended changes in actuarial assumptions to be used 60267
in subsequent actuarial valuations required by division (C)(1) of 60268
this section; 60269

(3) A measurement of the financial effect of the recommended 60270
changes in actuarial assumptions. 60271

(G) The actuary or person whom the board designates to 60272
conduct the actuarial analysis under division (C)(6) of this 60273
section shall prepare a report of the actuarial analysis and shall 60274
submit that report to the board. The actuary or person shall 60275
complete the analysis in accordance with the actuarial standards 60276
of practice promulgated by the actuarial standards board of the 60277
American academy of actuaries. The actuary or person shall include 60278
all of the following information in the report: 60279

(1) A summary of the statutory changes being evaluated; 60280

(2) A description of or reference to the actuarial 60281
assumptions and actuarial cost method used in the report; 60282

(3) A description of the participant group or groups included 60283
in the report; 60284

(4) A statement of the financial impact of the legislation, 60285
including the resulting increase, if any, in employer premiums, in 60286
actuarial accrued liabilities, and, if an increase in actuarial 60287
accrued liabilities is predicted, the per cent of premium increase 60288

that would be required to amortize the increase in those 60289
liabilities as a level per cent of employer premiums over a period 60290
not to exceed thirty years. 60291

(5) A statement of whether the employer premiums paid to the 60292
bureau of workers' compensation after the proposed change is 60293
enacted are expected to be sufficient to satisfy the funding 60294
objectives established by the board. 60295

(H) The board may, at any time, request an actuary to make 60296
any studies or actuarial valuations to determine the adequacy of 60297
the premium rates established by the administrator in accordance 60298
with sections 4123.29 and 4123.34 of the Revised Code, and may 60299
adjust those rates as recommended by the actuary. 60300

(I) The board shall have an independent auditor, at least 60301
once every ten years, conduct a fiduciary performance audit of the 60302
investment program of the bureau of workers' compensation. That 60303
audit shall include an audit of the investment policies approved 60304
by the board and investment procedures of the bureau. The board 60305
shall submit a copy of that audit to the auditor of state. 60306

(J) ~~The administrator, with the advice and consent of the~~ 60307
~~board, shall employ an chief internal auditor who shall report or~~ 60308
~~the office of internal auditing in the office of budget and~~ 60309
~~management, as applicable, shall submit a copy of the preliminary~~ 60310
~~report of the internal audit findings and recommendations and a~~ 60311
~~copy of the final report directly to the board, and the workers'~~ 60312
~~compensation audit committee, and in addition to the~~ 60313
~~administrator, except that the internal auditor shall not report~~ 60314
~~findings directly to the administrator when those findings involve~~ 60315
~~malfeasance, misfeasance, or nonfeasance on the part of the~~ 60316
~~administrator. The board and the workers' compensation audit~~ 60317
~~committee may request and review internal audits conducted by the~~ 60318
~~internal auditor as required under section 126.47 of the Revised~~ 60319
Code. 60320

(K) The administrator shall pay the expenses incurred by the board to effectively fulfill its duties and exercise its powers under this section as the administrator pays other operating expenses of the bureau.

Sec. 4141.08. (A) There is hereby created an unemployment compensation advisory council appointed as follows:

(1) Three members who on account of their vocation, employment, or affiliations can be classed as representative of employers and three members who on account of their vocation, employment, or affiliation can be classed as representatives of employees appointed by the governor with the advice and consent of the senate. All appointees shall be persons whose training and experience qualify them to deal with the difficult problems of unemployment compensation, particularly with respect to the legal, accounting, actuarial, economic, and social aspects of unemployment compensation;

(2) The chairpersons of the standing committees of the senate and the house of representatives to which legislation pertaining to Chapter 4141. of the Revised Code is customarily referred;

(3) Two members of the senate appointed by the president of the senate; and

(4) Two members of the house of representatives appointed by the speaker of the house of representatives.

The speaker and the president shall arrange that of the six legislative members appointed to the council, not more than three are members of the same political party.

(B) Members appointed by the governor shall serve for a term of four years, each term ending on the same day as the date of their original appointment. Legislative members shall serve during the session of the general assembly to which they are elected and

for as long as they are members of the general assembly. Vacancies 60351
shall be filled in the same manner as the original appointment but 60352
only for the unexpired part of a term. 60353

(C) Members of the council shall serve without salary but, 60354
notwithstanding section 101.26 of the Revised Code, shall be paid 60355
a meeting stipend of fifty dollars per day each and their actual 60356
and necessary expenses while engaged in the performance of their 60357
duties as members of the council which shall be paid from funds 60358
allocated to pay the expenses of the council pursuant to this 60359
section. 60360

(D) The council shall organize itself and select a 60361
chairperson or co-chairpersons and other officers and committees 60362
as it considers necessary. Seven members constitute a quorum and 60363
the council may act only upon the affirmative vote of seven 60364
members. The council shall meet at least once each calendar 60365
quarter but it may meet more often as the council considers 60366
necessary or at the request of the chairperson. 60367

(E) The council may employ professional and clerical 60368
assistance as it considers necessary and may request of the 60369
director of job and family services assistance as it considers 60370
necessary. The director shall furnish the council with office and 60371
meeting space as requested by the council. 60372

(F) The director shall pay the operating expenses of the 60373
council as determined by the council from moneys in the 60374
unemployment compensation special administrative fund established 60375
in section 4141.11 of the Revised Code. 60376

(G) The council shall have access to only the records of the 60377
department of job and family services that are necessary for the 60378
administration of this chapter and to the reasonable services of 60379
the employees of the department. It may request the director, or 60380
any of the employees appointed by the director, or any employer or 60381

employee subject to this chapter, to appear before it and to 60382
testify relative to the functioning of this chapter and to other 60383
relevant matters. The council may conduct research of its own, 60384
make and publish reports, and recommend to the director, the 60385
unemployment compensation review commission, the governor, or the 60386
general assembly needed changes in this chapter, or in the rules 60387
of the department as it considers necessary. 60388

Sec. 4141.11. There is hereby created in the state treasury 60389
the unemployment compensation special administrative fund. The 60390
fund shall consist of all interest collected on delinquent 60391
contributions pursuant to this chapter, all fines and forfeitures 60392
collected under this chapter, and all court costs and interest 60393
paid or collected in connection with the repayment of fraudulently 60394
obtained benefits pursuant to section 4141.35 of the Revised Code. 60395
All interest earned on the money in the fund shall be retained in 60396
the fund and shall not be credited or transferred to any other 60397
fund or account, except as provided in division (B) of this 60398
section. All moneys which are deposited or paid into this fund may 60399
be used by: 60400

(A) The director of job and family services ~~with the approval~~ 60401
~~of the unemployment compensation advisory council,~~ whenever it 60402
appears that such use is necessary for: 60403

(1) The proper administration of this chapter and no federal 60404
funds are available for the specific purpose for which the 60405
expenditure is to be made, provided the moneys are not substituted 60406
for appropriations from federal funds, which in the absence of 60407
such moneys would be available; 60408

(2) The proper administration of this chapter for which 60409
purpose appropriations from federal funds have been requested and 60410
approved but not received, provided the fund would be reimbursed 60411
upon receipt of the federal appropriation; 60412

(3) To the extent possible, the repayment to the unemployment compensation administration fund of moneys found by the proper agency of the United States to have been lost or expended for purposes other than, or an amount in excess of, those found necessary by the proper agency of the United States for the administration of this chapter.

(B) The director or the director's deputy whenever it appears that such use is necessary for the payment of refunds or adjustments of interest, fines, forfeitures, or court costs erroneously collected and paid into this fund pursuant to this chapter.

(C) The director, to pay state disaster unemployment benefits pursuant to section 4141.292 of the Revised Code. The director need not have prior approval from the unemployment compensation advisory council to make these payments.

(D) The director, to pay any costs attributable to the director that are associated with the sale of real property under section 4141.131 of the Revised Code. The director need not have prior approval from the council to make these payments.

Whenever the balance in the unemployment compensation special administrative fund is considered to be excessive by the ~~council~~ director, the director shall request the director of budget and management to transfer to the unemployment compensation fund the amount considered to be excessive. Any balance in the unemployment compensation special administrative fund shall not lapse at any time, but shall be continuously available to the director of ~~jobs~~ job and family services ~~or to the council~~ for expenditures consistent with this chapter.

Sec. 4141.162. (A) The director of job and family services shall establish an income and eligibility verification system that complies with section 1137 of the "Social Security Act." The

programs included in the system are all of the following: 60444

(1) Unemployment compensation pursuant to section 3304 of the 60445
"Internal Revenue Code of 1954"; 60446

(2) The state programs funded in part under part A of Title 60447
IV of the "Social Security Act" and administered under Chapters 60448
5107. and 5108. of the Revised Code; 60449

(3) Medicaid pursuant to Title XIX of the "Social Security 60450
Act"; 60451

(4) ~~Food stamps~~ The supplemental nutrition assistance program 60452
pursuant to the "Food Stamp and Nutrition Act of 1977," 91 Stat. 60453
958, 2008 (7 U.S.C.A. 2011, as amended et seq.) 60454

(5) Any Ohio program under a plan approved under Title I, X, 60455
XIV, or XVI of the "Social Security Act." 60456

Wage information provided by employers to the director shall 60457
be furnished to the income and eligibility verification system. 60458
Such information shall be used by the director to determine 60459
eligibility of individuals for unemployment compensation benefits 60460
and the amount of those benefits and used by the agencies that 60461
administer the programs identified in divisions (A)(2) to (5) of 60462
this section to determine or verify eligibility for or the amount 60463
of benefits under those programs. 60464

The director shall fully implement the use of wage 60465
information to determine eligibility for and the amount of 60466
unemployment compensation benefits by September 30, 1988. 60467

Information furnished under the system shall also be made 60468
available to the appropriate state or local child support 60469
enforcement agency for the purposes of an approved plan under 60470
Title IV-D of the "Social Security Act" and to the appropriate 60471
federal agency for the purposes of Titles II and XVI of the 60472
"Social Security Act." 60473

(B) The director shall adopt rules as necessary under which 60474
the department of job and family services and other state agencies 60475
that the director determines must participate in order to ensure 60476
compliance with section 1137 of the "Social Security Act" exchange 60477
information with each other or authorized federal agencies about 60478
individuals who are applicants for or recipients of benefits under 60479
any of the programs enumerated in division (A) of this section. 60480
The rules shall extend to all of the following: 60481

(1) A requirement for standardized formats and procedures for 60482
a participating agency to request and receive information about an 60483
individual, which information shall include the individual's 60484
social security number; 60485

(2) A requirement that all applicants for and recipients of 60486
benefits under any program enumerated in division (A) of this 60487
section be notified at the time of application, and periodically 60488
thereafter, that information available through the system may be 60489
shared with agencies that administer other benefit programs and 60490
utilized in establishing or verifying eligibility or benefit 60491
amounts under the other programs enumerated in division (A) of 60492
this section; 60493

(3) A requirement that information is made available only to 60494
the extent necessary to assist in the valid administrative needs 60495
of the program receiving the information and is targeted for use 60496
in ways which are most likely to be productive in identifying and 60497
preventing ineligibility and incorrect payments; 60498

(4) A requirement that information is adequately protected 60499
against unauthorized disclosures for purposes other than to 60500
establish or verify eligibility or benefit amounts under the 60501
programs enumerated in division (A) of this section; 60502

(5) A requirement that a program providing information is 60503
reimbursed by the program using the information for the actual 60504

costs of furnishing the information and that the director be 60505
reimbursed by the participating programs for any actual costs 60506
incurred in operating the system; 60507

(6) Requirements for any other matters necessary to ensure 60508
the effective, efficient, and timely exchange of necessary 60509
information or that the director determines must be addressed in 60510
order to ensure compliance with the requirements of section 1137 60511
of the "Social Security Act." 60512

(C) Each participating agency shall furnish to the income and 60513
eligibility verification system established in division (A) of 60514
this section that information, which the director, by rule, 60515
determines is necessary in order to comply with section 1137 of 60516
the "Social Security Act." 60517

(D) Notwithstanding the information disclosure requirements 60518
of this section and section 4141.21 and division (A) of section 60519
4141.284 of the Revised Code, the director shall administer those 60520
provisions of law so as to comply with section 1137 of the "Social 60521
Security Act." 60522

(E) Requirements in section 4141.21 of the Revised Code with 60523
respect to confidentiality of information obtained in the 60524
administration of Chapter 4141. of the Revised Code and any 60525
sanctions imposed for improper disclosure of such information 60526
shall apply to the redisclosure of information disclosed under 60527
this section. 60528

Sec. 4169.02. (A) For the purposes of regulating the 60529
construction, maintenance, mechanical operation, and inspection of 60530
passenger tramways that are associated with ski areas and of 60531
registering operators of passenger tramways in this state, there 60532
is hereby established in the division of ~~industrial compliance~~ 60533
labor in the department of commerce a ski tramway board to be 60534
appointed by the governor, with the advice and consent of the 60535

senate. The board shall consist of three members, one of whom 60536
shall be a public member who is an experienced skier and familiar 60537
with ski areas in this state, one of whom shall be a ski area 60538
operator actively engaged in the business of recreational skiing 60539
in this state, and one of whom shall be a professional engineer 60540
who is knowledgeable in the design or operation of passenger 60541
tramways. 60542

Of the initial appointments, one member shall be appointed 60543
for a term of one year, one for a term of two years, and one for a 60544
term of three years. The member appointed to the term beginning on 60545
July 1, 1996, shall be appointed to a term ending on June 30, 60546
1997; the member appointed to a term beginning on July 1, 1997, 60547
shall be appointed to a term ending on June 30, 1999; and the 60548
member appointed to a term beginning on July 1, 1998, shall be 60549
appointed to a term ending on June 30, 2001. Thereafter, each of 60550
the members shall be appointed for a term of six years. Each 60551
member shall hold office from the date of appointment until the 60552
end of the term for which the member was appointed. In the event 60553
of a vacancy, the governor, with the advice and consent of the 60554
senate, shall appoint a successor who shall hold office for the 60555
remainder of the term for which the successor's predecessor was 60556
appointed. A member shall continue in office subsequent to the 60557
expiration date of the member's term until the member's successor 60558
takes office or until a period of sixty days has elapsed, 60559
whichever occurs first. The board shall elect a chairperson from 60560
its members. 60561

The governor may remove any member of the board at any time 60562
for misfeasance, nonfeasance, or malfeasance in office after 60563
giving the member a copy of the charges against the member and an 60564
opportunity to be heard publicly in person or by counsel in the 60565
member's defense. Any such act of removal by the governor is 60566
final. A statement of the findings of the governor, the reason for 60567

the governor's action, and the answer, if any, of the member shall 60568
be filed by the governor with the secretary of state and shall be 60569
open to public inspection. 60570

Members of the board shall be paid two hundred fifty dollars 60571
for each meeting that the member attends, except that no member 60572
shall be paid or receive more than seven hundred fifty dollars for 60573
attending meetings during any calendar year. Each member shall be 60574
reimbursed for the member's actual and necessary expenses incurred 60575
in the performance of official board duties. The chairperson shall 60576
be paid two hundred fifty dollars annually in addition to any 60577
compensation the chairperson receives under this division for 60578
attending meetings and any other compensation the chairperson 60579
receives for serving on the board. 60580

The division shall provide the board with such offices and 60581
such clerical, professional, and other assistance as may be 60582
reasonably necessary for the board to carry on its work. The 60583
division shall maintain accurate copies of the board's rules as 60584
promulgated in accordance with division (B) of this section and 60585
shall keep all of the board's records, including business records, 60586
and inspection reports as well as its own records and reports. The 60587
cost of administering the board and conducting inspections shall 60588
be included in the budget of the division based on revenues 60589
generated by the registration fees established under section 60590
4169.03 of the Revised Code. 60591

(B) In accordance with Chapter 119. of the Revised Code, the 60592
board shall adopt and may amend or rescind rules relating to 60593
public safety in the construction, maintenance, mechanical 60594
operation, and inspection of passenger tramways. The rules shall 60595
be in accordance with established standards in the business of ski 60596
area operation, if any, and shall not discriminate in their 60597
application to ski area operators. 60598

No person shall violate the rules of the board. 60599

(C) The authority of the board shall not extend to any matter 60600
relative to the operation of a ski area other than the 60601
construction, maintenance, mechanical operation, and inspection of 60602
passenger tramways. 60603

(D) A majority of the board constitutes a quorum and may 60604
perform and exercise all the duties and powers devolving upon the 60605
board. 60606

Sec. 4169.03. (A) Before a passenger tramway operator may 60607
operate any passenger tramway in the state, the operator shall 60608
apply to the ski tramway board, on forms prepared by it, for 60609
registration by the board. The application shall contain an 60610
inventory of the passenger tramways that the applicant intends to 60611
operate and other information as the board may reasonably require 60612
and shall be accompanied by the following annual fees: 60613

- (1) Each aerial passenger tramway, five hundred dollars; 60614
- (2) Each skimobile, two hundred dollars; 60615
- (3) Each chair lift, two hundred dollars; 60616
- (4) Each J bar, T bar, or platter pull, one hundred dollars; 60617
- (5) Each rope tow, fifty dollars; 60618
- (6) Each wire rope tow, seventy-five dollars; 60619
- (7) Each conveyor, one hundred dollars. 60620

When an operator operates an aerial passenger tramway, a 60621
skimobile, or a chair lift during both a winter and summer season, 60622
the annual fee shall be one and one-half the above amount for the 60623
respective passenger tramway. 60624

(B) Upon payment of the appropriate annual fees in accordance 60625
with division (A) of this section, the board shall issue a 60626
registration certificate to the operator. Each certificate shall 60627
remain in force until the thirtieth day of September next ensuing. 60628

The board shall renew an operator's certificate in accordance with 60629
the standard renewal procedure in Chapter 4745. of the Revised 60630
Code upon payment of the appropriate annual fees. 60631

(C) Money received from the registration fees and from the 60632
fines collected pursuant to section 4169.99 of the Revised Code 60633
shall be paid into the state treasury to the credit of the 60634
~~industrial compliance labor~~ operating fund created in section 60635
121.084 of the Revised Code. 60636

(D) No person shall operate a passenger tramway in this state 60637
unless the person has been registered by the board. 60638

Sec. 4169.04. (A) The division of ~~industrial compliance labor~~ 60639
in the department of commerce shall make such inspection of the 60640
construction, maintenance, and mechanical operation of passenger 60641
tramways as the ski tramway board may reasonably require. The 60642
division may contract with other qualified engineers to make such 60643
inspection or may accept the inspection report by any qualified 60644
inspector of an insurance company authorized to insure passenger 60645
tramways in this state. 60646

(B) If, as the result of an inspection, an employee of the 60647
division or other agent with whom the division has contracted 60648
finds that a violation of the board's rules exists or a condition 60649
in passenger tramway construction, maintenance, or mechanical 60650
operation exists that endangers public safety, the employee or 60651
agent shall make an immediate report to the board for appropriate 60652
investigation and order. 60653

Sec. 4171.04. (A) Before a person may operate any roller 60654
skating rink in the state, the person shall: 60655

(1) Apply to the superintendent of ~~the division of industrial~~ 60656
~~compliance labor~~ in the department of commerce on forms designated 60657
by the superintendent for a certificate of registration; 60658

(2) Provide an inventory of all the roller skating rinks that the applicant intends to operate, and any other information the superintendent may reasonably require on the application;

(3) Include with the application a registration fee of twenty-five dollars for each roller skating rink to be operated by the applicant.

(B) Upon compliance with division (A) of this section, the superintendent shall issue a certificate of registration to the operator for each roller skating rink to be operated by the applicant. Each certificate shall remain in force as follows:

(1) Until the thirty-first day of December next ensuing; or

(2) For sixty days after the dissolution of a partnership.

(C) In case of the dissolution of a partnership by death, the surviving partner or partners may operate a roller skating rink pursuant to the certificate of registration obtained by the partnership in accordance with this chapter for a period of sixty days following dissolution. The heirs or representatives of deceased persons and receivers or trustees in bankruptcy appointed by any competent authority may operate under the certificate of registration of the person succeeded in possession.

(D) The superintendent shall renew an operator's certificate of registration in accordance with the standard license renewal procedure set forth in Chapter 4745. of the Revised Code upon payment of a renewal fee of twenty-five dollars for each roller skating rink to be operated by the applicant.

(E) Money received from the registration and renewal fees collected pursuant to this chapter shall be paid into the state treasury to the credit of the ~~industrial-compliance~~ labor operating fund created in section 121.084 of the Revised Code.

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of

the Revised Code: 60689

(1) "Gallon" or "wine gallon" means one hundred twenty-eight 60690
fluid ounces. 60691

(2) "Sale" or "sell" includes exchange, barter, gift, 60692
distribution, and, except with respect to A-4 permit holders, 60693
offer for sale. 60694

(B) For the purposes of providing revenues for the support of 60695
the state and encouraging the grape industries in the state, a tax 60696
is hereby levied on the sale or distribution of wine in Ohio, 60697
except for known sacramental purposes, at the rate of thirty cents 60698
per wine gallon for wine containing not less than four per cent of 60699
alcohol by volume and not more than fourteen per cent of alcohol 60700
by volume, ninety-eight cents per wine gallon for wine containing 60701
more than fourteen per cent but not more than twenty-one per cent 60702
of alcohol by volume, one dollar and eight cents per wine gallon 60703
for vermouth, and one dollar and forty-eight cents per wine gallon 60704
for sparkling and carbonated wine and champagne, the tax to be 60705
paid by the holders of A-2 and B-5 permits or by any other person 60706
selling or distributing wine upon which no tax has been paid. From 60707
the tax paid under this section on wine, vermouth, and sparkling 60708
and carbonated wine and champagne, the treasurer of state shall 60709
credit to the Ohio grape industries fund created under section 60710
924.54 of the Revised Code a sum equal to one cent per gallon for 60711
each gallon upon which the tax is paid. 60712

(C) For the purpose of providing revenues for the support of 60713
the state, there is hereby levied a tax on prepared and bottled 60714
highballs, cocktails, cordials, and other mixed beverages at the 60715
rate of one dollar and twenty cents per wine gallon to be paid by 60716
holders of A-4 permits or by any other person selling or 60717
distributing those products upon which no tax has been paid. Only 60718
one sale of the same article shall be used in computing the amount 60719
of tax due. The tax on mixed beverages to be paid by holders of 60720

A-4 permits under this section shall not attach until the ownership of the mixed beverage is transferred for valuable consideration to a wholesaler or retailer, and no payment of the tax shall be required prior to that time.

(D) During the period of July 1, ~~2007~~ 2009, through June 30, ~~2009~~ 2011, from the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to two cents per gallon upon which the tax is paid. The amount credited under this division is in addition to the amount credited to the Ohio grape industries fund under division (B) of this section.

(E) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on cider at the rate of twenty-four cents per wine gallon to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing cider upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of the tax due.

Sec. 4303.331. No permit holder shall purchase and import into this state any beer from any manufacturer, bottler, importer, wholesale dealer, or broker outside this state and within the United States unless and until such manufacturer, bottler, importer, wholesale dealer, or broker registers with the tax commissioner and supplies such information as the commissioner may require.

The commissioner may, by rule, require any registrant to file with the commissioner a bond payable to the state in such form and amount as the commissioner prescribes with surety to the satisfaction of the tax commissioner conditioned upon the making of the report to be made to the tax commissioner and the payment to the tax commissioner of taxes levied by sections 4301.42 and

4305.01 of the Revised Code, all as provided in section 4303.33 of the Revised Code. 60752
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Any such manufacturer, bottler, importer, wholesale dealer, or broker shall, as a part of such registration, make the secretary of state its agent for the service of process or notice of any assessment, action, or proceedings instituted in the state against such person under sections 4303.33, 4301.42, and 4305.01 of the Revised Code. 60754
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~~Such process or notice shall be served, by the officer to whom it is directed or by the tax commissioner, or by the sheriff of Franklin county, who may be deputized for such purpose by the officer to whom the service is directed, upon the secretary of state by leaving at the office of the secretary of state, at least fifteen days before the return day of such process or notice, a true and attested copy thereof, and by sending to the defendant by certified mail, postage prepaid, a like and true attested copy, with an endorsement thereon of the service upon the secretary of state, addressed to such defendant at the address listed in the registration or at the defendant's last known address in accordance with section 5703.37 of the Revised Code.~~ 60760
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Any B-1 permit holder who purchases beer from any manufacturer, bottler, importer, wholesale dealer, or broker outside this state and within the United States who has not registered with the tax commissioner and filed a bond as provided in this section shall be liable for any tax due on any beer purchased from such unregistered manufacturer, bottler, importer, wholesale dealer, or broker and shall be subject to any penalties provided in Chapters 4301., 4303., 4305., and 4307. of the Revised Code. 60772
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Any B-1 permit holder who purchases beer from any manufacturer, bottler, importer, wholesale dealer, or broker outside this state and within the United States who has complied 60781
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with this section shall not be liable for any tax due to the state 60784
on any beer purchased from any such manufacturer, bottler, 60785
importer, wholesale dealer, or broker. 60786

All money collected by the tax commissioner under this 60787
section shall be paid to the treasurer of state as revenue arising 60788
from the taxes levied by sections 4301.42, 4301.43, 4301.432, and 60789
4305.01 of the Revised Code. 60790

Sec. 4501.24. There is hereby created in the state treasury 60791
the scenic rivers protection fund. The fund shall consist of the 60792
contributions not to exceed forty dollars that are paid to the 60793
registrar of motor vehicles by applicants who voluntarily choose 60794
to obtain scenic rivers license plates pursuant to section 4503.56 60795
of the Revised Code. 60796

The contributions deposited in the fund shall be used by the 60797
department of natural resources to help finance wild, scenic, and 60798
recreational river areas conservation, ~~scenic river~~ 60799
corridor protection ~~and~~, restoration, ~~scenic river~~ and habitat 60800
enhancement, and clean-up projects along ~~scenic rivers~~ in those 60801
areas. The chief of the division of watercraft in the department 60802
may expend money in the fund for the acquisition of wild, scenic, 60803
and recreational river areas, for the maintenance, protection, and 60804
administration of such areas, and for construction of facilities 60805
within those areas. All investment earnings of the fund shall be 60806
credited to the fund. 60807

As used in this section, "wild river areas," "scenic river 60808
areas," and "recreational river areas" have the same meanings as 60809
in section 1547.01 of the Revised Code. 60810

Sec. 4501.29. The department of administrative services shall 60811
collect user fees from participants in the multi-agency radio 60812
communications system (MARCS). The director of administrative 60813

services, with the advice of the MARCS steering committee and the 60814
consent of the director of budget and management, shall determine 60815
the amount of the user fees and the manner by which the fees shall 60816
be collected. All moneys from user fees shall be deposited in the 60817
MARCS administration fund, which is hereby created in the state 60818
treasury. All investment earnings on moneys in the fund shall be 60819
credited to the fund. 60820

Sec. 4503.068. On or before the second Monday in September of 60821
each year, the county treasurer shall total the amount by which 60822
the manufactured home taxes levied in that year were reduced 60823
pursuant to section 4503.065 of the Revised Code, and certify that 60824
amount to the tax commissioner. Within ninety days of the receipt 60825
of the certification, the commissioner shall ~~certify that amount~~ 60826
~~to the director of budget and management and the director shall~~ 60827
~~make two payments from the general revenue fund in favor of the~~ 60828
~~county treasurer. One shall be in the full amount by which taxes~~ 60829
~~were reduced. The other shall be in an amount equal to two per~~ 60830
~~cent of such amount and shall be a payment~~ provide for payment to 60831
the county treasurer, from the general revenue fund, of the amount 60832
certified, which shall be credited upon receipt to the county's 60833
undivided income tax fund, and an amount equal to two per cent of 60834
the amount by which taxes were reduced, which shall be credited 60835
upon receipt to the county general fund as a payment, in addition 60836
to the fees and charges authorized by sections 319.54 and 321.26 60837
of the Revised Code, to the county auditor and county treasurer 60838
for the costs of administering sections 4503.064 to 4503.069 of 60839
the Revised Code. 60840

Immediately upon receipt of ~~the payment in the full amount by~~ 60841
~~which taxes were reduced, the full amount of the payment shall be~~ 60842
~~distributed~~ funds into the county undivided income tax fund under 60843
this section, the county auditor shall distribute the full amount 60844

thereof among the taxing districts in the county as though it had 60845
been received as taxes under section 4503.06 of the Revised Code 60846
from each person for whom taxes were reduced under section 60847
4503.065 of the Revised Code. 60848

Sec. 4503.10. (A) The owner of every snowmobile, off-highway 60849
motorcycle, and all-purpose vehicle required to be registered 60850
under section 4519.02 of the Revised Code shall file an 60851
application for registration under section 4519.03 of the Revised 60852
Code. The owner of a motor vehicle, other than a snowmobile, 60853
off-highway motorcycle, or all-purpose vehicle, that is not 60854
designed and constructed by the manufacturer for operation on a 60855
street or highway may not register it under this chapter except 60856
upon certification of inspection pursuant to section 4513.02 of 60857
the Revised Code by the sheriff, or the chief of police of the 60858
municipal corporation or township, with jurisdiction over the 60859
political subdivision in which the owner of the motor vehicle 60860
resides. Except as provided in section 4503.103 of the Revised 60861
Code, every owner of every other motor vehicle not previously 60862
described in this section and every person mentioned as owner in 60863
the last certificate of title of a motor vehicle that is operated 60864
or driven upon the public roads or highways shall cause to be 60865
filed each year, by mail or otherwise, in the office of the 60866
registrar of motor vehicles or a deputy registrar, a written or 60867
electronic application or a preprinted registration renewal notice 60868
issued under section 4503.102 of the Revised Code, the form of 60869
which shall be prescribed by the registrar, for registration for 60870
the following registration year, which shall begin on the first 60871
day of January of every calendar year and end on the thirty-first 60872
day of December in the same year. Applications for registration 60873
and registration renewal notices shall be filed at the times 60874
established by the registrar pursuant to section 4503.101 of the 60875
Revised Code. A motor vehicle owner also may elect to apply for or 60876

renew a motor vehicle registration by electronic means using 60877
electronic signature in accordance with rules adopted by the 60878
registrar. Except as provided in division (J) of this section, 60879
applications for registration shall be made on blanks furnished by 60880
the registrar for that purpose, containing the following 60881
information: 60882

(1) A brief description of the motor vehicle to be 60883
registered, including the year, make, model, and vehicle 60884
identification number, and, in the case of commercial cars, the 60885
gross weight of the vehicle fully equipped computed in the manner 60886
prescribed in section 4503.08 of the Revised Code; 60887

(2) The name and residence address of the owner, and the 60888
township and municipal corporation in which the owner resides; 60889

(3) The district of registration, which shall be determined 60890
as follows: 60891

(a) In case the motor vehicle to be registered is used for 60892
hire or principally in connection with any established business or 60893
branch business, conducted at a particular place, the district of 60894
registration is the municipal corporation in which that place is 60895
located or, if not located in any municipal corporation, the 60896
county and township in which that place is located. 60897

(b) In case the vehicle is not so used, the district of 60898
registration is the municipal corporation or county in which the 60899
owner resides at the time of making the application. 60900

(4) Whether the motor vehicle is a new or used motor vehicle; 60901

(5) The date of purchase of the motor vehicle; 60902

(6) Whether the fees required to be paid for the registration 60903
or transfer of the motor vehicle, during the preceding 60904
registration year and during the preceding period of the current 60905
registration year, have been paid. Each application for 60906

registration shall be signed by the owner, either manually or by 60907
electronic signature, or pursuant to obtaining a limited power of 60908
attorney authorized by the registrar for registration, or other 60909
document authorizing such signature. If the owner elects to apply 60910
for or renew the motor vehicle registration with the registrar by 60911
electronic means, the owner's manual signature is not required. 60912

(7) The owner's social security number, driver's license 60913
number, or state identification number, or, where a motor vehicle 60914
to be registered is used for hire or principally in connection 60915
with any established business, the owner's federal taxpayer 60916
identification number. The bureau of motor vehicles shall retain 60917
in its records all social security numbers provided under this 60918
section, but the bureau shall not place social security numbers on 60919
motor vehicle certificates of registration. 60920

(B) Except as otherwise provided in this division, each time 60921
an applicant first registers a motor vehicle in the applicant's 60922
name, the applicant shall present for inspection a physical 60923
certificate of title or memorandum certificate showing title to 60924
the motor vehicle to be registered in the name of the applicant if 60925
a physical certificate of title or memorandum certificate has been 60926
issued by a clerk of a court of common pleas. If, under sections 60927
4505.021, 4505.06, and 4505.08 of the Revised Code, a clerk 60928
instead has issued an electronic certificate of title for the 60929
applicant's motor vehicle, that certificate may be presented for 60930
inspection at the time of first registration in a manner 60931
prescribed by rules adopted by the registrar. An applicant is not 60932
required to present a certificate of title to an electronic motor 60933
vehicle dealer acting as a limited authority deputy registrar in 60934
accordance with rules adopted by the registrar. When a motor 60935
vehicle inspection and maintenance program is in effect under 60936
section 3704.14 of the Revised Code and rules adopted under it, 60937
each application for registration for a vehicle required to be 60938

inspected under that section and those rules shall be accompanied 60939
by an inspection certificate for the motor vehicle issued in 60940
accordance with that section. The application shall be refused if 60941
any of the following applies: 60942

(1) The application is not in proper form. 60943

(2) The application is prohibited from being accepted by 60944
division (D) of section 2935.27, division (A) of section 2937.221, 60945
division (A) of section 4503.13, division (B) of section 4510.22, 60946
or division (B)(1) of section 4521.10 of the Revised Code. 60947

(3) A certificate of title or memorandum certificate of title 60948
is required but does not accompany the application or, in the case 60949
of an electronic certificate of title, is required but is not 60950
presented in a manner prescribed by the registrar's rules. 60951

(4) All registration and transfer fees for the motor vehicle, 60952
for the preceding year or the preceding period of the current 60953
registration year, have not been paid. 60954

(5) The owner or lessee does not have an inspection 60955
certificate for the motor vehicle as provided in section 3704.14 60956
of the Revised Code, and rules adopted under it, if that section 60957
is applicable. 60958

This section does not require the payment of license or 60959
registration taxes on a motor vehicle for any preceding year, or 60960
for any preceding period of a year, if the motor vehicle was not 60961
taxable for that preceding year or period under sections 4503.02, 60962
4503.04, 4503.11, 4503.12, and 4503.16 or Chapter 4504. of the 60963
Revised Code. When a certificate of registration is issued upon 60964
the first registration of a motor vehicle by or on behalf of the 60965
owner, the official issuing the certificate shall indicate the 60966
issuance with a stamp on the certificate of title or memorandum 60967
certificate or, in the case of an electronic certificate of title, 60968
an electronic stamp or other notation as specified in rules 60969

adopted by the registrar, and with a stamp on the inspection 60970
certificate for the motor vehicle, if any. The official also shall 60971
indicate, by a stamp or by other means the registrar prescribes, 60972
on the registration certificate issued upon the first registration 60973
of a motor vehicle by or on behalf of the owner the odometer 60974
reading of the motor vehicle as shown in the odometer statement 60975
included in or attached to the certificate of title. Upon each 60976
subsequent registration of the motor vehicle by or on behalf of 60977
the same owner, the official also shall so indicate the odometer 60978
reading of the motor vehicle as shown on the immediately preceding 60979
certificate of registration. 60980

The registrar shall include in the permanent registration 60981
record of any vehicle required to be inspected under section 60982
3704.14 of the Revised Code the inspection certificate number from 60983
the inspection certificate that is presented at the time of 60984
registration of the vehicle as required under this division. 60985

(C)(1) Commencing with each registration renewal with an 60986
expiration date on or after October 1, 2003, and for each initial 60987
application for registration received on and after that date, the 60988
registrar and each deputy registrar shall collect an additional 60989
fee of eleven dollars for each application for registration and 60990
registration renewal received. The additional fee is for the 60991
purpose of defraying the department of public safety's costs 60992
associated with the administration and enforcement of the motor 60993
vehicle and traffic laws of Ohio. Each deputy registrar shall 60994
transmit the fees collected under division (C)(1) of this section 60995
in the time and manner provided in this section. The registrar 60996
shall deposit all moneys received under division (C)(1) of this 60997
section into the state highway safety fund established in section 60998
4501.06 of the Revised Code. 60999

(2) In addition, a charge of twenty-five cents shall be made 61000
for each reflectorized safety license plate issued, and a single 61001

charge of twenty-five cents shall be made for each county 61002
identification sticker or each set of county identification 61003
stickers issued, as the case may be, to cover the cost of 61004
producing the license plates and stickers, including material, 61005
manufacturing, and administrative costs. Those fees shall be in 61006
addition to the license tax. If the total cost of producing the 61007
plates is less than twenty-five cents per plate, or if the total 61008
cost of producing the stickers is less than twenty-five cents per 61009
sticker or per set issued, any excess moneys accruing from the 61010
fees shall be distributed in the same manner as provided by 61011
section 4501.04 of the Revised Code for the distribution of 61012
license tax moneys. If the total cost of producing the plates 61013
exceeds twenty-five cents per plate, or if the total cost of 61014
producing the stickers exceeds twenty-five cents per sticker or 61015
per set issued, the difference shall be paid from the license tax 61016
moneys collected pursuant to section 4503.02 of the Revised Code. 61017

(D) Each deputy registrar shall be allowed a fee of two 61018
dollars and seventy-five cents commencing on July 1, 2001, three 61019
dollars and twenty-five cents commencing on January 1, 2003, and 61020
three dollars and fifty cents commencing on January 1, 2004, for 61021
each application for registration and registration renewal notice 61022
the deputy registrar receives, which shall be for the purpose of 61023
compensating the deputy registrar for the deputy registrar's 61024
services, and such office and rental expenses, as may be necessary 61025
for the proper discharge of the deputy registrar's duties in the 61026
receiving of applications and renewal notices and the issuing of 61027
registrations. 61028

(E) Upon the certification of the registrar, the county 61029
sheriff or local police officials shall recover license plates 61030
erroneously or fraudulently issued. 61031

(F) Each deputy registrar, upon receipt of any application 61032
for registration or registration renewal notice, together with the 61033

license fee and any local motor vehicle license tax levied 61034
pursuant to Chapter 4504. of the Revised Code, shall transmit that 61035
fee and tax, if any, in the manner provided in this section, 61036
together with the original and duplicate copy of the application, 61037
to the registrar. The registrar, subject to the approval of the 61038
director of public safety, may deposit the funds collected by 61039
those deputies in a local bank or depository to the credit of the 61040
"state of Ohio, bureau of motor vehicles." Where a local bank or 61041
depository has been designated by the registrar, each deputy 61042
registrar shall deposit all moneys collected by the deputy 61043
registrar into that bank or depository not more than one business 61044
day after their collection and shall make reports to the registrar 61045
of the amounts so deposited, together with any other information, 61046
some of which may be prescribed by the treasurer of state, as the 61047
registrar may require and as prescribed by the registrar by rule. 61048
The registrar, within three days after receipt of notification of 61049
the deposit of funds by a deputy registrar in a local bank or 61050
depository, shall draw on that account in favor of the treasurer 61051
of state. The registrar, subject to the approval of the director 61052
and the treasurer of state, may make reasonable rules necessary 61053
for the prompt transmittal of fees and for safeguarding the 61054
interests of the state and of counties, townships, municipal 61055
corporations, and transportation improvement districts levying 61056
local motor vehicle license taxes. The registrar may pay service 61057
charges usually collected by banks and depositories for such 61058
service. If deputy registrars are located in communities where 61059
banking facilities are not available, they shall transmit the fees 61060
forthwith, by money order or otherwise, as the registrar, by rule 61061
approved by the director and the treasurer of state, may 61062
prescribe. The registrar may pay the usual and customary fees for 61063
such service. 61064

(G) This section does not prevent any person from making an 61065
application for a motor vehicle license directly to the registrar 61066

by mail, by electronic means, or in person at any of the 61067
registrar's offices, upon payment of a service fee of two dollars 61068
and seventy-five cents commencing on July 1, 2001, three dollars 61069
and twenty-five cents commencing on January 1, 2003, and three 61070
dollars and fifty cents commencing on January 1, 2004, for each 61071
application. 61072

(H) No person shall make a false statement as to the district 61073
of registration in an application required by division (A) of this 61074
section. Violation of this division is falsification under section 61075
2921.13 of the Revised Code and punishable as specified in that 61076
section. 61077

(I)(1) Where applicable, the requirements of division (B) of 61078
this section relating to the presentation of an inspection 61079
certificate issued under section 3704.14 of the Revised Code and 61080
rules adopted under it for a motor vehicle, the refusal of a 61081
license for failure to present an inspection certificate, and the 61082
stamping of the inspection certificate by the official issuing the 61083
certificate of registration apply to the registration of and 61084
issuance of license plates for a motor vehicle under sections 61085
4503.102, 4503.12, 4503.14, 4503.15, 4503.16, 4503.171, 4503.172, 61086
4503.19, 4503.40, 4503.41, 4503.42, 4503.43, 4503.44, 4503.46, 61087
4503.47, and 4503.51 of the Revised Code. 61088

(2)(a) The registrar shall adopt rules ensuring that each 61089
owner registering a motor vehicle in a county where a motor 61090
vehicle inspection and maintenance program is in effect under 61091
section 3704.14 of the Revised Code and rules adopted under it 61092
receives information about the requirements established in that 61093
section and those rules and about the need in those counties to 61094
present an inspection certificate with an application for 61095
registration or preregistration. 61096

(b) Upon request, the registrar shall provide the director of 61097
environmental protection, or any person that has been awarded a 61098

contract under ~~division (D)~~ of section 3704.14 of the Revised Code, an on-line computer data link to registration information for all passenger cars, noncommercial motor vehicles, and commercial cars that are subject to that section. The registrar also shall provide to the director of environmental protection a magnetic data tape containing registration information regarding passenger cars, noncommercial motor vehicles, and commercial cars for which a multi-year registration is in effect under section 4503.103 of the Revised Code or rules adopted under it, including, without limitation, the date of issuance of the multi-year registration, the registration deadline established under rules adopted under section 4503.101 of the Revised Code that was applicable in the year in which the multi-year registration was issued, and the registration deadline for renewal of the multi-year registration.

(J) Application for registration under the international registration plan, as set forth in sections 4503.60 to 4503.66 of the Revised Code, shall be made to the registrar on forms furnished by the registrar. In accordance with international registration plan guidelines and pursuant to rules adopted by the registrar, the forms shall include the following:

(1) A uniform mileage schedule;

(2) The gross vehicle weight of the vehicle or combined gross vehicle weight of the combination vehicle as declared by the registrant;

(3) Any other information the registrar requires by rule.

Sec. 4503.235. (A) If division (G) of section 4511.19 or division (B) of section 4511.193 of the Revised Code requires a court, as part of the sentence of an offender who is convicted of or pleads guilty to a violation of division (A) of section 4511.19 of the Revised Code or as a sanction for an offender who is

convicted of or pleaded guilty to a violation of a municipal OVI ordinance, to order the immobilization of a vehicle for a specified period of time, notwithstanding the requirement, the court in its discretion may determine not to order the immobilization of the vehicle if both of the following apply:

(1) Prior to the issuance of the order of immobilization, a family or household member of the offender files a motion with the court identifying the vehicle and requesting that the immobilization order not be issued on the ground that the family or household member is completely dependent on the vehicle for the necessities of life and that the immobilization of the vehicle would be an undue hardship to the family or household member.

(2) The court determines that the family or household member who files the motion is completely dependent on the vehicle for the necessities of life and that the immobilization of the vehicle would be an undue hardship to the family or household member.

(B) If a court pursuant to division (A) of this section determines not to order the immobilization of a vehicle that otherwise would be required pursuant to division (G) of section 4511.19 or division (B) of section 4511.193 of the Revised Code, the court shall issue an order that waives the immobilization that otherwise would be required pursuant to either of those divisions. The immobilization waiver order shall be in effect for the period of time for which the immobilization of the vehicle otherwise would have been required under division (G) of section 4511.19 or division (B) of section 4511.193 of the Revised Code if the immobilization waiver order had not been issued, subject to division (D) of this section. The immobilization waiver order shall specify the period of time for which it is in effect. The court shall provide a copy of an immobilization waiver order to

the offender and to the family or household member of the offender 61162
who filed the motion requesting that the immobilization order not 61163
be issued and shall place a copy of the immobilization waiver 61164
order in the record in the case. The court shall impose an 61165
immobilization waiver fee in the amount of fifty dollars. The 61166
court shall determine whether the fee is to be paid by the 61167
offender or by the family or household member. The clerk of the 61168
court shall transmit all of the fees collected during a month on 61169
or before the twenty-third day of the following month to the state 61170
treasury to be credited to the local indigent drivers alcohol 61171
treatment fund⁷, created by the local alcohol and drug addiction 61172
services board or the local board of alcohol, drug addiction, and 61173
mental health services under division ~~(F)~~(H) of section 4511.191 61174
of the Revised Code. 61175

(C) If a court pursuant to division (B) of this section 61176
issues an immobilization waiver order, the order shall identify 61177
the family or household member who requested the order and the 61178
vehicle to which the order applies, shall identify the family or 61179
household members who are permitted to operate the vehicle, and 61180
shall identify the offender and specify that the offender is not 61181
permitted to operate the vehicle. The immobilization waiver order 61182
shall require that the family or household member display on the 61183
vehicle to which the order applies restricted license plates that 61184
are issued under section 4503.231 of the Revised Code for the 61185
entire period for which the immobilization of the vehicle 61186
otherwise would have been required under division (G) of section 61187
4511.19 or division (B) of section 4511.193 of the Revised Code if 61188
the immobilization waiver order had not been issued. 61189

(D) A family or household member who is permitted to operate 61190
a vehicle under an immobilization waiver order issued under this 61191
section shall not permit the offender to operate the vehicle. If a 61192
family or household member who is permitted to operate a vehicle 61193

under an immobilization waiver order issued under this section 61194
permits the offender to operate the vehicle, both of the following 61195
apply: 61196

(1) The court that issued the immobilization waiver order 61197
shall terminate that order and shall issue an immobilization order 61198
in accordance with section 4503.233 of the Revised Code that 61199
applies to the vehicle, and the immobilization order shall be in 61200
effect for the remaining period of time for which the 61201
immobilization of the vehicle otherwise would have been required 61202
under division (G) of section 4511.19 or division (B) of section 61203
4511.193 of the Revised Code if the immobilization waiver order 61204
had not been issued. 61205

(2) The conduct of the family or household member in 61206
permitting the offender to operate the vehicle is a violation of 61207
section 4511.203 of the Revised Code. 61208

(E) No offender shall operate a motor vehicle subject to an 61209
immobilization waiver order. Whoever violates this division is 61210
guilty of operating a motor vehicle in violation of an 61211
immobilization waiver, a misdemeanor of the first degree. 61212

(F) "Family or household member" has the same meaning as in 61213
section 2919.25 of the Revised Code, except that the person must 61214
be currently residing with the offender. 61215

Sec. 4505.06. (A)(1) Application for a certificate of title 61216
shall be made in a form prescribed by the registrar of motor 61217
vehicles and shall be sworn to before a notary public or other 61218
officer empowered to administer oaths. The application shall be 61219
filed with the clerk of any court of common pleas. An application 61220
for a certificate of title may be filed electronically by any 61221
electronic means approved by the registrar in any county with the 61222
clerk of the court of common pleas of that county. Any payments 61223
required by this chapter shall be considered as accompanying any 61224

electronically transmitted application when payment actually is 61225
received by the clerk. Payment of any fee or taxes may be made by 61226
electronic transfer of funds. 61227

(2) The application for a certificate of title shall be 61228
accompanied by the fee prescribed in section 4505.09 of the 61229
Revised Code. The fee shall be retained by the clerk who issues 61230
the certificate of title and shall be distributed in accordance 61231
with that section. If a clerk of a court of common pleas, other 61232
than the clerk of the court of common pleas of an applicant's 61233
county of residence, issues a certificate of title to the 61234
applicant, the clerk shall transmit data related to the 61235
transaction to the automated title processing system. 61236

(3) If a certificate of title previously has been issued for 61237
a motor vehicle in this state, the application for a certificate 61238
of title also shall be accompanied by that certificate of title 61239
duly assigned, unless otherwise provided in this chapter. If a 61240
certificate of title previously has not been issued for the motor 61241
vehicle in this state, the application, unless otherwise provided 61242
in this chapter, shall be accompanied by a manufacturer's or 61243
importer's certificate or by a certificate of title of another 61244
state from which the motor vehicle was brought into this state. If 61245
the application refers to a motor vehicle last previously 61246
registered in another state, the application also shall be 61247
accompanied by the physical inspection certificate required by 61248
section 4505.061 of the Revised Code. If the application is made 61249
by two persons regarding a motor vehicle in which they wish to 61250
establish joint ownership with right of survivorship, they may do 61251
so as provided in section 2131.12 of the Revised Code. If the 61252
applicant requests a designation of the motor vehicle in 61253
beneficiary form so that upon the death of the owner of the motor 61254
vehicle, ownership of the motor vehicle will pass to a designated 61255
transfer-on-death beneficiary or beneficiaries, the applicant may 61256

do so as provided in section 2131.13 of the Revised Code. A person 61257
who establishes ownership of a motor vehicle that is transferable 61258
on death in accordance with section 2131.13 of the Revised Code 61259
may terminate that type of ownership or change the designation of 61260
the transfer-on-death beneficiary or beneficiaries by applying for 61261
a certificate of title pursuant to this section. The clerk shall 61262
retain the evidence of title presented by the applicant and on 61263
which the certificate of title is issued, except that, if an 61264
application for a certificate of title is filed electronically by 61265
an electronic motor vehicle dealer on behalf of the purchaser of a 61266
motor vehicle, the clerk shall retain the completed electronic 61267
record to which the dealer converted the certificate of title 61268
application and other required documents. The registrar, after 61269
consultation with the attorney general, shall adopt rules that 61270
govern the location at which, and the manner in which, are stored 61271
the actual application and all other documents relating to the 61272
sale of a motor vehicle when an electronic motor vehicle dealer 61273
files the application for a certificate of title electronically on 61274
behalf of the purchaser. 61275

The clerk shall use reasonable diligence in ascertaining 61276
whether or not the facts in the application for a certificate of 61277
title are true by checking the application and documents 61278
accompanying it or the electronic record to which a dealer 61279
converted the application and accompanying documents with the 61280
records of motor vehicles in the clerk's office. If the clerk is 61281
satisfied that the applicant is the owner of the motor vehicle and 61282
that the application is in the proper form, the clerk, within five 61283
business days after the application is filed and except as 61284
provided in section 4505.021 of the Revised Code, shall issue a 61285
physical certificate of title over the clerk's signature and 61286
sealed with the clerk's seal, unless the applicant specifically 61287
requests the clerk not to issue a physical certificate of title 61288
and instead to issue an electronic certificate of title. For 61289

purposes of the transfer of a certificate of title, if the clerk 61290
is satisfied that the secured party has duly discharged a lien 61291
notation but has not canceled the lien notation with a clerk, the 61292
clerk may cancel the lien notation on the automated title 61293
processing system and notify the clerk of the county of origin. 61294

(4) In the case of the sale of a motor vehicle to a general 61295
buyer or user by a dealer, by a motor vehicle leasing dealer 61296
selling the motor vehicle to the lessee or, in a case in which the 61297
leasing dealer subleased the motor vehicle, the sublessee, at the 61298
end of the lease agreement or sublease agreement, or by a 61299
manufactured home broker, the certificate of title shall be 61300
obtained in the name of the buyer by the dealer, leasing dealer, 61301
or manufactured home broker, as the case may be, upon application 61302
signed by the buyer. The certificate of title shall be issued, or 61303
the process of entering the certificate of title application 61304
information into the automated title processing system if a 61305
physical certificate of title is not to be issued shall be 61306
completed, within five business days after the application for 61307
title is filed with the clerk. If the buyer of the motor vehicle 61308
previously leased the motor vehicle and is buying the motor 61309
vehicle at the end of the lease pursuant to that lease, the 61310
certificate of title shall be obtained in the name of the buyer by 61311
the motor vehicle leasing dealer who previously leased the motor 61312
vehicle to the buyer or by the motor vehicle leasing dealer who 61313
subleased the motor vehicle to the buyer under a sublease 61314
agreement. 61315

In all other cases, except as provided in section 4505.032 61316
and division (D)(2) of section 4505.11 of the Revised Code, such 61317
certificates shall be obtained by the buyer. 61318

(5)(a)(i) If the certificate of title is being obtained in 61319
the name of the buyer by a motor vehicle dealer or motor vehicle 61320
leasing dealer and there is a security interest to be noted on the 61321

certificate of title, the dealer or leasing dealer shall submit 61322
the application for the certificate of title and payment of the 61323
applicable tax to a clerk within seven business days after the 61324
later of the delivery of the motor vehicle to the buyer or the 61325
date the dealer or leasing dealer obtains the manufacturer's or 61326
importer's certificate, or certificate of title issued in the name 61327
of the dealer or leasing dealer, for the motor vehicle. Submission 61328
of the application for the certificate of title and payment of the 61329
applicable tax within the required seven business days may be 61330
indicated by postmark or receipt by a clerk within that period. 61331

(ii) Upon receipt of the certificate of title with the 61332
security interest noted on its face, the dealer or leasing dealer 61333
shall forward the certificate of title to the secured party at the 61334
location noted in the financing documents or otherwise specified 61335
by the secured party. 61336

(iii) A motor vehicle dealer or motor vehicle leasing dealer 61337
is liable to a secured party for a late fee of ten dollars per day 61338
for each certificate of title application and payment of the 61339
applicable tax that is submitted to a clerk more than seven 61340
business days but less than twenty-one days after the later of the 61341
delivery of the motor vehicle to the buyer or the date the dealer 61342
or leasing dealer obtains the manufacturer's or importer's 61343
certificate, or certificate of title issued in the name of the 61344
dealer or leasing dealer, for the motor vehicle and, from then on, 61345
twenty-five dollars per day until the application and applicable 61346
tax are submitted to a clerk. 61347

(b) In all cases of transfer of a motor vehicle, the 61348
application for certificate of title shall be filed within thirty 61349
days after the assignment or delivery of the motor vehicle. If an 61350
application for a certificate of title is not filed within the 61351
period specified in division (A)(5)(b) of this section, the clerk 61352
shall collect a fee of five dollars for the issuance of the 61353

certificate, except that no such fee shall be required from a 61354
motor vehicle salvage dealer, as defined in division (A) of 61355
section 4738.01 of the Revised Code, who immediately surrenders 61356
the certificate of title for cancellation. The fee shall be in 61357
addition to all other fees established by this chapter, and shall 61358
be retained by the clerk. The registrar shall provide, on the 61359
certificate of title form prescribed by section 4505.07 of the 61360
Revised Code, language necessary to give evidence of the date on 61361
which the assignment or delivery of the motor vehicle was made. 61362

(6) As used in division (A) of this section, "lease 61363
agreement," "lessee," and "sublease agreement" have the same 61364
meanings as in section 4505.04 of the Revised Code. 61365

(B)(1) The clerk, except as provided in this section, shall 61366
refuse to accept for filing any application for a certificate of 61367
title and shall refuse to issue a certificate of title unless the 61368
dealer or manufactured home broker or the applicant, in cases in 61369
which the certificate shall be obtained by the buyer, submits with 61370
the application payment of the tax levied by or pursuant to 61371
Chapters 5739. and 5741. of the Revised Code based on the 61372
purchaser's county of residence. Upon payment of the tax in 61373
accordance with division (E) of this section, the clerk shall 61374
issue a receipt prescribed by the registrar and agreed upon by the 61375
tax commissioner showing payment of the tax or a receipt issued by 61376
the commissioner showing the payment of the tax. ~~When submitting 61377
payment of the tax to the clerk, a dealer shall retain any 61378
discount to which the dealer is entitled under section 5739.12 of 61379
the Revised Code.~~ 61380

(2) For receiving and disbursing such taxes paid to the clerk 61381
by a resident of the clerk's county, the clerk may retain a 61382
poundage fee of one and one one-hundredth per cent, and the clerk 61383
shall pay the poundage fee into the certificate of title 61384
administration fund created by section 325.33 of the Revised Code. 61385

The clerk shall not retain a poundage fee from payments of taxes 61386
by persons who do not reside in the clerk's county. 61387

A clerk, however, may retain from the taxes paid to the clerk 61388
an amount equal to the poundage fees associated with certificates 61389
of title issued by other clerks of courts of common pleas to 61390
applicants who reside in the first clerk's county. The registrar, 61391
in consultation with the tax commissioner and the clerks of the 61392
courts of common pleas, shall develop a report from the automated 61393
title processing system that informs each clerk of the amount of 61394
the poundage fees that the clerk is permitted to retain from those 61395
taxes because of certificates of title issued by the clerks of 61396
other counties to applicants who reside in the first clerk's 61397
county. 61398

(3) In the case of casual sales of motor vehicles, as defined 61399
in section 4517.01 of the Revised Code, the price for the purpose 61400
of determining the tax shall be the purchase price on the assigned 61401
certificate of title executed by the seller and filed with the 61402
clerk by the buyer on a form to be prescribed by the registrar, 61403
which shall be prima-facie evidence of the amount for the 61404
determination of the tax. 61405

(4) Each county clerk shall forward to the treasurer of state 61406
all sales and use tax collections resulting from sales of motor 61407
vehicles, off-highway motorcycles, and all-purpose vehicles during 61408
a calendar week on or before the Friday following the close of 61409
that week. If, on any Friday, the offices of the clerk of courts 61410
or the state are not open for business, the tax shall be forwarded 61411
to the treasurer of state on or before the next day on which the 61412
offices are open. Every remittance of tax under division (B)(4) of 61413
this section shall be accompanied by a remittance report in such 61414
form as the tax commissioner prescribes. Upon receipt of a tax 61415
remittance and remittance report, the treasurer of state shall 61416
date stamp the report and forward it to the tax commissioner. If 61417

the tax due for any week is not remitted by a clerk of courts as 61418
required under division (B)(4) of this section, the commissioner 61419
may require the clerk to forfeit the poundage fees for the sales 61420
made during that week. The treasurer of state may require the 61421
clerks of courts to transmit tax collections and remittance 61422
reports electronically. 61423

(C)(1) If the transferor indicates on the certificate of 61424
title that the odometer reflects mileage in excess of the designed 61425
mechanical limit of the odometer, the clerk shall enter the phrase 61426
"exceeds mechanical limits" following the mileage designation. If 61427
the transferor indicates on the certificate of title that the 61428
odometer reading is not the actual mileage, the clerk shall enter 61429
the phrase "nonactual: warning - odometer discrepancy" following 61430
the mileage designation. The clerk shall use reasonable care in 61431
transferring the information supplied by the transferor, but is 61432
not liable for any errors or omissions of the clerk or those of 61433
the clerk's deputies in the performance of the clerk's duties 61434
created by this chapter. 61435

The registrar shall prescribe an affidavit in which the 61436
transferor shall swear to the true selling price and, except as 61437
provided in this division, the true odometer reading of the motor 61438
vehicle. The registrar may prescribe an affidavit in which the 61439
seller and buyer provide information pertaining to the odometer 61440
reading of the motor vehicle in addition to that required by this 61441
section, as such information may be required by the United States 61442
secretary of transportation by rule prescribed under authority of 61443
subchapter IV of the "Motor Vehicle Information and Cost Savings 61444
Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 61445

(2) Division (C)(1) of this section does not require the 61446
giving of information concerning the odometer and odometer reading 61447
of a motor vehicle when ownership of a motor vehicle is being 61448
transferred as a result of a bequest, under the laws of intestate 61449

succession, to a survivor pursuant to section 2106.18, 2131.12, or 61450
4505.10 of the Revised Code, to a transfer-on-death beneficiary or 61451
beneficiaries pursuant to section 2131.13 of the Revised Code, in 61452
connection with the creation of a security interest or for a 61453
vehicle with a gross vehicle weight rating of more than sixteen 61454
thousand pounds. 61455

(D) When the transfer to the applicant was made in some other 61456
state or in interstate commerce, the clerk, except as provided in 61457
this section, shall refuse to issue any certificate of title 61458
unless the tax imposed by or pursuant to Chapter 5741. of the 61459
Revised Code based on the purchaser's county of residence has been 61460
paid as evidenced by a receipt issued by the tax commissioner, or 61461
unless the applicant submits with the application payment of the 61462
tax. Upon payment of the tax in accordance with division (E) of 61463
this section, the clerk shall issue a receipt prescribed by the 61464
registrar and agreed upon by the tax commissioner, showing payment 61465
of the tax. 61466

For receiving and disbursing such taxes paid to the clerk by 61467
a resident of the clerk's county, the clerk may retain a poundage 61468
fee of one and one one-hundredth per cent. The clerk shall not 61469
retain a poundage fee from payments of taxes by persons who do not 61470
reside in the clerk's county. 61471

A clerk, however, may retain from the taxes paid to the clerk 61472
an amount equal to the poundage fees associated with certificates 61473
of title issued by other clerks of courts of common pleas to 61474
applicants who reside in the first clerk's county. The registrar, 61475
in consultation with the tax commissioner and the clerks of the 61476
courts of common pleas, shall develop a report from the automated 61477
title processing system that informs each clerk of the amount of 61478
the poundage fees that the clerk is permitted to retain from those 61479
taxes because of certificates of title issued by the clerks of 61480
other counties to applicants who reside in the first clerk's 61481

county. 61482

When the vendor is not regularly engaged in the business of 61483
selling motor vehicles, the vendor shall not be required to 61484
purchase a vendor's license or make reports concerning those 61485
sales. 61486

(E) The clerk shall accept any payment of a tax in cash, or 61487
by cashier's check, certified check, draft, money order, or teller 61488
check issued by any insured financial institution payable to the 61489
clerk and submitted with an application for a certificate of title 61490
under division (B) or (D) of this section. The clerk also may 61491
accept payment of the tax by corporate, business, or personal 61492
check, credit card, electronic transfer or wire transfer, debit 61493
card, or any other accepted form of payment made payable to the 61494
clerk. The clerk may require bonds, guarantees, or letters of 61495
credit to ensure the collection of corporate, business, or 61496
personal checks. Any service fee charged by a third party to a 61497
clerk for the use of any form of payment may be paid by the clerk 61498
from the certificate of title administration fund created in 61499
section 325.33 of the Revised Code, or may be assessed by the 61500
clerk upon the applicant as an additional fee. Upon collection, 61501
the additional fees shall be paid by the clerk into that 61502
certificate of title administration fund. 61503

The clerk shall make a good faith effort to collect any 61504
payment of taxes due but not made because the payment was returned 61505
or dishonored, but the clerk is not personally liable for the 61506
payment of uncollected taxes or uncollected fees. The clerk shall 61507
notify the tax commissioner of any such payment of taxes that is 61508
due but not made and shall furnish the information to the 61509
commissioner that the commissioner requires. The clerk shall 61510
deduct the amount of taxes due but not paid from the clerk's 61511
periodic remittance of tax payments, in accordance with procedures 61512
agreed upon by the tax commissioner. The commissioner may collect 61513

taxes due by assessment in the manner provided in section 5739.13 61514
of the Revised Code. 61515

Any person who presents payment that is returned or 61516
dishonored for any reason is liable to the clerk for payment of a 61517
penalty over and above the amount of the taxes due. The clerk 61518
shall determine the amount of the penalty, and the penalty shall 61519
be no greater than that amount necessary to compensate the clerk 61520
for banking charges, legal fees, or other expenses incurred by the 61521
clerk in collecting the returned or dishonored payment. The 61522
remedies and procedures provided in this section are in addition 61523
to any other available civil or criminal remedies. Subsequently 61524
collected penalties, poundage fees, and title fees, less any title 61525
fee due the state, from returned or dishonored payments collected 61526
by the clerk shall be paid into the certificate of title 61527
administration fund. Subsequently collected taxes, less poundage 61528
fees, shall be sent by the clerk to the treasurer of state at the 61529
next scheduled periodic remittance of tax payments, with 61530
information as the commissioner may require. The clerk may abate 61531
all or any part of any penalty assessed under this division. 61532

(F) In the following cases, the clerk shall accept for filing 61533
an application and shall issue a certificate of title without 61534
requiring payment or evidence of payment of the tax: 61535

(1) When the purchaser is this state or any of its political 61536
subdivisions, a church, or an organization whose purchases are 61537
exempted by section 5739.02 of the Revised Code; 61538

(2) When the transaction in this state is not a retail sale 61539
as defined by section 5739.01 of the Revised Code; 61540

(3) When the purchase is outside this state or in interstate 61541
commerce and the purpose of the purchaser is not to use, store, or 61542
consume within the meaning of section 5741.01 of the Revised Code; 61543

(4) When the purchaser is the federal government; 61544

(5) When the motor vehicle was purchased outside this state 61545
for use outside this state; 61546

(6) When the motor vehicle is purchased by a nonresident 61547
under the circumstances described in division (B)(1) of section 61548
5739.029 of the Revised Code, and upon presentation of a copy of 61549
the affidavit provided by that section, and a copy of the 61550
exemption certificate provided by section 5739.03 of the Revised 61551
Code. 61552

(G) An application, as prescribed by the registrar and agreed 61553
to by the tax commissioner, shall be filled out and sworn to by 61554
the buyer of a motor vehicle in a casual sale. The application 61555
shall contain the following notice in bold lettering: "WARNING TO 61556
TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by 61557
law to state the true selling price. A false statement is in 61558
violation of section 2921.13 of the Revised Code and is punishable 61559
by six months' imprisonment or a fine of up to one thousand 61560
dollars, or both. All transfers are audited by the department of 61561
taxation. The seller and buyer must provide any information 61562
requested by the department of taxation. The buyer may be assessed 61563
any additional tax found to be due." 61564

(H) For sales of manufactured homes or mobile homes occurring 61565
on or after January 1, 2000, the clerk shall accept for filing, 61566
pursuant to Chapter 5739. of the Revised Code, an application for 61567
a certificate of title for a manufactured home or mobile home 61568
without requiring payment of any tax pursuant to section 5739.02, 61569
5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt 61570
issued by the tax commissioner showing payment of the tax. For 61571
sales of manufactured homes or mobile homes occurring on or after 61572
January 1, 2000, the applicant shall pay to the clerk an 61573
additional fee of five dollars for each certificate of title 61574
issued by the clerk for a manufactured or mobile home pursuant to 61575
division (H) of section 4505.11 of the Revised Code and for each 61576

certificate of title issued upon transfer of ownership of the 61577
home. The clerk shall credit the fee to the county certificate of 61578
title administration fund, and the fee shall be used to pay the 61579
expenses of archiving those certificates pursuant to division (A) 61580
of section 4505.08 and division (H)(3) of section 4505.11 of the 61581
Revised Code. The tax commissioner shall administer any tax on a 61582
manufactured or mobile home pursuant to Chapters 5739. and 5741. 61583
of the Revised Code. 61584

(I) Every clerk shall have the capability to transact by 61585
electronic means all procedures and transactions relating to the 61586
issuance of motor vehicle certificates of title that are described 61587
in the Revised Code as being accomplished by electronic means. 61588

Sec. 4507.45. If a person's driver's license, commercial 61589
driver's license, or nonresident operating privilege is suspended, 61590
disqualified, or canceled for an indefinite period of time or for 61591
a period of at least ninety days, and if at the end of the period 61592
of suspension, disqualification, or cancellation the person is 61593
eligible to have the license or privilege reinstated, the 61594
registrar of motor vehicles shall collect a reinstatement fee of 61595
~~thirty~~ forty dollars when the person requests reinstatement. 61596
However, the registrar shall not collect the fee prescribed by 61597
this section if a different driver's license, commercial driver's 61598
license, or nonresident operating privilege reinstatement fee is 61599
prescribed by law. 61600

The registrar shall deposit ten dollars of each forty-dollar 61601
fee into the state treasury to the credit of the indigent defense 61602
support fund created by section 120.08 of the Revised Code and 61603
thirty dollars of each fee into the state treasury to the credit 61604
of the state bureau of motor vehicles fund created by section 61605
4501.25 of the Revised Code. 61606

Sec. 4509.101. (A)(1) No person shall operate, or permit the 61607
operation of, a motor vehicle in this state, unless proof of 61608
financial responsibility is maintained continuously throughout the 61609
registration period with respect to that vehicle, or, in the case 61610
of a driver who is not the owner, with respect to that driver's 61611
operation of that vehicle. 61612

(2) Whoever violates division (A)(1) of this section shall be 61613
subject to the following civil penalties: 61614

(a) Subject to divisions (A)(2)(b) and (c) of this section, a 61615
class E suspension of the person's driver's license, commercial 61616
driver's license, temporary instruction permit, probationary 61617
license, or nonresident operating privilege for the period of time 61618
specified in division (B)(5) of section 4510.02 of the Revised 61619
Code and impoundment of the person's license. The court may grant 61620
limited driving privileges to the person only if the person 61621
presents proof of financial responsibility and has complied with 61622
division (A)(5) of this section. 61623

(b) If, within five years of the violation, the person's 61624
operating privileges are again suspended and the person's license 61625
again is impounded for a violation of division (A)(1) of this 61626
section, a class C suspension of the person's driver's license, 61627
commercial driver's license, temporary instruction permit, 61628
probationary license, or nonresident operating privilege for the 61629
period of time specified in division (B)(3) of section 4510.02 of 61630
the Revised Code. The court may grant limited driving privileges 61631
to the person only if the person presents proof of financial 61632
responsibility and has complied with division (A)(5) of this 61633
section, and no court may grant limited driving privileges for the 61634
first fifteen days of the suspension. 61635

(c) If, within five years of the violation, the person's 61636
operating privileges are suspended and the person's license is 61637

impounded two or more times for a violation of division (A)(1) of 61638
this section, a class B suspension of the person's driver's 61639
license, commercial driver's license, temporary instruction 61640
permit, probationary license, or nonresident operating privilege 61641
for the period of time specified in division (B)(2) of section 61642
4510.02 of the Revised Code. No court may grant limited driving 61643
privileges during the suspension. 61644

(d) In addition to the suspension of an owner's license under 61645
division (A)(2)(a), (b), or (c) of this section, the suspension of 61646
the rights of the owner to register the motor vehicle and the 61647
impoundment of the owner's certificate of registration and license 61648
plates until the owner complies with division (A)(5) of this 61649
section. 61650

(3) A person to whom this state has issued a certificate of 61651
registration for a motor vehicle or a license to operate a motor 61652
vehicle or who is determined to have operated any motor vehicle or 61653
permitted the operation in this state of a motor vehicle owned by 61654
the person shall be required to verify the existence of proof of 61655
financial responsibility covering the operation of the motor 61656
vehicle or the person's operation of the motor vehicle under any 61657
of the following circumstances: 61658

(a) The person or a motor vehicle owned by the person is 61659
involved in a traffic accident that requires the filing of an 61660
accident report under section 4509.06 of the Revised Code. 61661

(b) The person receives a traffic ticket indicating that 61662
proof of the maintenance of financial responsibility was not 61663
produced upon the request of a peace officer or state highway 61664
patrol trooper made in accordance with division (D)(2) of this 61665
section. 61666

(c) Whenever, in accordance with rules adopted by the 61667
registrar, the person is randomly selected by the registrar and 61668

requested to provide such verification. 61669

(4) An order of the registrar that suspends and impounds a 61670
license or registration, or both, shall state the date on or 61671
before which the person is required to surrender the person's 61672
license or certificate of registration and license plates. The 61673
person is deemed to have surrendered the license or certificate of 61674
registration and license plates, in compliance with the order, if 61675
the person does either of the following: 61676

(a) On or before the date specified in the order, personally 61677
delivers the license or certificate of registration and license 61678
plates, or causes the delivery of the items, to the registrar; 61679

(b) Mails the license or certificate of registration and 61680
license plates to the registrar in an envelope or container 61681
bearing a postmark showing a date no later than the date specified 61682
in the order. 61683

(5) Except as provided in division (A)(6) or (L) of this 61684
section, the registrar shall not restore any operating privileges 61685
or registration rights suspended under this section, return any 61686
license, certificate of registration, or license plates impounded 61687
under this section, or reissue license plates under section 61688
4503.232 of the Revised Code, if the registrar destroyed the 61689
impounded license plates under that section, or reissue a license 61690
under section 4510.52 of the Revised Code, if the registrar 61691
destroyed the suspended license under that section, unless the 61692
rights are not subject to suspension or revocation under any other 61693
law and unless the person, in addition to complying with all other 61694
conditions required by law for reinstatement of the operating 61695
privileges or registration rights, complies with all of the 61696
following: 61697

(a) Pays a financial responsibility reinstatement fee of 61698
~~seventy five~~ one hundred dollars for the first violation of 61699

division (A)(1) of this section, ~~two~~ three hundred ~~fifty~~ dollars 61700
for a second violation of that division, and ~~five~~ six hundred 61701
dollars for a third or subsequent violation of that division; 61702

(b) If the person has not voluntarily surrendered the 61703
license, certificate, or license plates in compliance with the 61704
order, pays a financial responsibility nonvoluntary compliance fee 61705
in an amount, not to exceed fifty dollars, determined by the 61706
registrar; 61707

(c) Files and continuously maintains proof of financial 61708
responsibility under sections 4509.44 to 4509.65 of the Revised 61709
Code. 61710

(6) If the registrar issues an order under division (A)(2) of 61711
this section resulting from the failure of a person to respond to 61712
a financial responsibility random verification request under 61713
division (A)(3)(c) of this section and the person successfully 61714
maintains an affirmative defense to a violation of section 4510.16 61715
of the Revised Code or is determined by the registrar or a deputy 61716
registrar to have been in compliance with division (A)(1) of this 61717
section at the time of the initial financial responsibility random 61718
verification request, the registrar shall do both of the 61719
following: 61720

(a) Terminate the order of suspension or impoundment; 61721

(b) Restore the operating privileges and registration rights 61722
of the person without payment of the fees established in divisions 61723
(A)(5)(a) and (b) of this section and without a requirement to 61724
file proof of financial responsibility. 61725

(B)(1) Every party required to file an accident report under 61726
section 4509.06 of the Revised Code also shall include with the 61727
report a document described in division (G)(1) of this section. 61728

If the registrar determines, within forty-five days after the 61729
report is filed, that an operator or owner has violated division 61730

(A)(1) of this section, the registrar shall do all of the 61731
following: 61732

(a) Order the impoundment, with respect to the motor vehicle 61733
involved, required under division (A)(2)(d) of this section, of 61734
the certificate of registration and license plates of any owner 61735
who has violated division (A)(1) of this section; 61736

(b) Order the suspension required under division (A)(2)(a), 61737
(b), or (c) of this section of the license of any operator or 61738
owner who has violated division (A)(1) of this section; 61739

(c) Record the name and address of the person whose 61740
certificate of registration and license plates have been impounded 61741
or are under an order of impoundment, or whose license has been 61742
suspended or is under an order of suspension; the serial number of 61743
the person's license; the serial numbers of the person's 61744
certificate of registration and license plates; and the person's 61745
social security account number, if assigned, or, where the motor 61746
vehicle is used for hire or principally in connection with any 61747
established business, the person's federal taxpayer identification 61748
number. The information shall be recorded in such a manner that it 61749
becomes a part of the person's permanent record, and assists the 61750
registrar in monitoring compliance with the orders of suspension 61751
or impoundment. 61752

(d) Send written notification to every person to whom the 61753
order pertains, at the person's last known address as shown on the 61754
records of the bureau. The person, within ten days after the date 61755
of the mailing of the notification, shall surrender to the 61756
registrar, in a manner set forth in division (A)(4) of this 61757
section, any certificate of registration and registration plates 61758
under an order of impoundment, or any license under an order of 61759
suspension. 61760

(2) The registrar shall issue any order under division (B)(1) 61761

of this section without a hearing. Any person adversely affected 61762
by the order, within ten days after the issuance of the order, may 61763
request an administrative hearing before the registrar, who shall 61764
provide the person with an opportunity for a hearing in accordance 61765
with this paragraph. A request for a hearing does not operate as a 61766
suspension of the order. The scope of the hearing shall be limited 61767
to whether the person in fact demonstrated to the registrar proof 61768
of financial responsibility in accordance with this section. The 61769
registrar shall determine the date, time, and place of any 61770
hearing, provided that the hearing shall be held, and an order 61771
issued or findings made, within thirty days after the registrar 61772
receives a request for a hearing. If requested by the person in 61773
writing, the registrar may designate as the place of hearing the 61774
county seat of the county in which the person resides or a place 61775
within fifty miles of the person's residence. The person shall pay 61776
the cost of the hearing before the registrar, if the registrar's 61777
order of suspension or impoundment is upheld. 61778

(C) Any order of suspension or impoundment issued under this 61779
section or division (B) of section 4509.37 of the Revised Code may 61780
be terminated at any time if the registrar determines upon a 61781
showing of proof of financial responsibility that the operator or 61782
owner of the motor vehicle was in compliance with division (A)(1) 61783
of this section at the time of the traffic offense, motor vehicle 61784
inspection, or accident that resulted in the order against the 61785
person. A determination may be made without a hearing. This 61786
division does not apply unless the person shows good cause for the 61787
person's failure to present satisfactory proof of financial 61788
responsibility to the registrar prior to the issuance of the 61789
order. 61790

(D)(1) For the purpose of enforcing this section, every peace 61791
officer is deemed an agent of the registrar. 61792

(a) Except as provided in division (D)(1)(b) of this section, 61793

any peace officer who, in the performance of the peace officer's 61794
duties as authorized by law, becomes aware of a person whose 61795
license is under an order of suspension, or whose certificate of 61796
registration and license plates are under an order of impoundment, 61797
pursuant to this section, may confiscate the license, certificate 61798
of registration, and license plates, and return them to the 61799
registrar. 61800

(b) Any peace officer who, in the performance of the peace 61801
officer's duties as authorized by law, becomes aware of a person 61802
whose license is under an order of suspension, or whose 61803
certificate of registration and license plates are under an order 61804
of impoundment resulting from failure to respond to a financial 61805
responsibility random verification, shall not, for that reason, 61806
arrest the owner or operator or seize the vehicle or license 61807
plates. Instead, the peace officer shall issue a citation for a 61808
violation of section 4510.16 of the Revised Code specifying the 61809
circumstances as failure to respond to a financial responsibility 61810
random verification. 61811

(2) A peace officer shall request the owner or operator of a 61812
motor vehicle to produce proof of financial responsibility in a 61813
manner described in division (G) of this section at the time the 61814
peace officer acts to enforce the traffic laws of this state and 61815
during motor vehicle inspections conducted pursuant to section 61816
4513.02 of the Revised Code. 61817

(3) A peace officer shall indicate on every traffic ticket 61818
whether the person receiving the traffic ticket produced proof of 61819
the maintenance of financial responsibility in response to the 61820
officer's request under division (D)(2) of this section. The peace 61821
officer shall inform every person who receives a traffic ticket 61822
and who has failed to produce proof of the maintenance of 61823
financial responsibility that the person must submit proof to the 61824
traffic violations bureau with any payment of a fine and costs for 61825

the ticketed violation or, if the person is to appear in court for 61826
the violation, the person must submit proof to the court. 61827

(4)(a) If a person who has failed to produce proof of the 61828
maintenance of financial responsibility appears in court for a 61829
ticketed violation, the court may permit the defendant to present 61830
evidence of proof of financial responsibility to the court at such 61831
time and in such manner as the court determines to be necessary or 61832
appropriate. In a manner prescribed by the registrar, the clerk of 61833
courts shall provide the registrar with the identity of any person 61834
who fails to submit proof of the maintenance of financial 61835
responsibility pursuant to division (D)(3) of this section. 61836

(b) If a person who has failed to produce proof of the 61837
maintenance of financial responsibility also fails to submit that 61838
proof to the traffic violations bureau with payment of a fine and 61839
costs for the ticketed violation, the traffic violations bureau, 61840
in a manner prescribed by the registrar, shall notify the 61841
registrar of the identity of that person. 61842

(5)(a) Upon receiving notice from a clerk of courts or 61843
traffic violations bureau pursuant to division (D)(4) of this 61844
section, the registrar shall order the suspension of the license 61845
of the person required under division (A)(2)(a), (b), or (c) of 61846
this section and the impoundment of the person's certificate of 61847
registration and license plates required under division (A)(2)(d) 61848
of this section, effective thirty days after the date of the 61849
mailing of notification. The registrar also shall notify the 61850
person that the person must present the registrar with proof of 61851
financial responsibility in accordance with this section, 61852
surrender to the registrar the person's certificate of 61853
registration, license plates, and license, or submit a statement 61854
subject to section 2921.13 of the Revised Code that the person did 61855
not operate or permit the operation of the motor vehicle at the 61856
time of the offense. Notification shall be in writing and shall be 61857

sent to the person at the person's last known address as shown on 61858
the records of the bureau of motor vehicles. The person, within 61859
fifteen days after the date of the mailing of notification, shall 61860
present proof of financial responsibility, surrender the 61861
certificate of registration, license plates, and license to the 61862
registrar in a manner set forth in division (A)(4) of this 61863
section, or submit the statement required under this section 61864
together with other information the person considers appropriate. 61865

If the registrar does not receive proof or the person does 61866
not surrender the certificate of registration, license plates, and 61867
license, in accordance with this division, the registrar shall 61868
permit the order for the suspension of the license of the person 61869
and the impoundment of the person's certificate of registration 61870
and license plates to take effect. 61871

(b) In the case of a person who presents, within the 61872
fifteen-day period, documents to show proof of financial 61873
responsibility, the registrar shall terminate the order of 61874
suspension and the impoundment of the registration and license 61875
plates required under division (A)(2)(d) of this section and shall 61876
send written notification to the person, at the person's last 61877
known address as shown on the records of the bureau. 61878

(c) Any person adversely affected by the order of the 61879
registrar under division (D)(5)(a) or (b) of this section, within 61880
ten days after the issuance of the order, may request an 61881
administrative hearing before the registrar, who shall provide the 61882
person with an opportunity for a hearing in accordance with this 61883
paragraph. A request for a hearing does not operate as a 61884
suspension of the order. The scope of the hearing shall be limited 61885
to whether, at the time of the hearing, the person presents proof 61886
of financial responsibility covering the vehicle and whether the 61887
person is eligible for an exemption in accordance with this 61888
section or any rule adopted under it. The registrar shall 61889

determine the date, time, and place of any hearing; provided, that 61890
the hearing shall be held, and an order issued or findings made, 61891
within thirty days after the registrar receives a request for a 61892
hearing. If requested by the person in writing, the registrar may 61893
designate as the place of hearing the county seat of the county in 61894
which the person resides or a place within fifty miles of the 61895
person's residence. Such person shall pay the cost of the hearing 61896
before the registrar, if the registrar's order of suspension or 61897
impoundment under division (D)(5)(a) or (b) of this section is 61898
upheld. 61899

(6) A peace officer may charge an owner or operator of a 61900
motor vehicle with a violation of section 4510.16 of the Revised 61901
Code when the owner or operator fails to show proof of the 61902
maintenance of financial responsibility pursuant to a peace 61903
officer's request under division (D)(2) of this section, if a 61904
check of the owner or operator's driving record indicates that the 61905
owner or operator, at the time of the operation of the motor 61906
vehicle, is required to file and maintain proof of financial 61907
responsibility under section 4509.45 of the Revised Code for a 61908
previous violation of this chapter. 61909

(7) Any forms used by law enforcement agencies in 61910
administering this section shall be prescribed, supplied, and paid 61911
for by the registrar. 61912

(8) No peace officer, law enforcement agency employing a 61913
peace officer, or political subdivision or governmental agency 61914
that employs a peace officer shall be liable in a civil action for 61915
damages or loss to persons arising out of the performance of any 61916
duty required or authorized by this section. 61917

(9) As used in this division and divisions (E) and (G) of 61918
this section, "peace officer" has the meaning set forth in section 61919
2935.01 of the Revised Code. 61920

(E) All fees, except court costs and those portions of the 61921
financial responsibility reinstatement fees as otherwise specified 61922
in this division, collected under this section shall be paid into 61923
the state treasury to the credit of the financial responsibility 61924
compliance fund. The financial responsibility compliance fund 61925
shall be used exclusively to cover costs incurred by the bureau in 61926
the administration of this section and sections 4503.20, 4507.212, 61927
and 4509.81 of the Revised Code, and by any law enforcement agency 61928
employing any peace officer who returns any license, certificate 61929
of registration, and license plates to the registrar pursuant to 61930
division (C) of this section, except that the director of budget 61931
and management may transfer excess money from the financial 61932
responsibility compliance fund to the state bureau of motor 61933
vehicles fund if the registrar determines that the amount of money 61934
in the financial responsibility compliance fund exceeds the amount 61935
required to cover such costs incurred by the bureau or a law 61936
enforcement agency and requests the director to make the transfer. 61937

Of each financial responsibility reinstatement fee the 61938
registrar collects pursuant to division (A)(5)(a) of this section, 61939
the registrar shall deposit twenty-five dollars of each 61940
one-hundred-dollar reinstatement fee, fifty dollars of each 61941
three-hundred-dollar reinstatement fee, and one hundred dollars of 61942
each six-hundred-dollar reinstatement fee into the state treasury 61943
to the credit of the indigent defense support fund created by 61944
section 120.08 of the Revised Code. 61945

All investment earnings of the financial responsibility 61946
compliance fund shall be credited to the fund. 61947

(F) Chapter 119. of the Revised Code applies to this section 61948
only to the extent that any provision in that chapter is not 61949
clearly inconsistent with this section. 61950

(G)(1) The registrar, court, traffic violations bureau, or 61951
peace officer may require proof of financial responsibility to be 61952

demonstrated by use of a standard form prescribed by the registrar. If the use of a standard form is not required, a person may demonstrate proof of financial responsibility under this section by presenting to the traffic violations bureau, court, registrar, or peace officer any of the following documents or a copy of the documents:

(a) A financial responsibility identification card as provided in section 4509.103 of the Revised Code;

(b) A certificate of proof of financial responsibility on a form provided and approved by the registrar for the filing of an accident report required to be filed under section 4509.06 of the Revised Code;

(c) A policy of liability insurance, a declaration page of a policy of liability insurance, or liability bond, if the policy or bond complies with section 4509.20 or sections 4509.49 to 4509.61 of the Revised Code;

(d) A bond or certification of the issuance of a bond as provided in section 4509.59 of the Revised Code;

(e) A certificate of deposit of money or securities as provided in section 4509.62 of the Revised Code;

(f) A certificate of self-insurance as provided in section 4509.72 of the Revised Code.

(2) If a person fails to demonstrate proof of financial responsibility in a manner described in division (G)(1) of this section, the person may demonstrate proof of financial responsibility under this section by any other method that the court or the bureau, by reason of circumstances in a particular case, may consider appropriate.

(3) A motor carrier certificated by the interstate commerce commission or by the public utilities commission may demonstrate

proof of financial responsibility by providing a statement 61983
designating the motor carrier's operating authority and averring 61984
that the insurance coverage required by the certificating 61985
authority is in full force and effect. 61986

(4)(a) A finding by the registrar or court that a person is 61987
covered by proof of financial responsibility in the form of an 61988
insurance policy or surety bond is not binding upon the named 61989
insurer or surety or any of its officers, employees, agents, or 61990
representatives and has no legal effect except for the purpose of 61991
administering this section. 61992

(b) The preparation and delivery of a financial 61993
responsibility identification card or any other document 61994
authorized to be used as proof of financial responsibility under 61995
this division does not do any of the following: 61996

(i) Create any liability or estoppel against an insurer or 61997
surety, or any of its officers, employees, agents, or 61998
representatives; 61999

(ii) Constitute an admission of the existence of, or of any 62000
liability or coverage under, any policy or bond; 62001

(iii) Waive any defenses or counterclaims available to an 62002
insurer, surety, agent, employee, or representative in an action 62003
commenced by an insured or third-party claimant upon a cause of 62004
action alleged to have arisen under an insurance policy or surety 62005
bond or by reason of the preparation and delivery of a document 62006
for use as proof of financial responsibility. 62007

(c) Whenever it is determined by a final judgment in a 62008
judicial proceeding that an insurer or surety, which has been 62009
named on a document accepted by a court or the registrar as proof 62010
of financial responsibility covering the operation of a motor 62011
vehicle at the time of an accident or offense, is not liable to 62012
pay a judgment for injuries or damages resulting from such 62013

operation, the registrar, notwithstanding any previous contrary 62014
finding, shall forthwith suspend the operating privileges and 62015
registration rights of the person against whom the judgment was 62016
rendered as provided in division (A)(2) of this section. 62017

(H) In order for any document described in division (G)(1)(b) 62018
of this section to be used for the demonstration of proof of 62019
financial responsibility under this section, the document shall 62020
state the name of the insured or obligor, the name of the insurer 62021
or surety company, and the effective and expiration dates of the 62022
financial responsibility, and designate by explicit description or 62023
by appropriate reference all motor vehicles covered which may 62024
include a reference to fleet insurance coverage. 62025

(I) For purposes of this section, "owner" does not include a 62026
licensed motor vehicle leasing dealer as defined in section 62027
4517.01 of the Revised Code, but does include a motor vehicle 62028
renting dealer as defined in section 4549.65 of the Revised Code. 62029
Nothing in this section or in section 4509.51 of the Revised Code 62030
shall be construed to prohibit a motor vehicle renting dealer from 62031
entering into a contractual agreement with a person whereby the 62032
person renting the motor vehicle agrees to be solely responsible 62033
for maintaining proof of financial responsibility, in accordance 62034
with this section, with respect to the operation, maintenance, or 62035
use of the motor vehicle during the period of the motor vehicle's 62036
rental. 62037

(J) The purpose of this section is to require the maintenance 62038
of proof of financial responsibility with respect to the operation 62039
of motor vehicles on the highways of this state, so as to minimize 62040
those situations in which persons are not compensated for injuries 62041
and damages sustained in motor vehicle accidents. The general 62042
assembly finds that this section contains reasonable civil 62043
penalties and procedures for achieving this purpose. 62044

(K) Nothing in this section shall be construed to be subject 62045

to section 4509.78 of the Revised Code. 62046

(L)(1) The registrar may terminate any suspension imposed 62047
under this section and not require the owner to comply with 62048
divisions (A)(5)(a), (b), and (c) of this section if the registrar 62049
with or without a hearing determines that the owner of the vehicle 62050
has established by clear and convincing evidence that all of the 62051
following apply: 62052

(a) The owner customarily maintains proof of financial 62053
responsibility. 62054

(b) Proof of financial responsibility was not in effect for 62055
the vehicle on the date in question for one of the following 62056
reasons: 62057

(i) The vehicle was inoperable. 62058

(ii) The vehicle is operated only seasonally, and the date in 62059
question was outside the season of operation. 62060

(iii) A person other than the vehicle owner or driver was at 62061
fault for the lapse of proof of financial responsibility through 62062
no fault of the owner or driver. 62063

(iv) The lapse of proof of financial responsibility was 62064
caused by excusable neglect under circumstances that are not 62065
likely to recur and do not suggest a purpose to evade the 62066
requirements of this chapter. 62067

(2) The registrar may grant an owner or driver relief for a 62068
reason specified in division (L)(1)(b)(i) or (ii) of this section 62069
whenever the owner or driver is randomly selected to verify the 62070
existence of proof of financial responsibility for such a vehicle. 62071
However, the registrar may grant an owner or driver relief for a 62072
reason specified in division (L)(1)(b)(iii) or (iv) of this 62073
section only if the owner or driver has not previously been 62074
granted relief under division (L)(1)(b)(iii) or (iv) of this 62075

section. 62076

(M) The registrar shall adopt rules in accordance with 62077
Chapter 119. of the Revised Code that are necessary to administer 62078
and enforce this section. The rules shall include procedures for 62079
the surrender of license plates upon failure to maintain proof of 62080
financial responsibility and provisions relating to reinstatement 62081
of registration rights, acceptable forms of proof of financial 62082
responsibility, and verification of the existence of financial 62083
responsibility during the period of registration. 62084

Sec. 4510.14. (A) No person whose driver's or commercial 62085
driver's license or permit or nonresident operating privilege has 62086
been suspended under section 4511.19, 4511.191, or 4511.196 of the 62087
Revised Code or under section 4510.07 of the Revised Code for a 62088
conviction of a violation of a municipal OVI ordinance shall 62089
operate any motor vehicle upon the public roads or highways within 62090
this state during the period of the suspension. 62091

(B) Whoever violates this section is guilty of driving under 62092
OVI suspension. The court shall sentence the offender under 62093
Chapter 2929. of the Revised Code, subject to the differences 62094
authorized or required by this section. 62095

(1) Except as otherwise provided in division (B)(2) or (3) of 62096
this section, driving under OVI suspension is a misdemeanor of the 62097
first degree. The court shall sentence the offender to all of the 62098
following: 62099

(a) A mandatory jail term of three consecutive days. The 62100
three-day term shall be imposed, unless, subject to division (C) 62101
of this section, the court instead imposes a sentence of not less 62102
than thirty consecutive days of house arrest with electronic 62103
monitoring. A period of house arrest with electronic monitoring 62104
imposed under this division shall not exceed six months. If the 62105
court imposes a mandatory three-day jail term under this division, 62106

the court may impose a jail term in addition to that term, 62107
provided that in no case shall the cumulative jail term imposed 62108
for the offense exceed six months. 62109

(b) A fine of not less than two hundred fifty and not more 62110
than one thousand dollars; 62111

(c) A license suspension under division (E) of this section; 62112

(d) If the vehicle the offender was operating at the time of 62113
the offense is registered in the offender's name, immobilization 62114
for thirty days of the offender's vehicle and impoundment for 62115
thirty days of the identification license plates of that vehicle. 62116
The order for immobilization and impoundment shall be issued and 62117
enforced in accordance with section 4503.233 of the Revised Code. 62118

(2) If, within six years of the offense, the offender 62119
previously has been convicted of or pleaded guilty to one 62120
violation of this section or one equivalent offense, driving under 62121
OVI suspension is a misdemeanor of the first degree. The court 62122
shall sentence the offender to all of the following: 62123

(a) A mandatory jail term of ten consecutive days. 62124
Notwithstanding the jail terms provided in sections 2929.21 to 62125
2929.28 of the Revised Code, the court may sentence the offender 62126
to a longer jail term of not more than one year. The ten-day 62127
mandatory jail term shall be imposed unless, subject to division 62128
(C) of this section, the court instead imposes a sentence of not 62129
less than ninety consecutive days of house arrest with electronic 62130
monitoring. The period of house arrest with electronic monitoring 62131
shall not exceed one year. 62132

(b) Notwithstanding the fines provided for in Chapter 2929. 62133
of the Revised Code, a fine of not less than five hundred and not 62134
more than two thousand five hundred dollars; 62135

(c) A license suspension under division (E) of this section; 62136

(d) If the vehicle the offender was operating at the time of 62137
the offense is registered in the offender's name, immobilization 62138
of the offender's vehicle for sixty days and the impoundment for 62139
sixty days of the identification license plates of that vehicle. 62140
The order for immobilization and impoundment shall be issued and 62141
enforced in accordance with section 4503.233 of the Revised Code. 62142

(3) If, within six years of the offense, the offender 62143
previously has been convicted of or pleaded guilty to two or more 62144
violations of this section or two or more equivalent offenses, 62145
driving under OVI suspension is a misdemeanor. The court shall 62146
sentence the offender to all of the following: 62147

(a) A mandatory jail term of thirty consecutive days. 62148
Notwithstanding the jail terms provided in sections 2929.21 to 62149
2929.28 of the Revised Code, the court may sentence the offender 62150
to a longer jail term of not more than one year. The court shall 62151
not sentence the offender to a term of house arrest with 62152
electronic monitoring in lieu of the mandatory portion of the jail 62153
term. 62154

(b) Notwithstanding the fines set forth in Chapter 2929. of 62155
the Revised Code, a fine of not less than five hundred and not 62156
more than two thousand five hundred dollars; 62157

(c) A license suspension under division (E) of this section; 62158

(d) If the vehicle the offender was operating at the time of 62159
the offense is registered in the offender's name, criminal 62160
forfeiture to the state of the offender's vehicle. The order of 62161
criminal forfeiture shall be issued and enforced in accordance 62162
with section 4503.234 of the Revised Code. If title to a motor 62163
vehicle that is subject to an order for criminal forfeiture under 62164
this division is assigned or transferred and division (B)(2) or 62165
(3) of section 4503.234 of the Revised Code applies, the court may 62166
fine the offender the value of the vehicle as determined by 62167

publications of the national auto dealer's association. The 62168
proceeds from any fine so imposed shall be distributed in 62169
accordance with division (C)(2) of section 4503.234 of the Revised 62170
Code. 62171

(C) No court shall impose an alternative sentence of house 62172
arrest with electronic monitoring under division (B)(1) or (2) of 62173
this section unless, within sixty days of the date of sentencing, 62174
the court issues a written finding on the record that, due to the 62175
unavailability of space at the jail where the offender is required 62176
to serve the jail term imposed, the offender will not be able to 62177
begin serving that term within the sixty-day period following the 62178
date of sentencing. 62179

An offender sentenced under this section to a period of house 62180
arrest with electronic monitoring shall be permitted work release 62181
during that period. 62182

(D) Fifty per cent of any fine imposed by a court under 62183
division (B)(1), (2), or (3) of this section shall be deposited 62184
into the ~~county local~~ indigent drivers alcohol treatment fund ~~or~~ 62185
~~municipal indigent drivers alcohol treatment fund under the~~ 62186
~~control of that court, as created by the county or municipal~~ 62187
~~corporation~~ local alcohol and drug addiction services board or the 62188
local board of alcohol, drug addiction, and mental health services 62189
pursuant to division (H) of section 4511.191 of the Revised Code. 62190

(E) In addition to or independent of all other penalties 62191
provided by law or ordinance, the trial judge of any court of 62192
record or the mayor of a mayor's court shall impose on an offender 62193
who is convicted of or pleads guilty to a violation of this 62194
section a class seven suspension of the offender's driver's or 62195
commercial driver's license or permit or nonresident operating 62196
privilege from the range specified in division (A)(7) of section 62197
4510.02 of the Revised Code. 62198

When permitted as specified in section 4510.021 of the Revised Code, if the court grants limited driving privileges during a suspension imposed under this section, the privileges shall be granted on the additional condition that the offender must display restricted license plates, issued under section 4503.231 of the Revised Code, on the vehicle driven subject to the privileges, except as provided in division (B) of that section.

A suspension of a commercial driver's license under this section shall be concurrent with any period of suspension or disqualification under section 3123.58 or 4506.16 of the Revised Code. No person who is disqualified for life from holding a commercial driver's license under section 4506.16 of the Revised Code shall be issued a driver's license under Chapter 4507. of the Revised Code during the period for which the commercial driver's license was suspended under this section, and no person whose commercial driver's license is suspended under this section shall be issued a driver's license under Chapter 4507. of the Revised Code during the period of the suspension.

(F) As used in this section:

(1) "Electronic monitoring" has the same meaning as in section 2929.01 of the Revised Code.

(2) "Equivalent offense" means any of the following:

(a) A violation of a municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) of this section;

(b) A violation of a former law of this state that was substantially equivalent to division (A) of this section.

(3) "Jail" has the same meaning as in section 2929.01 of the Revised Code.

(4) "Mandatory jail term" means the mandatory term in jail of

three, ten, or thirty consecutive days that must be imposed under 62229
division (B)(1), (2), or (3) of this section upon an offender 62230
convicted of a violation of division (A) of this section and in 62231
relation to which all of the following apply: 62232

(a) Except as specifically authorized under this section, the 62233
term must be served in a jail. 62234

(b) Except as specifically authorized under this section, the 62235
term cannot be suspended, reduced, or otherwise modified pursuant 62236
to any provision of the Revised Code. 62237

Sec. 4510.22. (A) If a person who has a current valid Ohio 62238
driver's, commercial driver's license, or temporary instruction 62239
permit is charged with a violation of any provision in sections 62240
4511.01 to 4511.76, 4511.84, 4513.01 to 4513.65, or 4549.01 to 62241
4549.65 of the Revised Code that is classified as a misdemeanor of 62242
the first, second, third, or fourth degree or with a violation of 62243
any substantially equivalent municipal ordinance and if the person 62244
either fails to appear in court at the required time and place to 62245
answer the charge or pleads guilty to or is found guilty of the 62246
violation and fails within the time allowed by the court to pay 62247
the fine imposed by the court, the court shall declare the 62248
forfeiture of the person's license. Thirty days after the 62249
declaration of forfeiture, the court shall inform the registrar of 62250
motor vehicles of the forfeiture by entering information relative 62251
to the of forfeiture on a form approved and furnished by the 62252
registrar and sending the form to the registrar. The court also 62253
shall forward the person's license, if it is in the possession of 62254
the court, to the registrar. 62255

The registrar shall impose a class F suspension of the 62256
person's driver's or commercial driver's license, or temporary 62257
instruction permit for the period of time specified in division 62258
(B)(6) of section 4510.02 of the Revised Code on any person who is 62259

named in a declaration received by the registrar under this 62260
section. The registrar shall send written notification of the 62261
suspension to the person at the person's last known address and, 62262
if the person is in possession of the license, order the person to 62263
surrender the person's license or permit to the registrar within 62264
forty-eight hours. 62265

No valid driver's or commercial driver's license shall be 62266
granted to the person after the suspension, unless the court 62267
having jurisdiction of the offense that led to the suspension 62268
orders that the forfeiture be terminated. The court shall order 62269
the termination of the forfeiture if the person thereafter appears 62270
to answer the charge and pays any fine imposed by the court or 62271
pays the fine originally imposed by the court. The court shall 62272
inform the registrar of the termination of the forfeiture by 62273
entering information relative to the termination on a form 62274
approved and furnished by the registrar and sending the form to 62275
the registrar. The person shall pay to the bureau of motor 62276
vehicles a ~~fifteen-dollar~~ twenty-five-dollar reinstatement fee ~~to~~ 62277
~~cover the costs of the bureau in administering this section.~~ The 62278
registrar shall deposit fifteen dollars of the fee into the state 62279
treasury to the credit of the state bureau of motor vehicles fund 62280
created by section 4501.25 of the Revised Code to cover the costs 62281
of the bureau in administering this section and shall deposit ten 62282
dollars of the fee into the state treasury to the credit of the 62283
indigent defense support fund created by section 120.08 of the 62284
Revised Code. 62285

(B) In addition to suspending the driver's or commercial 62286
driver's license or permit of the person named in a declaration of 62287
forfeiture, the registrar, upon receipt from the court of the copy 62288
of the declaration of forfeiture, shall take any measures that may 62289
be necessary to ensure that neither the registrar nor any deputy 62290
registrar accepts any application for the registration or transfer 62291

of registration of any motor vehicle owned or leased by the person 62292
named in the declaration of forfeiture. However, for a motor 62293
vehicle leased by a person named in a declaration of forfeiture, 62294
the registrar shall not implement the preceding sentence until the 62295
registrar adopts procedures for that implementation under section 62296
4503.39 of the Revised Code. The period of denial of registration 62297
or transfer shall continue until such time as the court having 62298
jurisdiction of the offense that led to the suspension orders the 62299
forfeiture be terminated. Upon receipt by the registrar of an 62300
order terminating the forfeiture, the registrar also shall take 62301
any measures that may be necessary to permit the person to 62302
register a motor vehicle owned or leased by the person or to 62303
transfer the registration of such a motor vehicle, if the person 62304
later makes application to take such action and otherwise is 62305
eligible to register the motor vehicle or to transfer its 62306
registration. 62307

The registrar shall not be required to give effect to any 62308
declaration of forfeiture or order terminating a forfeiture 62309
provided by a court under this section unless the information 62310
contained in the declaration or order is transmitted to the 62311
registrar by means of an electronic transfer system. The registrar 62312
shall not restore the person's driving or vehicle registration 62313
privileges until the person pays the reinstatement fee as provided 62314
in this section. 62315

The period of denial relating to the issuance or transfer of 62316
a certificate of registration for a motor vehicle imposed pursuant 62317
to this division remains in effect until the person pays any fine 62318
imposed by the court relative to the offense. 62319

Sec. 4510.45. (A)(1) A manufacturer of ignition interlock 62320
devices that desires for its devices to be certified under section 62321
4510.43 of the Revised Code and then to be included on the list of 62322

certified devices that the department of public safety compiles 62323
and makes available to courts pursuant to that section first shall 62324
obtain a license from the department under this section. The 62325
department, in accordance with Chapter 119. of the Revised Code, 62326
shall adopt any rules that are necessary to implement this 62327
licensing requirement. 62328

(2) A manufacturer shall apply to the department for the 62329
license and shall include all information the department may 62330
require by rule. Each application, including an application for 62331
license renewal, shall be accompanied by an application fee of one 62332
hundred dollars, which the department shall deposit into the state 62333
treasury to the credit of the state indigent drivers alcohol 62334
treatment fund created by division (F) of section 4511.191 of the 62335
Revised Code. 62336

(3) Upon receipt of a completed application, if the 62337
department finds that a manufacturer has complied with all 62338
application requirements, the department shall issue a license to 62339
the manufacturer. A manufacturer that has been issued a license 62340
under this section is eligible immediately to have the models of 62341
ignition interlock devices it produces certified under section 62342
4510.43 of the Revised Code and then included on the list of 62343
certified devices that the department compiles and makes available 62344
to courts pursuant to that section. 62345

(4)(a) A license issued under this section shall expire 62346
annually on a date selected by the department. The department 62347
shall reject the license application of a manufacturer if any of 62348
the following apply: 62349

(i) The application is not accompanied by the application 62350
fee. 62351

(ii) The department finds that the manufacturer has not 62352
complied with all application requirements. 62353

(iii) The license application is a renewal application and 62354
the manufacturer failed to file the annual report or failed to pay 62355
the fee as required by division (B) of this section. 62356

(b) A manufacturer whose license application is rejected by 62357
the department may appeal the decision to the director of public 62358
safety. The director or the director's designee shall hold a 62359
hearing on the matter not more than thirty days from the date of 62360
the manufacturer's appeal. If the director or the director's 62361
designee upholds the denial of the manufacturer's application for 62362
a license, the manufacturer may appeal the decision to the 62363
Franklin county court of common pleas. If the director or the 62364
director's designee reverses the denial of the manufacturer's 62365
application for a license, the director or the director's designee 62366
shall issue a written order directing that the department issue a 62367
license to the manufacturer. 62368

(B) Every manufacturer of ignition interlock devices that is 62369
issued a license under this section shall file an annual report 62370
with the department on a form the department prescribes on or 62371
before a date the department prescribes. The annual report shall 62372
state the amount of net profit the manufacturer earned during a 62373
twelve-month period specified by the department that is 62374
attributable to the sales of that manufacturer's certified 62375
ignition interlock devices to purchasers in this state. Each 62376
manufacturer shall pay a fee equal to five per cent of the amount 62377
of the net profit described in this division. 62378

The department may permit annual reports to be filed via 62379
electronic means. 62380

(C) The department shall deposit all fees it receives from 62381
manufacturers under this section into the state treasury to the 62382
credit of the state indigent drivers alcohol treatment fund 62383
created by division (F) of section 4511.191 of the Revised Code. 62384
All money so deposited into that fund that is paid by the 62385

department of alcohol and drug addiction services to ~~county~~ 62386
~~indigent drivers alcohol treatment funds, county juvenile indigent~~ 62387
~~drivers alcohol treatment funds, and municipal~~ local indigent 62388
drivers alcohol treatment funds shall be used only as described in 62389
division (H)(3) of section 4511.191 of the Revised Code. 62390
62391

(D)(1) The director may make an assessment, based on any 62392
information in the director's possession, against any manufacturer 62393
that fails to file an annual report or pay the fee required by 62394
division (B) of this section. The director, in accordance with 62395
Chapter 119. of the Revised Code, shall adopt rules governing 62396
assessments and assessment procedures and related provisions. In 62397
adopting these rules, the director shall incorporate the 62398
provisions of section 5751.09 of the Revised Code to the greatest 62399
extent possible, except that the director is not required to 62400
incorporate any provisions of that section that by their nature 62401
are not applicable, appropriate, or necessary to assessments made 62402
by the director under this section. 62403

(2) A manufacturer may appeal the final determination of the 62404
director regarding an assessment made by the director under this 62405
section. The director, in accordance with Chapter 119. of the 62406
Revised Code, shall adopt rules governing such appeals. In 62407
adopting these rules, the director shall incorporate the 62408
provisions of section 5717.02 of the Revised Code to the greatest 62409
extent possible, except that the director is not required to 62410
incorporate any provisions of that section that by their nature 62411
are not applicable, appropriate, or necessary to appeals of 62412
assessments made by the director under this section. 62413

(E) The director, in accordance with Chapter 119. of the 62414
Revised Code, shall adopt a penalty schedule setting forth the 62415
monetary penalties to be imposed upon a manufacturer that is 62416
issued a license under this section and fails to file an annual 62417

report or pay the fee required by division (B) of this section in 62418
a timely manner. The penalty amounts shall not exceed the maximum 62419
penalty amounts established in section 5751.06 of the Revised Code 62420
for similar or equivalent facts or circumstances. 62421

(F)(1) No manufacturer of ignition interlock devices that is 62422
required by division (B) of this section to file an annual report 62423
with the department or to pay a fee shall fail to do so as 62424
required by that division. 62425

(2) No manufacturer of ignition interlock devices that is 62426
required by division (B) of this section to file an annual report 62427
with the department shall file a report that contains incorrect or 62428
erroneous information. 62429

(G) Whoever violates division (F)(2) of this section is 62430
guilty of a misdemeanor of the first degree. The department shall 62431
remove from the list of certified devices described in division 62432
(A)(1) of this section the ignition interlock devices manufactured 62433
by a manufacturer that violates division (F)(1) or (2) of this 62434
section. 62435

Sec. 4511.19. (A)(1) No person shall operate any vehicle, 62436
streetcar, or trackless trolley within this state, if, at the time 62437
of the operation, any of the following apply: 62438

(a) The person is under the influence of alcohol, a drug of 62439
abuse, or a combination of them. 62440

(b) The person has a concentration of eight-hundredths of one 62441
per cent or more but less than seventeen-hundredths of one per 62442
cent by weight per unit volume of alcohol in the person's whole 62443
blood. 62444

(c) The person has a concentration of ninety-six-thousandths 62445
of one per cent or more but less than two hundred four-thousandths 62446
of one per cent by weight per unit volume of alcohol in the 62447

person's blood serum or plasma. 62448

(d) The person has a concentration of eight-hundredths of one 62449
gram or more but less than seventeen-hundredths of one gram by 62450
weight of alcohol per two hundred ten liters of the person's 62451
breath. 62452

(e) The person has a concentration of eleven-hundredths of 62453
one gram or more but less than two hundred 62454
thirty-eight-thousandths of one gram by weight of alcohol per one 62455
hundred milliliters of the person's urine. 62456

(f) The person has a concentration of seventeen-hundredths of 62457
one per cent or more by weight per unit volume of alcohol in the 62458
person's whole blood. 62459

(g) The person has a concentration of two hundred 62460
four-thousandths of one per cent or more by weight per unit volume 62461
of alcohol in the person's blood serum or plasma. 62462

(h) The person has a concentration of seventeen-hundredths of 62463
one gram or more by weight of alcohol per two hundred ten liters 62464
of the person's breath. 62465

(i) The person has a concentration of two hundred 62466
thirty-eight-thousandths of one gram or more by weight of alcohol 62467
per one hundred milliliters of the person's urine. 62468

(j) Except as provided in division (K) of this section, the 62469
person has a concentration of any of the following controlled 62470
substances or metabolites of a controlled substance in the 62471
person's whole blood, blood serum or plasma, or urine that equals 62472
or exceeds any of the following: 62473

(i) The person has a concentration of amphetamine in the 62474
person's urine of at least five hundred nanograms of amphetamine 62475
per milliliter of the person's urine or has a concentration of 62476
amphetamine in the person's whole blood or blood serum or plasma 62477

of at least one hundred nanograms of amphetamine per milliliter of 62478
the person's whole blood or blood serum or plasma. 62479

(ii) The person has a concentration of cocaine in the 62480
person's urine of at least one hundred fifty nanograms of cocaine 62481
per milliliter of the person's urine or has a concentration of 62482
cocaine in the person's whole blood or blood serum or plasma of at 62483
least fifty nanograms of cocaine per milliliter of the person's 62484
whole blood or blood serum or plasma. 62485

(iii) The person has a concentration of cocaine metabolite in 62486
the person's urine of at least one hundred fifty nanograms of 62487
cocaine metabolite per milliliter of the person's urine or has a 62488
concentration of cocaine metabolite in the person's whole blood or 62489
blood serum or plasma of at least fifty nanograms of cocaine 62490
metabolite per milliliter of the person's whole blood or blood 62491
serum or plasma. 62492

(iv) The person has a concentration of heroin in the person's 62493
urine of at least two thousand nanograms of heroin per milliliter 62494
of the person's urine or has a concentration of heroin in the 62495
person's whole blood or blood serum or plasma of at least fifty 62496
nanograms of heroin per milliliter of the person's whole blood or 62497
blood serum or plasma. 62498

(v) The person has a concentration of heroin metabolite 62499
(6-monoacetyl morphine) in the person's urine of at least ten 62500
nanograms of heroin metabolite (6-monoacetyl morphine) per 62501
milliliter of the person's urine or has a concentration of heroin 62502
metabolite (6-monoacetyl morphine) in the person's whole blood or 62503
blood serum or plasma of at least ten nanograms of heroin 62504
metabolite (6-monoacetyl morphine) per milliliter of the person's 62505
whole blood or blood serum or plasma. 62506

(vi) The person has a concentration of L.S.D. in the person's 62507
urine of at least twenty-five nanograms of L.S.D. per milliliter 62508

of the person's urine or a concentration of L.S.D. in the person's 62509
whole blood or blood serum or plasma of at least ten nanograms of 62510
L.S.D. per milliliter of the person's whole blood or blood serum 62511
or plasma. 62512

(vii) The person has a concentration of marihuana in the 62513
person's urine of at least ten nanograms of marihuana per 62514
milliliter of the person's urine or has a concentration of 62515
marihuana in the person's whole blood or blood serum or plasma of 62516
at least two nanograms of marihuana per milliliter of the person's 62517
whole blood or blood serum or plasma. 62518

(viii) Either of the following applies: 62519

(I) The person is under the influence of alcohol, a drug of 62520
abuse, or a combination of them, and, as measured by gas 62521
chromatography mass spectrometry, the person has a concentration 62522
of marihuana metabolite in the person's urine of at least fifteen 62523
nanograms of marihuana metabolite per milliliter of the person's 62524
urine or has a concentration of marihuana metabolite in the 62525
person's whole blood or blood serum or plasma of at least five 62526
nanograms of marihuana metabolite per milliliter of the person's 62527
whole blood or blood serum or plasma. 62528

(II) As measured by gas chromatography mass spectrometry, the 62529
person has a concentration of marihuana metabolite in the person's 62530
urine of at least thirty-five nanograms of marihuana metabolite 62531
per milliliter of the person's urine or has a concentration of 62532
marihuana metabolite in the person's whole blood or blood serum or 62533
plasma of at least fifty nanograms of marihuana metabolite per 62534
milliliter of the person's whole blood or blood serum or plasma. 62535

(ix) The person has a concentration of methamphetamine in the 62536
person's urine of at least five hundred nanograms of 62537
methamphetamine per milliliter of the person's urine or has a 62538
concentration of methamphetamine in the person's whole blood or 62539

blood serum or plasma of at least one hundred nanograms of 62540
methamphetamine per milliliter of the person's whole blood or 62541
blood serum or plasma. 62542

(x) The person has a concentration of phencyclidine in the 62543
person's urine of at least twenty-five nanograms of phencyclidine 62544
per milliliter of the person's urine or has a concentration of 62545
phencyclidine in the person's whole blood or blood serum or plasma 62546
of at least ten nanograms of phencyclidine per milliliter of the 62547
person's whole blood or blood serum or plasma. 62548

(xi) The state board of pharmacy has adopted a rule pursuant 62549
to section 4729.041 of the Revised Code that specifies the amount 62550
of salvia divinorum and the amount of salvinorin A that constitute 62551
concentrations of salvia divinorum and salvinorin A in a person's 62552
urine, in a person's whole blood, or in a person's blood serum or 62553
plasma at or above which the person is impaired for purposes of 62554
operating any vehicle, streetcar, or trackless trolley within this 62555
state, the rule is in effect, and the person has a concentration 62556
of salvia divinorum or salvinorin A of at least that amount so 62557
specified by rule in the person's urine, in the person's whole 62558
blood, or in the person's blood serum or plasma. 62559

(2) No person who, within twenty years of the conduct 62560
described in division (A)(2)(a) of this section, previously has 62561
been convicted of or pleaded guilty to a violation of this 62562
division, a violation of division (A)(1) or (B) of this section, 62563
or any other equivalent offense shall do both of the following: 62564

(a) Operate any vehicle, streetcar, or trackless trolley 62565
within this state while under the influence of alcohol, a drug of 62566
abuse, or a combination of them; 62567

(b) Subsequent to being arrested for operating the vehicle, 62568
streetcar, or trackless trolley as described in division (A)(2)(a) 62569
of this section, being asked by a law enforcement officer to 62570

submit to a chemical test or tests under section 4511.191 of the Revised Code, and being advised by the officer in accordance with section 4511.192 of the Revised Code of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.

(B) No person under twenty-one years of age shall operate any vehicle, streetcar, or trackless trolley within this state, if, at the time of the operation, any of the following apply:

(1) The person has a concentration of at least two-hundredths of one per cent but less than eight-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.

(2) The person has a concentration of at least three-hundredths of one per cent but less than ninety-six-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.

(3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.

(4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(C) In any proceeding arising out of one incident, a person may be charged with a violation of division (A)(1)(a) or (A)(2) and a violation of division (B)(1), (2), or (3) of this section, but the person may not be convicted of more than one violation of these divisions.

(D)(1)(a) In any criminal prosecution or juvenile court proceeding for a violation of division (A)(1)(a) of this section or for an equivalent offense that is vehicle-related, the result of any test of any blood or urine withdrawn and analyzed at any

health care provider, as defined in section 2317.02 of the Revised Code, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.

(b) In any criminal prosecution or juvenile court proceeding for a violation of division (A) or (B) of this section or for an equivalent offense that is vehicle-related, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine, or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this division regarding the admission of evidence does not extend or affect the two-hour time limit specified in division (A) of section 4511.192 of the Revised Code as the maximum period of time during which a person may consent to a chemical test or tests as described in that section. The court may admit evidence on the concentration of alcohol, drugs of abuse, or a combination of them as described in this division when a person submits to a blood, breath, urine, or other bodily substance test at the request of a law enforcement officer under section 4511.191 of the Revised Code or a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist shall withdraw a blood sample for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this division may refuse to withdraw blood under this division, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of

blood. 62635

The bodily substance withdrawn under division (D)(1)(b) of 62636
this section shall be analyzed in accordance with methods approved 62637
by the director of health by an individual possessing a valid 62638
permit issued by the director pursuant to section 3701.143 of the 62639
Revised Code. 62640

(2) In a criminal prosecution or juvenile court proceeding 62641
for a violation of division (A) of this section or for an 62642
equivalent offense that is vehicle-related, if there was at the 62643
time the bodily substance was withdrawn a concentration of less 62644
than the applicable concentration of alcohol specified in 62645
divisions (A)(1)(b), (c), (d), and (e) of this section or less 62646
than the applicable concentration of a listed controlled substance 62647
or a listed metabolite of a controlled substance specified for a 62648
violation of division (A)(1)(j) of this section, that fact may be 62649
considered with other competent evidence in determining the guilt 62650
or innocence of the defendant. This division does not limit or 62651
affect a criminal prosecution or juvenile court proceeding for a 62652
violation of division (B) of this section or for an equivalent 62653
offense that is substantially equivalent to that division. 62654

(3) Upon the request of the person who was tested, the 62656
results of the chemical test shall be made available to the person 62657
or the person's attorney, immediately upon the completion of the 62658
chemical test analysis. 62659

If the chemical test was obtained pursuant to division 62660
(D)(1)(b) of this section, the person tested may have a physician, 62661
a registered nurse, or a qualified technician, chemist, or 62662
phlebotomist of the person's own choosing administer a chemical 62663
test or tests, at the person's expense, in addition to any 62664
administered at the request of a law enforcement officer. If the 62665
person was under arrest as described in division (A)(5) of section 62666

4511.191 of the Revised Code, the arresting officer shall advise 62667
the person at the time of the arrest that the person may have an 62668
independent chemical test taken at the person's own expense. If 62669
the person was under arrest other than described in division 62670
(A)(5) of section 4511.191 of the Revised Code, the form to be 62671
read to the person to be tested, as required under section 62672
4511.192 of the Revised Code, shall state that the person may have 62673
an independent test performed at the person's expense. The failure 62674
or inability to obtain an additional chemical test by a person 62675
shall not preclude the admission of evidence relating to the 62676
chemical test or tests taken at the request of a law enforcement 62677
officer. 62678

(4)(a) As used in divisions (D)(4)(b) and (c) of this 62679
section, "national highway traffic safety administration" means 62680
the national highway traffic safety administration established as 62681
an administration of the United States department of 62682
transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105. 62683

(b) In any criminal prosecution or juvenile court proceeding 62684
for a violation of division (A) or (B) of this section, of a 62685
municipal ordinance relating to operating a vehicle while under 62686
the influence of alcohol, a drug of abuse, or alcohol and a drug 62687
of abuse, or of a municipal ordinance relating to operating a 62688
vehicle with a prohibited concentration of alcohol, a controlled 62689
substance, or a metabolite of a controlled substance in the whole 62690
blood, blood serum or plasma, breath, or urine, if a law 62691
enforcement officer has administered a field sobriety test to the 62692
operator of the vehicle involved in the violation and if it is 62693
shown by clear and convincing evidence that the officer 62694
administered the test in substantial compliance with the testing 62695
standards for any reliable, credible, and generally accepted field 62696
sobriety tests that were in effect at the time the tests were 62697
administered, including, but not limited to, any testing standards 62698

then in effect that were set by the national highway traffic 62699
safety administration, all of the following apply: 62700

(i) The officer may testify concerning the results of the 62701
field sobriety test so administered. 62702

(ii) The prosecution may introduce the results of the field 62703
sobriety test so administered as evidence in any proceedings in 62704
the criminal prosecution or juvenile court proceeding. 62705

(iii) If testimony is presented or evidence is introduced 62706
under division (D)(4)(b)(i) or (ii) of this section and if the 62707
testimony or evidence is admissible under the Rules of Evidence, 62708
the court shall admit the testimony or evidence and the trier of 62709
fact shall give it whatever weight the trier of fact considers to 62710
be appropriate. 62711

(c) Division (D)(4)(b) of this section does not limit or 62712
preclude a court, in its determination of whether the arrest of a 62713
person was supported by probable cause or its determination of any 62714
other matter in a criminal prosecution or juvenile court 62715
proceeding of a type described in that division, from considering 62716
evidence or testimony that is not otherwise disallowed by division 62717
(D)(4)(b) of this section. 62718

(E)(1) Subject to division (E)(3) of this section, in any 62719
criminal prosecution or juvenile court proceeding for a violation 62720
of division (A)(1)(b), (c), (d), (e), (f), (g), (h), (i), or (j) 62721
or (B)(1), (2), (3), or (4) of this section or for an equivalent 62722
offense that is substantially equivalent to any of those 62723
divisions, a laboratory report from any laboratory personnel 62724
issued a permit by the department of health authorizing an 62725
analysis as described in this division that contains an analysis 62726
of the whole blood, blood serum or plasma, breath, urine, or other 62727
bodily substance tested and that contains all of the information 62728
specified in this division shall be admitted as prima-facie 62729

evidence of the information and statements that the report 62730
contains. The laboratory report shall contain all of the 62731
following: 62732

(a) The signature, under oath, of any person who performed 62733
the analysis; 62734

(b) Any findings as to the identity and quantity of alcohol, 62735
a drug of abuse, a controlled substance, a metabolite of a 62736
controlled substance, or a combination of them that was found; 62737

(c) A copy of a notarized statement by the laboratory 62738
director or a designee of the director that contains the name of 62739
each certified analyst or test performer involved with the report, 62740
the analyst's or test performer's employment relationship with the 62741
laboratory that issued the report, and a notation that performing 62742
an analysis of the type involved is part of the analyst's or test 62743
performer's regular duties; 62744

(d) An outline of the analyst's or test performer's 62745
education, training, and experience in performing the type of 62746
analysis involved and a certification that the laboratory 62747
satisfies appropriate quality control standards in general and, in 62748
this particular analysis, under rules of the department of health. 62749

(2) Notwithstanding any other provision of law regarding the 62750
admission of evidence, a report of the type described in division 62751
(E)(1) of this section is not admissible against the defendant to 62752
whom it pertains in any proceeding, other than a preliminary 62753
hearing or a grand jury proceeding, unless the prosecutor has 62754
served a copy of the report on the defendant's attorney or, if the 62755
defendant has no attorney, on the defendant. 62756

(3) A report of the type described in division (E)(1) of this 62757
section shall not be prima-facie evidence of the contents, 62758
identity, or amount of any substance if, within seven days after 62759
the defendant to whom the report pertains or the defendant's 62760

attorney receives a copy of the report, the defendant or the 62761
defendant's attorney demands the testimony of the person who 62762
signed the report. The judge in the case may extend the seven-day 62763
time limit in the interest of justice. 62764

(F) Except as otherwise provided in this division, any 62765
physician, registered nurse, or qualified technician, chemist, or 62766
phlebotomist who withdraws blood from a person pursuant to this 62767
section or section 4511.191 or 4511.192 of the Revised Code, and 62768
any hospital, first-aid station, or clinic at which blood is 62769
withdrawn from a person pursuant to this section or section 62770
4511.191 or 4511.192 of the Revised Code, is immune from criminal 62771
liability and civil liability based upon a claim of assault and 62772
battery or any other claim that is not a claim of malpractice, for 62773
any act performed in withdrawing blood from the person. The 62774
immunity provided in this division is not available to a person 62775
who withdraws blood if the person engages in willful or wanton 62776
misconduct. 62777

(G)(1) Whoever violates any provision of divisions (A)(1)(a) 62778
to (i) or (A)(2) of this section is guilty of operating a vehicle 62779
under the influence of alcohol, a drug of abuse, or a combination 62780
of them. Whoever violates division (A)(1)(j) of this section is 62781
guilty of operating a vehicle while under the influence of a 62782
listed controlled substance or a listed metabolite of a controlled 62783
substance. The court shall sentence the offender for either 62784
offense under Chapter 2929. of the Revised Code, except as 62785
otherwise authorized or required by divisions (G)(1)(a) to (e) of 62786
this section: 62787

(a) Except as otherwise provided in division (G)(1)(b), (c), 62788
(d), or (e) of this section, the offender is guilty of a 62789
misdemeanor of the first degree, and the court shall sentence the 62790
offender to all of the following: 62791

(i) If the sentence is being imposed for a violation of 62792

division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 62793
mandatory jail term of three consecutive days. As used in this 62794
division, three consecutive days means seventy-two consecutive 62795
hours. The court may sentence an offender to both an intervention 62796
program and a jail term. The court may impose a jail term in 62797
addition to the three-day mandatory jail term or intervention 62798
program. However, in no case shall the cumulative jail term 62799
imposed for the offense exceed six months. 62800

The court may suspend the execution of the three-day jail 62801
term under this division if the court, in lieu of that suspended 62802
term, places the offender under a community control sanction 62803
pursuant to section 2929.25 of the Revised Code and requires the 62804
offender to attend, for three consecutive days, a drivers' 62805
intervention program certified under section 3793.10 of the 62806
Revised Code. The court also may suspend the execution of any part 62807
of the three-day jail term under this division if it places the 62808
offender under a community control sanction pursuant to section 62809
2929.25 of the Revised Code for part of the three days, requires 62810
the offender to attend for the suspended part of the term a 62811
drivers' intervention program so certified, and sentences the 62812
offender to a jail term equal to the remainder of the three 62813
consecutive days that the offender does not spend attending the 62814
program. The court may require the offender, as a condition of 62815
community control and in addition to the required attendance at a 62816
drivers' intervention program, to attend and satisfactorily 62817
complete any treatment or education programs that comply with the 62818
minimum standards adopted pursuant to Chapter 3793. of the Revised 62819
Code by the director of alcohol and drug addiction services that 62820
the operators of the drivers' intervention program determine that 62821
the offender should attend and to report periodically to the court 62822
on the offender's progress in the programs. The court also may 62823
impose on the offender any other conditions of community control 62824
that it considers necessary. 62825

(ii) If the sentence is being imposed for a violation of 62826
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 62827
section, except as otherwise provided in this division, a 62828
mandatory jail term of at least three consecutive days and a 62829
requirement that the offender attend, for three consecutive days, 62830
a drivers' intervention program that is certified pursuant to 62831
section 3793.10 of the Revised Code. As used in this division, 62832
three consecutive days means seventy-two consecutive hours. If the 62833
court determines that the offender is not conducive to treatment 62834
in a drivers' intervention program, if the offender refuses to 62835
attend a drivers' intervention program, or if the jail at which 62836
the offender is to serve the jail term imposed can provide a 62837
driver's intervention program, the court shall sentence the 62838
offender to a mandatory jail term of at least six consecutive 62839
days. 62840

The court may require the offender, under a community control 62841
sanction imposed under section 2929.25 of the Revised Code, to 62842
attend and satisfactorily complete any treatment or education 62843
programs that comply with the minimum standards adopted pursuant 62844
to Chapter 3793. of the Revised Code by the director of alcohol 62845
and drug addiction services, in addition to the required 62846
attendance at drivers' intervention program, that the operators of 62847
the drivers' intervention program determine that the offender 62848
should attend and to report periodically to the court on the 62849
offender's progress in the programs. The court also may impose any 62850
other conditions of community control on the offender that it 62851
considers necessary. 62852

(iii) In all cases, a fine of not less than three hundred 62853
seventy-five and not more than one thousand seventy-five dollars; 62854
62855

(iv) In all cases, a class five license suspension of the 62856
offender's driver's or commercial driver's license or permit or 62857

nonresident operating privilege from the range specified in 62858
division (A)(5) of section 4510.02 of the Revised Code. The court 62859
may grant limited driving privileges relative to the suspension 62860
under sections 4510.021 and 4510.13 of the Revised Code. 62861

(b) Except as otherwise provided in division (G)(1)(e) of 62862
this section, an offender who, within six years of the offense, 62863
previously has been convicted of or pleaded guilty to one 62864
violation of division (A) or (B) of this section or one other 62865
equivalent offense is guilty of a misdemeanor of the first degree. 62866
The court shall sentence the offender to all of the following: 62867

(i) If the sentence is being imposed for a violation of 62868
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 62869
mandatory jail term of ten consecutive days. The court shall 62870
impose the ten-day mandatory jail term under this division unless, 62871
subject to division (G)(3) of this section, it instead imposes a 62872
sentence under that division consisting of both a jail term and a 62873
term of house arrest with electronic monitoring, with continuous 62874
alcohol monitoring, or with both electronic monitoring and 62875
continuous alcohol monitoring. The court may impose a jail term in 62876
addition to the ten-day mandatory jail term. The cumulative jail 62877
term imposed for the offense shall not exceed six months. 62878

In addition to the jail term or the term of house arrest with 62879
electronic monitoring or continuous alcohol monitoring or both 62880
types of monitoring and jail term, the court shall require the 62881
offender to be assessed by an alcohol and drug treatment program 62882
that is authorized by section 3793.02 of the Revised Code, subject 62883
to division (I) of this section, and shall order the offender to 62884
follow the treatment recommendations of the program. The purpose 62885
of the assessment is to determine the degree of the offender's 62886
alcohol usage and to determine whether or not treatment is 62887
warranted. Upon the request of the court, the program shall submit 62888
the results of the assessment to the court, including all 62889

treatment recommendations and clinical diagnoses related to 62890
alcohol use. 62891

(ii) If the sentence is being imposed for a violation of 62892
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 62893
section, except as otherwise provided in this division, a 62894
mandatory jail term of twenty consecutive days. The court shall 62895
impose the twenty-day mandatory jail term under this division 62896
unless, subject to division (G)(3) of this section, it instead 62897
imposes a sentence under that division consisting of both a jail 62898
term and a term of house arrest with electronic monitoring, with 62899
continuous alcohol monitoring, or with both electronic monitoring 62900
and continuous alcohol monitoring. The court may impose a jail 62901
term in addition to the twenty-day mandatory jail term. The 62902
cumulative jail term imposed for the offense shall not exceed six 62903
months. 62904

In addition to the jail term or the term of house arrest with 62905
electronic monitoring or continuous alcohol monitoring or both 62906
types of monitoring and jail term, the court shall require the 62907
offender to be assessed by an alcohol and drug treatment program 62908
that is authorized by section 3793.02 of the Revised Code, subject 62909
to division (I) of this section, and shall order the offender to 62910
follow the treatment recommendations of the program. The purpose 62911
of the assessment is to determine the degree of the offender's 62912
alcohol usage and to determine whether or not treatment is 62913
warranted. Upon the request of the court, the program shall submit 62914
the results of the assessment to the court, including all 62915
treatment recommendations and clinical diagnoses related to 62916
alcohol use. 62917

(iii) In all cases, notwithstanding the fines set forth in 62918
Chapter 2929. of the Revised Code, a fine of not less than five 62919
hundred twenty-five and not more than one thousand six hundred 62920
twenty-five dollars; 62921

(iv) In all cases, a class four license suspension of the 62922
offender's driver's license, commercial driver's license, 62923
temporary instruction permit, probationary license, or nonresident 62924
operating privilege from the range specified in division (A)(4) of 62925
section 4510.02 of the Revised Code. The court may grant limited 62926
driving privileges relative to the suspension under sections 62927
4510.021 and 4510.13 of the Revised Code. 62928

(v) In all cases, if the vehicle is registered in the 62929
offender's name, immobilization of the vehicle involved in the 62930
offense for ninety days in accordance with section 4503.233 of the 62931
Revised Code and impoundment of the license plates of that vehicle 62932
for ninety days. 62933

(c) Except as otherwise provided in division (G)(1)(e) of 62934
this section, an offender who, within six years of the offense, 62935
previously has been convicted of or pleaded guilty to two 62936
violations of division (A) or (B) of this section or other 62937
equivalent offenses is guilty of a misdemeanor. The court shall 62938
sentence the offender to all of the following: 62939

(i) If the sentence is being imposed for a violation of 62940
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 62941
mandatory jail term of thirty consecutive days. The court shall 62942
impose the thirty-day mandatory jail term under this division 62943
unless, subject to division (G)(3) of this section, it instead 62944
imposes a sentence under that division consisting of both a jail 62945
term and a term of house arrest with electronic monitoring, with 62946
continuous alcohol monitoring, or with both electronic monitoring 62947
and continuous alcohol monitoring. The court may impose a jail 62948
term in addition to the thirty-day mandatory jail term. 62949
Notwithstanding the jail terms set forth in sections 2929.21 to 62950
2929.28 of the Revised Code, the additional jail term shall not 62951
exceed one year, and the cumulative jail term imposed for the 62952
offense shall not exceed one year. 62953

(ii) If the sentence is being imposed for a violation of division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this section, a mandatory jail term of sixty consecutive days. The court shall impose the sixty-day mandatory jail term under this division unless, subject to division (G)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the sixty-day mandatory jail term. Notwithstanding the jail terms set forth in sections 2929.21 to 2929.28 of the Revised Code, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.

(iii) In all cases, notwithstanding the fines set forth in Chapter 2929. of the Revised Code, a fine of not less than eight hundred fifty and not more than two thousand seven hundred fifty dollars;

(iv) In all cases, a class three license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(3) of section 4510.02 of the Revised Code. The court may grant limited driving privileges relative to the suspension under sections 4510.021 and 4510.13 of the Revised Code.

(v) In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with section 4503.234 of the Revised Code. Division (G)(6) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this division.

(vi) In all cases, the court shall order the offender to

participate in an alcohol and drug addiction program authorized by 62986
section 3793.02 of the Revised Code, subject to division (I) of 62987
this section, and shall order the offender to follow the treatment 62988
recommendations of the program. The operator of the program shall 62989
determine and assess the degree of the offender's alcohol 62990
dependency and shall make recommendations for treatment. Upon the 62991
request of the court, the program shall submit the results of the 62992
assessment to the court, including all treatment recommendations 62993
and clinical diagnoses related to alcohol use. 62994

(d) Except as otherwise provided in division (G)(1)(e) of 62995
this section, an offender who, within six years of the offense, 62996
previously has been convicted of or pleaded guilty to three or 62997
four violations of division (A) or (B) of this section or other 62998
equivalent offenses or an offender who, within twenty years of the 62999
offense, previously has been convicted of or pleaded guilty to 63000
five or more violations of that nature is guilty of a felony of 63001
the fourth degree. The court shall sentence the offender to all of 63002
the following: 63003

(i) If the sentence is being imposed for a violation of 63004
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 63005
mandatory prison term of one, two, three, four, or five years as 63006
required by and in accordance with division (G)(2) of section 63007
2929.13 of the Revised Code if the offender also is convicted of 63008
or also pleads guilty to a specification of the type described in 63009
section 2941.1413 of the Revised Code or, in the discretion of the 63010
court, either a mandatory term of local incarceration of sixty 63011
consecutive days in accordance with division (G)(1) of section 63012
2929.13 of the Revised Code or a mandatory prison term of sixty 63013
consecutive days in accordance with division (G)(2) of that 63014
section if the offender is not convicted of and does not plead 63015
guilty to a specification of that type. If the court imposes a 63016
mandatory term of local incarceration, it may impose a jail term 63017

in addition to the sixty-day mandatory term, the cumulative total 63018
of the mandatory term and the jail term for the offense shall not 63019
exceed one year, and, except as provided in division (A)(1) of 63020
section 2929.13 of the Revised Code, no prison term is authorized 63021
for the offense. If the court imposes a mandatory prison term, 63022
notwithstanding division (A)(4) of section 2929.14 of the Revised 63023
Code, it also may sentence the offender to a definite prison term 63024
that shall be not less than six months and not more than thirty 63025
months and the prison terms shall be imposed as described in 63026
division (G)(2) of section 2929.13 of the Revised Code. If the 63027
court imposes a mandatory prison term or mandatory prison term and 63028
additional prison term, in addition to the term or terms so 63029
imposed, the court also may sentence the offender to a community 63030
control sanction for the offense, but the offender shall serve all 63031
of the prison terms so imposed prior to serving the community 63032
control sanction. 63033

(ii) If the sentence is being imposed for a violation of 63034
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 63035
section, a mandatory prison term of one, two, three, four, or five 63036
years as required by and in accordance with division (G)(2) of 63037
section 2929.13 of the Revised Code if the offender also is 63038
convicted of or also pleads guilty to a specification of the type 63039
described in section 2941.1413 of the Revised Code or, in the 63040
discretion of the court, either a mandatory term of local 63041
incarceration of one hundred twenty consecutive days in accordance 63042
with division (G)(1) of section 2929.13 of the Revised Code or a 63043
mandatory prison term of one hundred twenty consecutive days in 63044
accordance with division (G)(2) of that section if the offender is 63045
not convicted of and does not plead guilty to a specification of 63046
that type. If the court imposes a mandatory term of local 63047
incarceration, it may impose a jail term in addition to the one 63048
hundred twenty-day mandatory term, the cumulative total of the 63049
mandatory term and the jail term for the offense shall not exceed 63050

one year, and, except as provided in division (A)(1) of section 63051
2929.13 of the Revised Code, no prison term is authorized for the 63052
offense. If the court imposes a mandatory prison term, 63053
notwithstanding division (A)(4) of section 2929.14 of the Revised 63054
Code, it also may sentence the offender to a definite prison term 63055
that shall be not less than six months and not more than thirty 63056
months and the prison terms shall be imposed as described in 63057
division (G)(2) of section 2929.13 of the Revised Code. If the 63058
court imposes a mandatory prison term or mandatory prison term and 63059
additional prison term, in addition to the term or terms so 63060
imposed, the court also may sentence the offender to a community 63061
control sanction for the offense, but the offender shall serve all 63062
of the prison terms so imposed prior to serving the community 63063
control sanction. 63064

(iii) In all cases, notwithstanding section 2929.18 of the 63065
Revised Code, a fine of not less than one thousand three hundred 63066
fifty nor more than ten thousand five hundred dollars; 63067

(iv) In all cases, a class two license suspension of the 63068
offender's driver's license, commercial driver's license, 63069
temporary instruction permit, probationary license, or nonresident 63070
operating privilege from the range specified in division (A)(2) of 63071
section 4510.02 of the Revised Code. The court may grant limited 63072
driving privileges relative to the suspension under sections 63073
4510.021 and 4510.13 of the Revised Code. 63074

(v) In all cases, if the vehicle is registered in the 63075
offender's name, criminal forfeiture of the vehicle involved in 63076
the offense in accordance with section 4503.234 of the Revised 63077
Code. Division (G)(6) of this section applies regarding any 63078
vehicle that is subject to an order of criminal forfeiture under 63079
this division. 63080

(vi) In all cases, the court shall order the offender to 63081
participate in an alcohol and drug addiction program authorized by 63082

section 3793.02 of the Revised Code, subject to division (I) of 63083
this section, and shall order the offender to follow the treatment 63084
recommendations of the program. The operator of the program shall 63085
determine and assess the degree of the offender's alcohol 63086
dependency and shall make recommendations for treatment. Upon the 63087
request of the court, the program shall submit the results of the 63088
assessment to the court, including all treatment recommendations 63089
and clinical diagnoses related to alcohol use. 63090

(vii) In all cases, if the court sentences the offender to a 63091
mandatory term of local incarceration, in addition to the 63092
mandatory term, the court, pursuant to section 2929.17 of the 63093
Revised Code, may impose a term of house arrest with electronic 63094
monitoring. The term shall not commence until after the offender 63095
has served the mandatory term of local incarceration. 63096

(e) An offender who previously has been convicted of or 63097
pleaded guilty to a violation of division (A) of this section that 63098
was a felony, regardless of when the violation and the conviction 63099
or guilty plea occurred, is guilty of a felony of the third 63100
degree. The court shall sentence the offender to all of the 63101
following: 63102

(i) If the offender is being sentenced for a violation of 63103
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 63104
mandatory prison term of one, two, three, four, or five years as 63105
required by and in accordance with division (G)(2) of section 63106
2929.13 of the Revised Code if the offender also is convicted of 63107
or also pleads guilty to a specification of the type described in 63108
section 2941.1413 of the Revised Code or a mandatory prison term 63109
of sixty consecutive days in accordance with division (G)(2) of 63110
section 2929.13 of the Revised Code if the offender is not 63111
convicted of and does not plead guilty to a specification of that 63112
type. The court may impose a prison term in addition to the 63113
mandatory prison term. The cumulative total of a sixty-day 63114

mandatory prison term and the additional prison term for the 63115
offense shall not exceed five years. In addition to the mandatory 63116
prison term or mandatory prison term and additional prison term 63117
the court imposes, the court also may sentence the offender to a 63118
community control sanction for the offense, but the offender shall 63119
serve all of the prison terms so imposed prior to serving the 63120
community control sanction. 63121

(ii) If the sentence is being imposed for a violation of 63122
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 63123
section, a mandatory prison term of one, two, three, four, or five 63124
years as required by and in accordance with division (G)(2) of 63125
section 2929.13 of the Revised Code if the offender also is 63126
convicted of or also pleads guilty to a specification of the type 63127
described in section 2941.1413 of the Revised Code or a mandatory 63128
prison term of one hundred twenty consecutive days in accordance 63129
with division (G)(2) of section 2929.13 of the Revised Code if the 63130
offender is not convicted of and does not plead guilty to a 63131
specification of that type. The court may impose a prison term in 63132
addition to the mandatory prison term. The cumulative total of a 63133
one hundred twenty-day mandatory prison term and the additional 63134
prison term for the offense shall not exceed five years. In 63135
addition to the mandatory prison term or mandatory prison term and 63136
additional prison term the court imposes, the court also may 63137
sentence the offender to a community control sanction for the 63138
offense, but the offender shall serve all of the prison terms so 63139
imposed prior to serving the community control sanction. 63140

(iii) In all cases, notwithstanding section 2929.18 of the 63141
Revised Code, a fine of not less than one thousand three hundred 63142
fifty nor more than ten thousand five hundred dollars; 63143

(iv) In all cases, a class two license suspension of the 63144
offender's driver's license, commercial driver's license, 63145
temporary instruction permit, probationary license, or nonresident 63146

operating privilege from the range specified in division (A)(2) of 63147
section 4510.02 of the Revised Code. The court may grant limited 63148
driving privileges relative to the suspension under sections 63149
4510.021 and 4510.13 of the Revised Code. 63150

(v) In all cases, if the vehicle is registered in the 63151
offender's name, criminal forfeiture of the vehicle involved in 63152
the offense in accordance with section 4503.234 of the Revised 63153
Code. Division (G)(6) of this section applies regarding any 63154
vehicle that is subject to an order of criminal forfeiture under 63155
this division. 63156

(vi) In all cases, the court shall order the offender to 63157
participate in an alcohol and drug addiction program authorized by 63158
section 3793.02 of the Revised Code, subject to division (I) of 63159
this section, and shall order the offender to follow the treatment 63160
recommendations of the program. The operator of the program shall 63161
determine and assess the degree of the offender's alcohol 63162
dependency and shall make recommendations for treatment. Upon the 63163
request of the court, the program shall submit the results of the 63164
assessment to the court, including all treatment recommendations 63165
and clinical diagnoses related to alcohol use. 63166

(2) An offender who is convicted of or pleads guilty to a 63167
violation of division (A) of this section and who subsequently 63168
seeks reinstatement of the driver's or occupational driver's 63169
license or permit or nonresident operating privilege suspended 63170
under this section as a result of the conviction or guilty plea 63171
shall pay a reinstatement fee as provided in division (F)(2) of 63172
section 4511.191 of the Revised Code. 63173

(3) If an offender is sentenced to a jail term under division 63174
(G)(1)(b)(i) or (ii) or (G)(1)(c)(i) or (ii) of this section and 63175
if, within sixty days of sentencing of the offender, the court 63176
issues a written finding on the record that, due to the 63177
unavailability of space at the jail where the offender is required 63178

to serve the term, the offender will not be able to begin serving 63179
that term within the sixty-day period following the date of 63180
sentencing, the court may impose an alternative sentence under 63181
this division that includes a term of house arrest with electronic 63182
monitoring, with continuous alcohol monitoring, or with both 63183
electronic monitoring and continuous alcohol monitoring. 63184

As an alternative to a mandatory jail term of ten consecutive 63185
days required by division (G)(1)(b)(i) of this section, the court, 63186
under this division, may sentence the offender to five consecutive 63187
days in jail and not less than eighteen consecutive days of house 63188
arrest with electronic monitoring, with continuous alcohol 63189
monitoring, or with both electronic monitoring and continuous 63190
alcohol monitoring. The cumulative total of the five consecutive 63191
days in jail and the period of house arrest with electronic 63192
monitoring, continuous alcohol monitoring, or both types of 63193
monitoring shall not exceed six months. The five consecutive days 63194
in jail do not have to be served prior to or consecutively to the 63195
period of house arrest. 63196

As an alternative to the mandatory jail term of twenty 63197
consecutive days required by division (G)(1)(b)(ii) of this 63198
section, the court, under this division, may sentence the offender 63199
to ten consecutive days in jail and not less than thirty-six 63200
consecutive days of house arrest with electronic monitoring, with 63201
continuous alcohol monitoring, or with both electronic monitoring 63202
and continuous alcohol monitoring. The cumulative total of the ten 63203
consecutive days in jail and the period of house arrest with 63204
electronic monitoring, continuous alcohol monitoring, or both 63205
types of monitoring shall not exceed six months. The ten 63206
consecutive days in jail do not have to be served prior to or 63207
consecutively to the period of house arrest. 63208

As an alternative to a mandatory jail term of thirty 63209
consecutive days required by division (G)(1)(c)(i) of this 63210

section, the court, under this division, may sentence the offender 63211
to fifteen consecutive days in jail and not less than fifty-five 63212
consecutive days of house arrest with electronic monitoring, with 63213
continuous alcohol monitoring, or with both electronic monitoring 63214
and continuous alcohol monitoring. The cumulative total of the 63215
fifteen consecutive days in jail and the period of house arrest 63216
with electronic monitoring, continuous alcohol monitoring, or both 63217
types of monitoring shall not exceed one year. The fifteen 63218
consecutive days in jail do not have to be served prior to or 63219
consecutively to the period of house arrest. 63220

As an alternative to the mandatory jail term of sixty 63221
consecutive days required by division (G)(1)(c)(ii) of this 63222
section, the court, under this division, may sentence the offender 63223
to thirty consecutive days in jail and not less than one hundred 63224
ten consecutive days of house arrest with electronic monitoring, 63225
with continuous alcohol monitoring, or with both electronic 63226
monitoring and continuous alcohol monitoring. The cumulative total 63227
of the thirty consecutive days in jail and the period of house 63228
arrest with electronic monitoring, continuous alcohol monitoring, 63229
or both types of monitoring shall not exceed one year. The thirty 63230
consecutive days in jail do not have to be served prior to or 63231
consecutively to the period of house arrest. 63232

(4) If an offender's driver's or occupational driver's 63233
license or permit or nonresident operating privilege is suspended 63234
under division (G) of this section and if section 4510.13 of the 63235
Revised Code permits the court to grant limited driving 63236
privileges, the court may grant the limited driving privileges in 63237
accordance with that section. If division (A)(7) of that section 63238
requires that the court impose as a condition of the privileges 63239
that the offender must display on the vehicle that is driven 63240
subject to the privileges restricted license plates that are 63241
issued under section 4503.231 of the Revised Code, except as 63242

provided in division (B) of that section, the court shall impose 63243
that condition as one of the conditions of the limited driving 63244
privileges granted to the offender, except as provided in division 63245
(B) of section 4503.231 of the Revised Code. 63246

(5) Fines imposed under this section for a violation of 63247
division (A) of this section shall be distributed as follows: 63248

(a) Twenty-five dollars of the fine imposed under division 63249
(G)(1)(a)(iii), thirty-five dollars of the fine imposed under 63250
division (G)(1)(b)(iii), one hundred twenty-three dollars of the 63251
fine imposed under division (G)(1)(c)(iii), and two hundred ten 63252
dollars of the fine imposed under division (G)(1)(d)(iii) or 63253
(e)(iii) of this section shall be paid to an enforcement and 63254
education fund established by the legislative authority of the law 63255
enforcement agency in this state that primarily was responsible 63256
for the arrest of the offender, as determined by the court that 63257
imposes the fine. The agency shall use this share to pay only 63258
those costs it incurs in enforcing this section or a municipal OVI 63259
ordinance and in informing the public of the laws governing the 63260
operation of a vehicle while under the influence of alcohol, the 63261
dangers of the operation of a vehicle under the influence of 63262
alcohol, and other information relating to the operation of a 63263
vehicle under the influence of alcohol and the consumption of 63264
alcoholic beverages. 63265

(b) Fifty dollars of the fine imposed under division 63266
(G)(1)(a)(iii) of this section shall be paid to the political 63267
subdivision that pays the cost of housing the offender during the 63268
offender's term of incarceration. If the offender is being 63269
sentenced for a violation of division (A)(1)(a), (b), (c), (d), 63270
(e), or (j) of this section and was confined as a result of the 63271
offense prior to being sentenced for the offense but is not 63272
sentenced to a term of incarceration, the fifty dollars shall be 63273
paid to the political subdivision that paid the cost of housing 63274

the offender during that period of confinement. The political 63275
subdivision shall use the share under this division to pay or 63276
reimburse incarceration or treatment costs it incurs in housing or 63277
providing drug and alcohol treatment to persons who violate this 63278
section or a municipal OVI ordinance, costs of any immobilizing or 63279
disabling device used on the offender's vehicle, and costs of 63280
electronic house arrest equipment needed for persons who violate 63281
this section. 63282

(c) Twenty-five dollars of the fine imposed under division 63283
(G)(1)(a)(iii) and fifty dollars of the fine imposed under 63284
division (G)(1)(b)(iii) of this section shall be deposited into 63285
the ~~county or municipal~~ local indigent drivers' alcohol treatment 63286
fund ~~under the control of that court, as created by the county or~~ 63287
~~municipal corporation~~ local alcohol and drug addiction services 63288
board or the local board of alcohol, drug addiction, and mental 63289
health services under division ~~(F)~~(H) of section 4511.191 of the 63290
Revised Code. 63291

(d) One hundred fifteen dollars of the fine imposed under 63292
division (G)(1)(b)(iii), two hundred seventy-seven dollars of the 63293
fine imposed under division (G)(1)(c)(iii), and four hundred forty 63294
dollars of the fine imposed under division (G)(1)(d)(iii) or 63295
(e)(iii) of this section shall be paid to the political 63296
subdivision that pays the cost of housing the offender during the 63297
offender's term of incarceration. The political subdivision shall 63298
use this share to pay or reimburse incarceration or treatment 63299
costs it incurs in housing or providing drug and alcohol treatment 63300
to persons who violate this section or a municipal OVI ordinance, 63301
costs for any immobilizing or disabling device used on the 63302
offender's vehicle, and costs of electronic house arrest equipment 63303
needed for persons who violate this section. 63304

(e) Fifty dollars of the fine imposed under divisions 63305
(G)(1)(a)(iii), (G)(1)(b)(iii), (G)(1)(c)(iii), (G)(1)(d)(iii), 63306

and (G)(1)(e)(iii) of this section shall be deposited into the special projects fund of the court in which the offender was convicted and that is established under division (E)(1) of section 2303.201, division (B)(1) of section 1901.26, or division (B)(1) of section 1907.24 of the Revised Code, to be used exclusively to cover the cost of immobilizing or disabling devices, including certified ignition interlock devices, and remote alcohol monitoring devices for indigent offenders who are required by a judge to use either of these devices. If the court in which the offender was convicted does not have a special projects fund that is established under division (E)(1) of section 2303.201, division (B)(1) of section 1901.26, or division (B)(1) of section 1907.24 of the Revised Code, the fifty dollars shall be deposited into the indigent drivers interlock and alcohol monitoring fund under division (I) of section 4511.191 of the Revised Code.

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(f) Seventy-five dollars of the fine imposed under division (G)(1)(a)(iii), one hundred twenty-five dollars of the fine imposed under division (G)(1)(b)(iii), two hundred fifty dollars of the fine imposed under division (G)(1)(c)(iii), and five hundred dollars of the fine imposed under division (G)(1)(d)(iii) or (e)(iii) of this section shall be transmitted to the treasurer of state for deposit into the indigent defense support fund established under section 120.08 of the Revised Code.

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(g) The balance of the fine imposed under division (G)(1)(a)(iii), (b)(iii), (c)(iii), (d)(iii), or (e)(iii) of this section shall be disbursed as otherwise provided by law.

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(6) If title to a motor vehicle that is subject to an order of criminal forfeiture under division (G)(1)(c), (d), or (e) of this section is assigned or transferred and division (B)(2) or (3) of section 4503.234 of the Revised Code applies, in addition to or independent of any other penalty established by law, the court may

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fine the offender the value of the vehicle as determined by 63339
publications of the national auto dealers association. The 63340
proceeds of any fine so imposed shall be distributed in accordance 63341
with division (C)(2) of that section. 63342

(7) As used in division (G) of this section, "electronic 63343
monitoring," "mandatory prison term," and "mandatory term of local 63344
incarceration" have the same meanings as in section 2929.01 of the 63345
Revised Code. 63346

(H) Whoever violates division (B) of this section is guilty 63347
of operating a vehicle after underage alcohol consumption and 63348
shall be punished as follows: 63349

(1) Except as otherwise provided in division (H)(2) of this 63350
section, the offender is guilty of a misdemeanor of the fourth 63351
degree. In addition to any other sanction imposed for the offense, 63352
the court shall impose a class six suspension of the offender's 63353
driver's license, commercial driver's license, temporary 63354
instruction permit, probationary license, or nonresident operating 63355
privilege from the range specified in division (A)(6) of section 63356
4510.02 of the Revised Code. 63357

(2) If, within one year of the offense, the offender 63358
previously has been convicted of or pleaded guilty to one or more 63359
violations of division (A) or (B) of this section or other 63360
equivalent offenses, the offender is guilty of a misdemeanor of 63361
the third degree. In addition to any other sanction imposed for 63362
the offense, the court shall impose a class four suspension of the 63363
offender's driver's license, commercial driver's license, 63364
temporary instruction permit, probationary license, or nonresident 63365
operating privilege from the range specified in division (A)(4) of 63366
section 4510.02 of the Revised Code. 63367

(3) If the offender also is convicted of or also pleads 63368
guilty to a specification of the type described in section 63369

2941.1416 of the Revised Code and if the court imposes a jail term 63370
for the violation of division (B) of this section, the court shall 63371
impose upon the offender an additional definite jail term pursuant 63372
to division (E) of section 2929.24 of the Revised Code. 63373

(I)(1) No court shall sentence an offender to an alcohol 63374
treatment program under this section unless the treatment program 63375
complies with the minimum standards for alcohol treatment programs 63376
adopted under Chapter 3793. of the Revised Code by the director of 63377
alcohol and drug addiction services. 63378

(2) An offender who stays in a drivers' intervention program 63379
or in an alcohol treatment program under an order issued under 63380
this section shall pay the cost of the stay in the program. 63381
However, if the court determines that an offender who stays in an 63382
alcohol treatment program under an order issued under this section 63383
is unable to pay the cost of the stay in the program, the court 63384
may order that the cost be paid from the ~~court's~~ local indigent 63385
drivers' alcohol treatment fund. 63386

(J) If a person whose driver's or commercial driver's license 63387
or permit or nonresident operating privilege is suspended under 63388
this section files an appeal regarding any aspect of the person's 63389
trial or sentence, the appeal itself does not stay the operation 63390
of the suspension. 63391

(K) Division (A)(1)(j) of this section does not apply to a 63392
person who operates a vehicle, streetcar, or trackless trolley 63393
while the person has a concentration of a listed controlled 63394
substance or a listed metabolite of a controlled substance in the 63395
person's whole blood, blood serum or plasma, or urine that equals 63396
or exceeds the amount specified in that division, if both of the 63397
following apply: 63398

(1) The person obtained the controlled substance pursuant to 63399
a prescription issued by a licensed health professional authorized 63400

to prescribe drugs. 63401

(2) The person injected, ingested, or inhaled the controlled 63402
substance in accordance with the health professional's directions. 63403

(L) The prohibited concentrations of a controlled substance 63404
or a metabolite of a controlled substance listed in division 63405
(A)(1)(j) of this section also apply in a prosecution of a 63406
violation of division (D) of section 2923.16 of the Revised Code 63407
in the same manner as if the offender is being prosecuted for a 63408
prohibited concentration of alcohol. 63409

(M) All terms defined in section 4510.01 of the Revised Code 63410
apply to this section. If the meaning of a term defined in section 63411
4510.01 of the Revised Code conflicts with the meaning of the same 63412
term as defined in section 4501.01 or 4511.01 of the Revised Code, 63413
the term as defined in section 4510.01 of the Revised Code applies 63414
to this section. 63415

(N)(1) The Ohio Traffic Rules in effect on January 1, 2004, 63416
as adopted by the supreme court under authority of section 2937.46 63417
of the Revised Code, do not apply to felony violations of this 63418
section. Subject to division (N)(2) of this section, the Rules of 63419
Criminal Procedure apply to felony violations of this section. 63420

(2) If, on or after January 1, 2004, the supreme court 63421
modifies the Ohio Traffic Rules to provide procedures to govern 63422
felony violations of this section, the modified rules shall apply 63423
to felony violations of this section. 63424

Sec. 4511.191. (A)(1) As used in this section: 63425

(a) "Physical control" has the same meaning as in section 63426
4511.194 of the Revised Code. 63427

(b) "Alcohol monitoring device" means any device that 63428
provides for continuous alcohol monitoring, any ignition interlock 63429
device, any immobilizing or disabling device other than an 63430

ignition interlock device that is constantly available to monitor 63431
the concentration of alcohol in a person's system, or any other 63432
device that provides for the automatic testing and periodic 63433
reporting of alcohol consumption by a person and that a court 63434
orders a person to use as a sanction imposed as a result of the 63435
person's conviction of or plea of guilty to an offense. 63436

(2) Any person who operates a vehicle, streetcar, or 63437
trackless trolley upon a highway or any public or private property 63438
used by the public for vehicular travel or parking within this 63439
state or who is in physical control of a vehicle, streetcar, or 63440
trackless trolley shall be deemed to have given consent to a 63441
chemical test or tests of the person's whole blood, blood serum or 63442
plasma, breath, or urine to determine the alcohol, drug of abuse, 63443
controlled substance, metabolite of a controlled substance, or 63444
combination content of the person's whole blood, blood serum or 63445
plasma, breath, or urine if arrested for a violation of division 63446
(A) or (B) of section 4511.19 of the Revised Code, section 63447
4511.194 of the Revised Code or a substantially equivalent 63448
municipal ordinance, or a municipal OVI ordinance. 63449

(3) The chemical test or tests under division (A)(2) of this 63450
section shall be administered at the request of a law enforcement 63451
officer having reasonable grounds to believe the person was 63452
operating or in physical control of a vehicle, streetcar, or 63453
trackless trolley in violation of a division, section, or 63454
ordinance identified in division (A)(2) of this section. The law 63455
enforcement agency by which the officer is employed shall 63456
designate which of the tests shall be administered. 63457

(4) Any person who is dead or unconscious, or who otherwise 63458
is in a condition rendering the person incapable of refusal, shall 63459
be deemed to have consented as provided in division (A)(2) of this 63460
section, and the test or tests may be administered, subject to 63461
sections 313.12 to 313.16 of the Revised Code. 63462

(5)(a) If a law enforcement officer arrests a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance and if the person if convicted would be required to be sentenced under division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised Code, the law enforcement officer shall request the person to submit, and the person shall submit, to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of determining the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine. A law enforcement officer who makes a request pursuant to this division that a person submit to a chemical test or tests is not required to advise the person of the consequences of submitting to, or refusing to submit to, the test or tests and is not required to give the person the form described in division (B) of section 4511.192 of the Revised Code, but the officer shall advise the person at the time of the arrest that if the person refuses to take a chemical test the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. The officer shall also advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. Divisions (A)(3) and (4) of this section apply to the administration of a chemical test or tests pursuant to this division.

(b) If a person refuses to submit to a chemical test upon a request made pursuant to division (A)(5)(a) of this section, the law enforcement officer who made the request may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or

plasma. A law enforcement officer who acts pursuant to this 63496
division to ensure that a person submits to a chemical test of the 63497
person's whole blood or blood serum or plasma is immune from 63498
criminal and civil liability based upon a claim for assault and 63499
battery or any other claim for the acts, unless the officer so 63500
acted with malicious purpose, in bad faith, or in a wanton or 63501
reckless manner. 63502

(B)(1) Upon receipt of the sworn report of a law enforcement 63503
officer who arrested a person for a violation of division (A) or 63504
(B) of section 4511.19 of the Revised Code, section 4511.194 of 63505
the Revised Code or a substantially equivalent municipal 63506
ordinance, or a municipal OVI ordinance that was completed and 63507
sent to the registrar and a court pursuant to section 4511.192 of 63508
the Revised Code in regard to a person who refused to take the 63509
designated chemical test, the registrar shall enter into the 63510
registrar's records the fact that the person's driver's or 63511
commercial driver's license or permit or nonresident operating 63512
privilege was suspended by the arresting officer under this 63513
division and that section and the period of the suspension, as 63514
determined under this section. The suspension shall be subject to 63515
appeal as provided in section 4511.197 of the Revised Code. The 63516
suspension shall be for whichever of the following periods 63517
applies: 63518

(a) Except when division (B)(1)(b), (c), or (d) of this 63519
section applies and specifies a different class or length of 63520
suspension, the suspension shall be a class C suspension for the 63521
period of time specified in division (B)(3) of section 4510.02 of 63522
the Revised Code. 63523

(b) If the arrested person, within six years of the date on 63524
which the person refused the request to consent to the chemical 63525
test, had refused one previous request to consent to a chemical 63526
test or had been convicted of or pleaded guilty to one violation 63527

of division (A) or (B) of section 4511.19 of the Revised Code or 63528
one other equivalent offense, the suspension shall be a class B 63529
suspension imposed for the period of time specified in division 63530
(B)(2) of section 4510.02 of the Revised Code. 63531

(c) If the arrested person, within six years of the date on 63532
which the person refused the request to consent to the chemical 63533
test, had refused two previous requests to consent to a chemical 63534
test, had been convicted of or pleaded guilty to two violations of 63535
division (A) or (B) of section 4511.19 of the Revised Code or 63536
other equivalent offenses, or had refused one previous request to 63537
consent to a chemical test and also had been convicted of or 63538
pleaded guilty to one violation of division (A) or (B) of section 63539
4511.19 of the Revised Code or other equivalent offenses, which 63540
violation or offense arose from an incident other than the 63541
incident that led to the refusal, the suspension shall be a class 63542
A suspension imposed for the period of time specified in division 63543
(B)(1) of section 4510.02 of the Revised Code. 63544

(d) If the arrested person, within six years of the date on 63545
which the person refused the request to consent to the chemical 63546
test, had refused three or more previous requests to consent to a 63547
chemical test, had been convicted of or pleaded guilty to three or 63548
more violations of division (A) or (B) of section 4511.19 of the 63549
Revised Code or other equivalent offenses, or had refused a number 63550
of previous requests to consent to a chemical test and also had 63551
been convicted of or pleaded guilty to a number of violations of 63552
division (A) or (B) of section 4511.19 of the Revised Code or 63553
other equivalent offenses that cumulatively total three or more 63554
such refusals, convictions, and guilty pleas, the suspension shall 63555
be for five years. 63556

(2) The registrar shall terminate a suspension of the 63557
driver's or commercial driver's license or permit of a resident or 63558
of the operating privilege of a nonresident, or a denial of a 63559

driver's or commercial driver's license or permit, imposed 63560
pursuant to division (B)(1) of this section upon receipt of notice 63561
that the person has entered a plea of guilty to, or that the 63562
person has been convicted after entering a plea of no contest to, 63563
operating a vehicle in violation of section 4511.19 of the Revised 63564
Code or in violation of a municipal OVI ordinance, if the offense 63565
for which the conviction is had or the plea is entered arose from 63566
the same incident that led to the suspension or denial. 63567

The registrar shall credit against any judicial suspension of 63568
a person's driver's or commercial driver's license or permit or 63569
nonresident operating privilege imposed pursuant to section 63570
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 63571
Revised Code for a violation of a municipal OVI ordinance, any 63572
time during which the person serves a related suspension imposed 63573
pursuant to division (B)(1) of this section. 63574

(C)(1) Upon receipt of the sworn report of the law 63575
enforcement officer who arrested a person for a violation of 63576
division (A) or (B) of section 4511.19 of the Revised Code or a 63577
municipal OVI ordinance that was completed and sent to the 63578
registrar and a court pursuant to section 4511.192 of the Revised 63579
Code in regard to a person whose test results indicate that the 63580
person's whole blood, blood serum or plasma, breath, or urine 63581
contained at least the concentration of alcohol specified in 63582
division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the 63583
Revised Code or at least the concentration of a listed controlled 63584
substance or a listed metabolite of a controlled substance 63585
specified in division (A)(1)(j) of section 4511.19 of the Revised 63586
Code, the registrar shall enter into the registrar's records the 63587
fact that the person's driver's or commercial driver's license or 63588
permit or nonresident operating privilege was suspended by the 63589
arresting officer under this division and section 4511.192 of the 63590
Revised Code and the period of the suspension, as determined under 63591

divisions (C)(1)(a) to (d) of this section. The suspension shall 63592
be subject to appeal as provided in section 4511.197 of the 63593
Revised Code. The suspension described in this division does not 63594
apply to, and shall not be imposed upon, a person arrested for a 63595
violation of section 4511.194 of the Revised Code or a 63596
substantially equivalent municipal ordinance who submits to a 63597
designated chemical test. The suspension shall be for whichever of 63598
the following periods applies: 63599

(a) Except when division (C)(1)(b), (c), or (d) of this 63600
section applies and specifies a different period, the suspension 63601
shall be a class E suspension imposed for the period of time 63602
specified in division (B)(5) of section 4510.02 of the Revised 63603
Code. 63604

(b) The suspension shall be a class C suspension for the 63605
period of time specified in division (B)(3) of section 4510.02 of 63606
the Revised Code if the person has been convicted of or pleaded 63607
guilty to, within six years of the date the test was conducted, 63608
one violation of division (A) or (B) of section 4511.19 of the 63609
Revised Code or one other equivalent offense. 63610

(c) If, within six years of the date the test was conducted, 63611
the person has been convicted of or pleaded guilty to two 63612
violations of a statute or ordinance described in division 63613
(C)(1)(b) of this section, the suspension shall be a class B 63614
suspension imposed for the period of time specified in division 63615
(B)(2) of section 4510.02 of the Revised Code. 63616

(d) If, within six years of the date the test was conducted, 63617
the person has been convicted of or pleaded guilty to more than 63618
two violations of a statute or ordinance described in division 63619
(C)(1)(b) of this section, the suspension shall be a class A 63620
suspension imposed for the period of time specified in division 63621
(B)(1) of section 4510.02 of the Revised Code. 63622

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (C)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (C)(1) of this section.

(D)(1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under this section for the time described in division (B) or (C) of this section is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical test or tests under division (A) of this section does not affect the suspension.

(2) If a person is arrested for operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance, or for being in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194

of the Revised Code or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (B) or (C) of this section or Chapter 4510. of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to section 4511.197 of the Revised Code regarding the issues specified in that division.

(E) When it finally has been determined under the procedures of this section and sections 4511.192 to 4511.197 of the Revised Code that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(F) At the end of a suspension period under this section, under section 4511.194, section 4511.196, or division (G) of section 4511.19 of the Revised Code, or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, cancellation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the conditions specified in divisions (F)(1) and (2) of this section:

(1) A showing that the person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at least

equal to the minimum amounts specified in section 4509.51 of the Revised Code. 63687
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(2) Subject to the limitation contained in division (F)(3) of this section, payment by the person to the bureau of motor vehicles of a license reinstatement fee of four hundred seventy-five dollars, which fee shall be deposited in the state treasury and credited as follows: 63689
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(a) One hundred twelve dollars and fifty cents shall be credited to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code. The fund shall be used to pay the costs of driver treatment and intervention programs operated pursuant to sections 3793.02 and 3793.10 of the Revised Code. The director of alcohol and drug addiction services shall determine the share of the fund that is to be allocated to alcohol and drug addiction programs authorized by section 3793.02 of the Revised Code, and the share of the fund that is to be allocated to drivers' intervention programs authorized by section 3793.10 of the Revised Code. 63694
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(b) Seventy-five dollars shall be credited to the reparations fund created by section 2743.191 of the Revised Code. 63705
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(c) Thirty-seven dollars and fifty cents shall be credited to the state indigent drivers alcohol treatment fund, which is hereby established in the state treasury. Except as otherwise provided in division (F)(2)(c) of this section, moneys in the fund shall be distributed by the department of alcohol and drug addiction services to ~~the county indigent drivers alcohol treatment funds, the county juvenile indigent drivers alcohol treatment funds, and the municipal local~~ indigent drivers alcohol treatment funds that are required to be established ~~by counties and municipal corporations~~ pursuant to division (H) of this section, and shall be used only to pay the cost of an alcohol and drug addiction treatment program attended by an offender or juvenile traffic 63707
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offender who is ordered to attend an alcohol and drug addiction 63719
treatment program by a county, juvenile, or municipal court judge 63720
and who is determined by the county, juvenile, or municipal court 63721
judge not to have the means to pay for the person's attendance at 63722
the program or to pay the costs specified in division (H)(4) of 63723
this section in accordance with that division. In addition, a 63724
county, juvenile, or municipal court judge may use moneys in the 63725
~~county indigent drivers alcohol treatment fund, county juvenile~~ 63726
~~indigent drivers alcohol treatment fund, or municipal local~~ 63727
indigent drivers alcohol treatment fund to pay for the cost of the 63728
continued use of an alcohol monitoring device as described in 63729
divisions (H)(3) and (4) of this section. Moneys in the state 63730
indigent drivers alcohol treatment fund that are not distributed 63731
to a ~~county indigent drivers alcohol treatment fund, a county~~ 63732
~~juvenile indigent drivers alcohol treatment fund, or a municipal~~ 63733
local indigent drivers alcohol treatment fund under division (H) 63734
of this section because the director of alcohol and drug addiction 63735
services does not have the information necessary to identify the 63736
county or municipal corporation where the offender or juvenile 63737
offender was arrested may be transferred by the director of budget 63738
and management to the statewide treatment and prevention fund 63739
created by section 4301.30 of the Revised Code, upon certification 63740
of the amount by the director of alcohol and drug addiction 63741
services. 63742

(d) Seventy-five dollars shall be credited to the Ohio 63743
rehabilitation services commission established by section 3304.12 63744
of the Revised Code, to the services for rehabilitation fund, 63745
which is hereby established. The fund shall be used to match 63746
available federal matching funds where appropriate, and for any 63747
other purpose or program of the commission to rehabilitate people 63748
with disabilities to help them become employed and independent. 63749

(e) Seventy-five dollars shall be deposited into the state 63750

treasury and credited to the drug abuse resistance education 63751
programs fund, which is hereby established, to be used by the 63752
attorney general for the purposes specified in division (F)(4) of 63753
this section. 63754

(f) Thirty dollars shall be credited to the state bureau of 63755
motor vehicles fund created by section 4501.25 of the Revised 63756
Code. 63757

(g) Twenty dollars shall be credited to the trauma and 63758
emergency medical services grants fund created by section 4513.263 63759
of the Revised Code. 63760

(h) Fifty dollars shall be credited to the indigent drivers 63761
interlock and alcohol monitoring fund, which is hereby established 63762
in the state treasury. Monies in the fund shall be distributed by 63763
the department of public safety to the county indigent drivers 63764
interlock and alcohol monitoring funds, the county juvenile 63765
indigent drivers interlock and alcohol monitoring funds, and the 63766
municipal indigent drivers interlock and alcohol monitoring funds 63767
that are required to be established by counties and municipal 63768
corporations pursuant to this section, and shall be used only to 63769
pay the cost of an immobilizing or disabling device, including a 63770
certified ignition interlock device, or an alcohol monitoring 63771
device used by an offender or juvenile offender who is ordered to 63772
use the device by a county, juvenile, or municipal court judge and 63773
who is determined by the county, juvenile, or municipal court 63774
judge not to have the means to pay for the person's use of the 63775
device. 63776

(3) If a person's driver's or commercial driver's license or 63777
permit is suspended under this section, under section 4511.196 or 63778
division (G) of section 4511.19 of the Revised Code, under section 63779
4510.07 of the Revised Code for a violation of a municipal OVI 63780
ordinance or under any combination of the suspensions described in 63781
division (F)(3) of this section, and if the suspensions arise from 63782

a single incident or a single set of facts and circumstances, the 63783
person is liable for payment of, and shall be required to pay to 63784
the bureau, only one reinstatement fee of four hundred twenty-five 63785
dollars. The reinstatement fee shall be distributed by the bureau 63786
in accordance with division (F)(2) of this section. 63787

(4) The attorney general shall use amounts in the drug abuse 63788
resistance education programs fund to award grants to law 63789
enforcement agencies to establish and implement drug abuse 63790
resistance education programs in public schools. Grants awarded to 63791
a law enforcement agency under this section shall be used by the 63792
agency to pay for not more than fifty per cent of the amount of 63793
the salaries of law enforcement officers who conduct drug abuse 63794
resistance education programs in public schools. The attorney 63795
general shall not use more than six per cent of the amounts the 63796
attorney general's office receives under division (F)(2)(e) of 63797
this section to pay the costs it incurs in administering the grant 63798
program established by division (F)(2)(e) of this section and in 63799
providing training and materials relating to drug abuse resistance 63800
education programs. 63801

The attorney general shall report to the governor and the 63802
general assembly each fiscal year on the progress made in 63803
establishing and implementing drug abuse resistance education 63804
programs. These reports shall include an evaluation of the 63805
effectiveness of these programs. 63806

(G) Suspension of a commercial driver's license under 63807
division (B) or (C) of this section shall be concurrent with any 63808
period of disqualification under section 3123.611 or 4506.16 of 63809
the Revised Code or any period of suspension under section 3123.58 63810
of the Revised Code. No person who is disqualified for life from 63811
holding a commercial driver's license under section 4506.16 of the 63812
Revised Code shall be issued a driver's license under Chapter 63813
4507. of the Revised Code during the period for which the 63814

commercial driver's license was suspended under division (B) or 63815
(C) of this section. No person whose commercial driver's license 63816
is suspended under division (B) or (C) of this section shall be 63817
issued a driver's license under Chapter 4507. of the Revised Code 63818
during the period of the suspension. 63819

(H)(1) Each ~~county shall establish an indigent drivers~~ 63820
~~alcohol treatment fund, each county shall establish a juvenile~~ 63821
~~indigent drivers alcohol treatment fund, and each municipal~~ 63822
~~corporation in which there is a municipal court drug addiction~~ 63823
~~services board or board of alcohol, drug addiction, and mental~~ 63824
~~health services established under Chapter 340. of the Revised Code~~ 63825
shall establish ~~an~~ a local indigent drivers alcohol treatment fund 63826
for its region. All revenue that the general assembly appropriates 63827
~~to the indigent drivers alcohol treatment fund for transfer to a~~ 63828
On the effective date of this amendment, the moneys in every 63829
county indigent drivers alcohol treatment fund, a county juvenile 63830
indigent drivers alcohol treatment fund, ~~or a~~ and municipal 63831
indigent drivers alcohol treatment fund, ~~all portions of fees that~~ 63832
~~are paid under division (F) of this section and that are credited~~ 63833
~~under that division to the indigent drivers alcohol treatment fund~~ 63834
~~in the state treasury for a established previously under this~~ 63835
~~section shall be transferred to the local indigent drivers alcohol~~ 63836
~~treatment fund established by the board for the applicable region~~ 63837
~~where that fund is located. After such transfer, every county~~ 63838
indigent drivers alcohol treatment fund, a county juvenile 63839
indigent drivers alcohol treatment fund, ~~or a~~ and municipal 63840
indigent drivers alcohol treatment fund, ~~all portions of~~ 63841
~~additional costs imposed under section 2949.094 of the Revised~~ 63842
~~Code that are specified for deposit into a county, county~~ 63843
~~juvenile, or municipal indigent drivers alcohol treatment fund by~~ 63844
~~that section, and all portions of fines that are specified for~~ 63845
~~deposit into a county or municipal indigent drivers alcohol~~ 63846
~~treatment fund by section 4511.193 of the Revised Code shall be~~ 63847

~~deposited into that county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund. The portions of the fees paid under division (F) of this section that are to be so deposited shall be determined in accordance with division (H)(2) of this section. Additionally, all portions of fines that are paid for a violation of section 4511.19 of the Revised Code or of any prohibition contained in Chapter 4510. of the Revised Code, and that are required under section 4511.19 or any provision of Chapter 4510. of the Revised Code to be deposited into a county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund shall be deposited into the appropriate fund in accordance with the applicable division of the section or provision cease to exist.~~

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that is credited under that division to the state indigent drivers alcohol treatment fund shall be deposited into a ~~county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund~~ as follows:

~~(a) Regarding a suspension imposed under this section, that portion of the fee shall be deposited as follows:~~

~~(i) If the fee is paid by a person who was charged in a county court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;~~

~~(ii) If the fee is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be~~

~~deposited into the county juvenile indigent drivers alcohol treatment fund established in the county served by the court;~~ 63880
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~~(iii) If the fee is paid by a person who was charged in a municipal court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.~~ 63882
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~~(b) Regarding a suspension imposed under section 4511.19 of the Revised Code or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, that portion of the fee shall be deposited as follows:~~ 63887
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~~(i) If the fee is paid by a person whose license or permit was suspended by a county court, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;~~ 63891
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~~(ii) If the fee is paid by a person whose license or permit was suspended by a municipal court, the portion shall be deposited into the municipal appropriate local indigent drivers alcohol treatment fund established by a board under the control of that court this section.~~ 63895
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(3) Expenditures from a ~~county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal~~ local indigent drivers alcohol treatment fund shall be made only upon the order of a county, juvenile, or municipal court judge and only for payment of the cost of an assessment or the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of, or found to be a juvenile traffic offender by reason of, a violation of division (A) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance, who is ordered by the court to attend the alcohol and drug addiction treatment 63900
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program, and who is determined by the court to be unable to pay 63911
the cost of the assessment or the cost of attendance at the 63912
treatment program or for payment of the costs specified in 63913
division (H)(4) of this section in accordance with that division. 63914
The alcohol and drug addiction services board or the board of 63915
alcohol, drug addiction, and mental health services established 63916
pursuant to section 340.02 or 340.021 of the Revised Code and 63917
serving the alcohol, drug addiction, and mental health service 63918
district in which the court is located shall administer the 63919
indigent drivers alcohol treatment program of the court. When a 63920
court orders an offender or juvenile traffic offender to obtain an 63921
assessment or attend an alcohol and drug addiction treatment 63922
program, the board shall determine which program is suitable to 63923
meet the needs of the offender or juvenile traffic offender, and 63924
when a suitable program is located and space is available at the 63925
program, the offender or juvenile traffic offender shall attend 63926
the program designated by the board. A reasonable amount not to 63927
exceed five per cent of the amounts credited to and deposited into 63928
~~the county indigent drivers alcohol treatment fund, the county~~ 63929
~~juvenile indigent drivers alcohol treatment fund, or the municipal~~ 63930
a local indigent drivers alcohol treatment fund serving every 63931
court whose program is administered by that board shall be paid to 63932
the board to cover the costs it incurs in administering those 63933
indigent drivers alcohol treatment programs. 63934

In addition, upon exhaustion of moneys in the indigent 63935
drivers interlock and alcohol monitoring fund for the use of an 63936
alcohol monitoring device, a county, juvenile, or municipal court 63937
judge may use moneys in the ~~county indigent drivers alcohol~~ 63938
~~treatment fund, county juvenile indigent drivers alcohol treatment~~ 63939
~~fund, or municipal~~ local indigent drivers alcohol treatment fund 63940
in the following manners: 63941

(a) If the source of the moneys was an appropriation of the 63942

general assembly, a portion of a fee that was paid under division 63943
(F) of this section, a portion of a fine that was specified for 63944
deposit into the fund by section 4511.193 of the Revised Code, or 63945
a portion of a fine that was paid for a violation of section 63946
4511.19 of the Revised Code or of a provision contained in Chapter 63947
4510. of the Revised Code that was required to be deposited into 63948
the fund, to pay for the continued use of an alcohol monitoring 63949
device by an offender or juvenile traffic offender, in conjunction 63950
with a treatment program approved by the department of alcohol and 63951
drug addiction services, when such use is determined clinically 63952
necessary by the treatment program and when the court determines 63953
that the offender or juvenile traffic offender is unable to pay 63954
all or part of the daily monitoring or cost of the device; 63955

63956

(b) If the source of the moneys was a portion of an 63957
additional court cost imposed under section 2949.094 of the 63958
Revised Code, to pay for the continued use of an alcohol 63959
monitoring device by an offender or juvenile traffic offender when 63960
the court determines that the offender or juvenile traffic 63961
offender is unable to pay all or part of the daily monitoring or 63962
cost of the device. The moneys may be used for a device as 63963
described in this division if the use of the device is in 63964
conjunction with a treatment program approved by the department of 63965
alcohol and drug addiction services, when the use of the device is 63966
determined clinically necessary by the treatment program, but the 63967
use of a device is not required to be in conjunction with a 63968
treatment program approved by the department in order for the 63969
moneys to be used for the device as described in this division. 63970

(4) ~~If a county, juvenile, or municipal court determines, in~~ 63971
~~consultation with the~~ an alcohol and drug addiction services board 63972
or ~~the~~ a board of alcohol, drug addiction, and mental health 63973
services established pursuant to section 340.02 or 340.021 of the 63974

Revised Code ~~and serving~~ that serves the alcohol, drug addiction, 63975
and mental health district in which ~~the a county, juvenile, or~~ 63976
municipal court is located, determines in consultation with any 63977
such court that the funds in the ~~county indigent drivers alcohol~~ 63978
~~treatment fund, the county juvenile indigent drivers alcohol~~ 63979
~~treatment fund, or the municipal~~ local indigent drivers alcohol 63980
treatment fund under the control of the ~~court~~ board are more than 63981
sufficient to satisfy the purpose for which the fund was 63982
established, as specified in divisions (H)(1) to (3) of this 63983
section, the ~~court~~ board may declare a surplus in the fund. If the 63984
~~court~~ board declares a surplus in the fund, the ~~court~~ board may 63985
expend the amount of the surplus in the fund for: 63986

(a) Alcohol and drug abuse assessment and treatment of 63987
persons who are charged in the court with committing a criminal 63988
offense or with being a delinquent child or juvenile traffic 63989
offender and in relation to whom both of the following apply: 63990

(i) The court determines that substance abuse was a 63991
contributing factor leading to the criminal or delinquent activity 63992
or the juvenile traffic offense with which the person is charged. 63993

(ii) The court determines that the person is unable to pay 63994
the cost of the alcohol and drug abuse assessment and treatment 63995
for which the surplus money will be used. 63996

(b) All or part of the cost of purchasing alcohol monitoring 63997
devices to be used in conjunction with division (H)(3) of this 63998
section, upon exhaustion of moneys in the indigent drivers 63999
interlock and alcohol monitoring fund for the use of an alcohol 64000
monitoring device. 64001

(5) For the purpose of determining as described in division 64002
(F)(2)(c) of this section whether an offender does not have the 64003
means to pay for the offender's attendance at an alcohol and drug 64004
addiction treatment program or whether an alleged offender or 64005

delinquent child is unable to pay the costs specified in division 64006
(H)(4) of this section, the court shall use the indigent client 64007
eligibility guidelines and the standards of indigency established 64008
by the state public defender to make the determination. 64009

(6) The court shall identify and refer any alcohol and drug 64010
addiction program that is not certified under section 3793.06 of 64011
the Revised Code and that is interested in receiving amounts from 64012
the surplus in the fund declared under division (H)(4) of this 64013
section to the department of alcohol and drug addiction services 64014
in order for the program to become a certified alcohol and drug 64015
addiction program. The department shall keep a record of applicant 64016
referrals received pursuant to this division and shall submit a 64017
report on the referrals each year to the general assembly. If a 64018
program interested in becoming certified makes an application to 64019
become certified pursuant to section 3793.06 of the Revised Code, 64020
the program is eligible to receive surplus funds as long as the 64021
application is pending with the department. The department of 64022
alcohol and drug addiction services must offer technical 64023
assistance to the applicant. If the interested program withdraws 64024
the certification application, the department must notify the 64025
court, and the court shall not provide the interested program with 64026
any further surplus funds. 64027

(7) Each alcohol and drug addiction services board and board 64028
of alcohol, drug addiction, and mental health services shall 64029
submit to the department of alcohol and drug addiction services an 64030
annual report for its local indigent drivers alcohol treatment 64031
fund. The report, which shall be submitted not later than sixty 64032
days after the end of the state fiscal year, shall itemize each 64033
payment that was made from the fund and identify the program or 64034
service for which that payment was made. In the event that a 64035
surplus is declared in the fund, the report also shall itemize 64036
each payment that was made from the surplus moneys and identify 64037

the program or service for which that payment was made. In 64038
addition to submitting its annual report to the department, a 64039
board shall submit a copy of its report to each court that 64040
utilized that board's local indigent drivers alcohol treatment 64041
fund during the prior fiscal year. 64042

(I)(1) Each county shall establish an indigent drivers 64043
interlock and alcohol monitoring fund and a juvenile indigent 64044
drivers interlock and alcohol treatment fund, and each municipal 64045
corporation in which there is a municipal court shall establish an 64046
indigent drivers interlock and alcohol monitoring fund. All 64047
revenue that the general assembly appropriates to the indigent 64048
drivers interlock and alcohol monitoring fund for transfer to a 64049
county indigent drivers interlock and alcohol monitoring fund, a 64050
county juvenile indigent drivers interlock and alcohol monitoring 64051
fund, or a municipal indigent drivers interlock and alcohol 64052
monitoring fund, all portions of license reinstatement fees that 64053
are paid under division (F)(2) of this section and that are 64054
credited under that division to the indigent drivers interlock and 64055
alcohol monitoring fund in the state treasury, and all portions of 64056
fines that are paid under division (G) of section 4511.19 of the 64057
Revised Code and that are credited by division (G)(5)(e) of that 64058
section to the indigent drivers interlock and alcohol monitoring 64059
fund in the state treasury shall be deposited in the appropriate 64060
fund in accordance with division (I)(2) of this section. 64061

(2) That portion of the license reinstatement fee that is 64062
paid under division (F) of this section and that portion of the 64063
fine paid under division (G) of section 4511.19 of the Revised 64064
Code and that is credited under either division to the indigent 64065
drivers interlock and alcohol monitoring fund shall be deposited 64066
into a county indigent drivers interlock and alcohol monitoring 64067
fund, a county juvenile indigent drivers interlock and alcohol 64068
monitoring fund, or a municipal indigent drivers interlock and 64069

alcohol monitoring fund as follows: 64070

(a) If the fee or fine is paid by a person who was charged in 64071
a county court with the violation that resulted in the suspension 64072
or fine, the portion shall be deposited into the county indigent 64073
drivers interlock and alcohol monitoring fund under the control of 64074
that court. 64075

(b) If the fee or fine is paid by a person who was charged in 64076
a juvenile court with the violation that resulted in the 64077
suspension or fine, the portion shall be deposited into the county 64078
juvenile indigent drivers interlock and alcohol monitoring fund 64079
established in the county served by the court. 64080

(c) If the fee or fine is paid by a person who was charged in 64081
a municipal court with the violation that resulted in the 64082
suspension, the portion shall be deposited into the municipal 64083
indigent drivers interlock and alcohol monitoring fund under the 64084
control of that court. 64085

Sec. 4511.193. (A) Twenty-five dollars of any fine imposed 64086
for a violation of a municipal OVI ordinance shall be deposited 64087
into the ~~municipal or county~~ local indigent drivers alcohol 64088
treatment fund created by the local alcohol and drug addiction 64089
services board or the local board of alcohol, drug addiction, and 64090
mental health services pursuant to division (H) of section 64091
4511.191 of the Revised Code in accordance with this section and 64092
section 733.40, divisions (A) and (B) of section 1901.024, 64093
division (F) of section 1901.31, or division (C) of section 64094
1907.20 of the Revised Code. Regardless of whether the fine is 64095
imposed by a municipal court, a mayor's court, or a juvenile 64096
court, if the fine was imposed for a violation of an ordinance of 64097
a municipal corporation that is within the jurisdiction of a 64098
municipal court, the twenty-five dollars that is subject to this 64099
section shall be deposited into the local indigent drivers alcohol 64100

treatment fund ~~of the municipal corporation in which is located~~ 64101
~~the municipal court that has jurisdiction over that municipal~~ 64102
~~corporation.~~ Regardless of whether the fine is imposed by a county 64103
court, a mayor's court, or a juvenile court, if the fine was 64104
imposed for a violation of an ordinance of a municipal corporation 64105
that is within the jurisdiction of a county court, the twenty-five 64106
dollars that is subject to this section shall be deposited into 64107
the local indigent drivers alcohol treatment fund ~~of the county in~~ 64108
~~which is located the county court that has jurisdiction over that~~ 64109
~~municipal corporation.~~ The deposit shall be made in accordance 64110
with section 733.40, divisions (A) and (B) of section 1901.024, 64111
division (F) of section 1901.31, or division (C) of section 64112
1907.20 of the Revised Code. 64113

(B)(1) The requirements and sanctions imposed by divisions 64114
(B)(1) and (2) of this section are an adjunct to and derive from 64115
the state's exclusive authority over the registration and titling 64116
of motor vehicles and do not comprise a part of the criminal 64117
sentence to be imposed upon a person who violates a municipal OVI 64118
ordinance. 64119

(2) If a person is convicted of or pleads guilty to a 64120
violation of a municipal OVI ordinance, if the vehicle the 64121
offender was operating at the time of the offense is registered in 64122
the offender's name, and if, within six years of the current 64123
offense, the offender has been convicted of or pleaded guilty to 64124
one or more violations of division (A) or (B) of section 4511.19 64125
of the Revised Code or one or more other equivalent offenses, the 64126
court, in addition to and independent of any sentence that it 64127
imposes upon the offender for the offense, shall do whichever of 64128
the following is applicable: 64129

(a) Except as otherwise provided in division (B)(2)(b) of 64130
this section, if, within six years of the current offense, the 64131

offender has been convicted of or pleaded guilty to one violation 64132
described in division (B)(2) of this section, the court shall 64133
order the immobilization for ninety days of that vehicle and the 64134
impoundment for ninety days of the license plates of that vehicle. 64135
The order for the immobilization and impoundment shall be issued 64136
and enforced in accordance with section 4503.233 of the Revised 64137
Code. 64138

(b) If, within six years of the current offense, the offender 64139
has been convicted of or pleaded guilty to two or more violations 64140
described in division (B)(2) of this section, or if the offender 64141
previously has been convicted of or pleaded guilty to a violation 64142
of division (A) of section 4511.19 of the Revised Code under 64143
circumstances in which the violation was a felony and regardless 64144
of when the violation and the conviction or guilty plea occurred, 64145
the court shall order the criminal forfeiture to the state of that 64146
vehicle. The order of criminal forfeiture shall be issued and 64147
enforced in accordance with section 4503.234 of the Revised Code. 64148

Sec. 4511.81. (A) When any child who is in either or both of 64149
the following categories is being transported in a motor vehicle, 64150
other than a taxicab or public safety vehicle as defined in 64151
section 4511.01 of the Revised Code, that is required by the 64152
United States department of transportation to be equipped with 64153
seat belts at the time of manufacture or assembly, the operator of 64154
the motor vehicle shall have the child properly secured in 64155
accordance with the manufacturer's instructions in a child 64156
restraint system that meets federal motor vehicle safety 64157
standards: 64158

(1) A child who is less than four years of age; 64159

(2) A child who weighs less than forty pounds. 64160

(B) When any child who is in either or both of the following 64161
categories is being transported in a motor vehicle, other than a 64162

taxicab, that is owned, leased, or otherwise under the control of 64163
a nursery school or day-care center, the operator of the motor 64164
vehicle shall have the child properly secured in accordance with 64165
the manufacturer's instructions in a child restraint system that 64166
meets federal motor vehicle safety standards: 64167

(1) A child who is less than four years of age; 64168

(2) A child who weighs less than forty pounds. 64169

(C) When any child who is less than eight years of age and 64170
less than four feet nine inches in height, who is not required by 64171
division (A) or (B) of this section to be secured in a child 64172
restraint system, is being transported in a motor vehicle, other 64173
than a taxicab or public safety vehicle as defined in section 64174
4511.01 of the Revised Code or a vehicle that is regulated under 64175
section 5104.011 of the Revised Code, that is required by the 64176
United States department of transportation to be equipped with 64177
seat belts at the time of manufacture or assembly, the operator of 64178
the motor vehicle shall have the child properly secured in 64179
accordance with the manufacturer's instructions on a booster seat 64180
that meets federal motor vehicle safety standards. 64181

(D) When any child who is at least eight years of age but not 64182
older than fifteen years of age, and who is not otherwise required 64183
by division (A), (B), or (C) of this section to be secured in a 64184
child restraint system or booster seat, is being transported in a 64185
motor vehicle, other than a taxicab or public safety vehicle as 64186
defined in section 4511.01 of the Revised Code, that is required 64187
by the United States department of transportation to be equipped 64188
with seat belts at the time of manufacture or assembly, the 64189
operator of the motor vehicle shall have the child properly 64190
restrained either in accordance with the manufacturer's 64191
instructions in a child restraint system or booster seat that 64192
meets federal motor vehicle safety standards or in an occupant 64193
restraining device as defined in section 4513.263 of the Revised 64194

Code. 64195

(E) Notwithstanding any provision of law to the contrary, no 64196
law enforcement officer shall cause an operator of a motor vehicle 64197
being operated on any street or highway to stop the motor vehicle 64198
for the sole purpose of determining whether a violation of 64199
division (C) or (D) of this section has been or is being committed 64200
or for the sole purpose of issuing a ticket, citation, or summons 64201
for a violation of division (C) or (D) of this section or causing 64202
the arrest of or commencing a prosecution of a person for a 64203
violation of division (C) or (D) of this section, and absent 64204
another violation of law, a law enforcement officer's view of the 64205
interior or visual inspection of a motor vehicle being operated on 64206
any street or highway may not be used for the purpose of 64207
determining whether a violation of division (C) or (D) of this 64208
section has been or is being committed. 64209

(F) The director of public safety shall adopt such rules as 64210
are necessary to carry out this section. 64211

(G) The failure of an operator of a motor vehicle to secure a 64212
child in a child restraint system, a booster seat, or an occupant 64213
restraining device as required by this section is not negligence 64214
imputable to the child, is not admissible as evidence in any civil 64215
action involving the rights of the child against any other person 64216
allegedly liable for injuries to the child, is not to be used as a 64217
basis for a criminal prosecution of the operator of the motor 64218
vehicle other than a prosecution for a violation of this section, 64219
and is not admissible as evidence in any criminal action involving 64220
the operator of the motor vehicle other than a prosecution for a 64221
violation of this section. 64222

(H) This section does not apply when an emergency exists that 64223
threatens the life of any person operating or occupying a motor 64224
vehicle that is being used to transport a child who otherwise 64225
would be required to be restrained under this section. This 64226

section does not apply to a person operating a motor vehicle who 64227
has an affidavit signed by a physician licensed to practice in 64228
this state under Chapter 4731. of the Revised Code or a 64229
chiropractor licensed to practice in this state under Chapter 64230
4734. of the Revised Code that states that the child who otherwise 64231
would be required to be restrained under this section has a 64232
physical impairment that makes use of a child restraint system, 64233
booster seat, or an occupant restraining device impossible or 64234
impractical, provided that the person operating the vehicle has 64235
safely and appropriately restrained the child in accordance with 64236
any recommendations of the physician or chiropractor as noted on 64237
the affidavit. 64238

(I) There is hereby created in the state treasury the child 64239
highway safety fund, consisting of fines imposed pursuant to 64240
division ~~(K)~~(L)(1) of this section for violations of divisions 64241
(A), (B), (C), and (D) of this section. The money in the fund 64242
shall be used by the department of health ~~only to defray the cost~~ 64243
~~of designating hospitals as pediatric trauma centers under section~~ 64244
~~3727.081 of the Revised Code and~~ to establish and administer a 64245
child highway safety program. The purpose of the program shall be 64246
to educate the public about child restraint systems and booster 64247
seats and the importance of their proper use. The program also 64248
shall include a process for providing child restraint systems and 64249
booster seats to persons who meet the eligibility criteria 64250
established by the department, and a toll-free telephone number 64251
the public may utilize to obtain information about child restraint 64252
systems and booster seats, and their proper use. 64253

(J) The director of health, in accordance with Chapter 119. 64255
of the Revised Code, shall adopt any rules necessary to carry out 64256
this section, including rules establishing the criteria a person 64257
must meet in order to receive a child restraint system or booster 64258

seat under the department's child highway safety program; ~~provided~~ 64259
~~that rules relating to the verification of pediatric trauma~~ 64260
~~centers shall not be adopted under this section.~~ 64261

(K) Nothing in this section shall be construed to require any 64262
person to carry with the person the birth certificate of a child 64263
to prove the age of the child, but the production of a valid birth 64264
certificate for a child showing that the child was not of an age 64265
to which this section applies is a defense against any ticket, 64266
citation, or summons issued for violating this section. 64267

(L)(1) Whoever violates division (A), (B), (C), or (D) of 64268
this section shall be punished as follows, provided that the 64269
failure of an operator of a motor vehicle to secure more than one 64270
child in a child restraint system, booster seat, or occupant 64271
restraining device as required by this section that occurred at 64272
the same time, on the same day, and at the same location is deemed 64273
to be a single violation of this section: 64274

(a) Except as otherwise provided in division (L)(1)(b) of 64275
this section, the offender is guilty of a minor misdemeanor and 64276
shall be fined not less than ~~twenty-five~~ fifty dollars nor more 64277
than seventy-five dollars for a first offense. 64278

(b) If the offender previously has been convicted of or 64279
pleaded guilty to a violation of division (A), (B), (C), or (D) of 64280
this section or of a municipal ordinance that is substantially 64281
similar to any of those divisions, the offender is guilty of a 64282
misdemeanor of the fourth degree and shall be fined not less than 64283
one hundred dollars. 64284

(2) ~~All fines~~ For every fine imposed pursuant to division 64285
(L)(1) of this section not less than fifty dollars shall be 64286
forwarded to the treasurer of state for deposit in the child 64287
highway safety fund created by division (I) of this section. 64288

Sec. 4519.04. (A) Upon the filing of an application for 64289
registration of a snowmobile, off-highway motorcycle, or 64290
all-purpose vehicle and the payment of the tax therefor, the 64291
registrar of motor vehicles or a deputy registrar shall assign to 64292
the snowmobile, off-highway motorcycle, or all-purpose vehicle a 64293
distinctive number and issue and deliver to the owner in such 64294
manner as the registrar may select, a certificate of registration, 64295
in such form as the registrar shall prescribe. Any number so 64296
assigned to a snowmobile, off-highway motorcycle, or all-purpose 64297
vehicle shall be a permanent number, and shall not be issued to 64298
any other snowmobile, off-highway motorcycle, or all-purpose 64299
vehicle. 64300

In addition to the certificate of registration, the registrar 64301
or deputy registrar also shall issue to the owner of the 64302
snowmobile, off-highway motorcycle, or all-purpose vehicle a 64303
registration sticker. The registrar shall prescribe the color and 64304
size of the sticker, the combination of numerals and letters 64305
displayed on it, and placement of the sticker on the snowmobile, 64306
off-highway motorcycle, or all-purpose vehicle. 64307

(B) Upon receipt of a certificate of registration for a 64308
snowmobile, the owner shall paint or otherwise attach upon each 64309
side of the forward cowling of the snowmobile the identifying 64310
registration number, in block characters of not less than two 64311
inches in height and of such color as to be distinctly visible and 64312
legible. 64313

(C) Unless previously canceled, each certificate of 64314
registration issued for a snowmobile, off-highway motorcycle, or 64315
all-purpose vehicle expires upon the thirty-first day of December 64316
in the third year after the date it is issued. Application for 64317
renewal of a certificate may be made not earlier than ninety days 64318
preceding the expiration date, and shall be accompanied by a fee 64319

of ~~five~~ thirty-one dollars and twenty-five cents. 64320

Sec. 4519.09. Every owner or operator of a snowmobile, 64321
off-highway motorcycle, or all-purpose vehicle who is a resident 64322
of a state not having a registration law similar to this chapter, 64323
and who expects to use the snowmobile, off-highway motorcycle, or 64324
all-purpose vehicle in Ohio, shall apply to the registrar of motor 64325
vehicles or a deputy registrar for a temporary operating permit. 64326
The temporary operating permit shall be issued for a period not to 64327
exceed ~~fifteen days~~ one year from the date of issuance, shall be 64328
in such form as the registrar determines, shall include the name 64329
and address of the owner and operator of the snowmobile, 64330
off-highway motorcycle, or all-purpose vehicle, and any other 64331
information as the registrar considers necessary, and shall be 64332
issued upon payment of a fee of ~~five~~ eleven dollars and 64333
twenty-five cents. Every owner or operator receiving a temporary 64334
operating permit shall display it upon the reasonable request of 64335
any law enforcement officer or other person as authorized by 64336
sections 4519.42 and 4519.43 of the Revised Code. 64337

Sec. 4519.55. Application for a certificate of title for an 64338
off-highway motorcycle or all-purpose vehicle shall be made upon a 64339
form prescribed by the registrar of motor vehicles and shall be 64340
sworn to before a notary public or other officer empowered to 64341
administer oaths. The application shall be filed with the clerk of 64342
any court of common pleas. An application for a certificate of 64343
title may be filed electronically by any electronic means approved 64344
by the registrar in any county with the clerk of the court of 64345
common pleas of that county. 64346

If an application for a certificate of title is filed 64347
electronically by an electronic dealer on behalf of the purchaser 64348
of an off-highway motorcycle or all-purpose vehicle, the clerk 64349
shall retain the completed electronic record to which the dealer 64350

converted the certificate of title application and other required 64351
documents. The registrar, after consultation with the attorney 64352
general, shall adopt rules that govern the location at which, and 64353
the manner in which, are stored the actual application and all 64354
other documents relating to the sale of an off-highway motorcycle 64355
or all-purpose vehicle when an electronic dealer files the 64356
application for a certificate of title electronically on behalf of 64357
the purchaser. 64358

The application shall be accompanied by the fee prescribed in 64359
section 4519.59 of the Revised Code. The fee shall be retained by 64360
the clerk who issues the certificate of title and shall be 64361
distributed in accordance with that section. If a clerk of a court 64362
of common pleas, other than the clerk of the court of common pleas 64363
of an applicant's county of residence, issues a certificate of 64364
title to the applicant, the clerk shall transmit data related to 64365
the transaction to the automated title processing system. 64366

If a certificate of title previously has been issued for an 64367
off-highway motorcycle or all-purpose vehicle, the application 64368
also shall be accompanied by the certificate of title duly 64369
assigned, unless otherwise provided in this chapter. If a 64370
certificate of title previously has not been issued for the 64371
off-highway motorcycle or all-purpose vehicle, the application, 64372
unless otherwise provided in this chapter, shall be accompanied by 64373
a manufacturer's or importer's certificate; by a sworn statement 64374
of ownership; or by a certificate of title, bill of sale, or other 64375
evidence of ownership required by law of another state from which 64376
the off-highway motorcycle or all-purpose vehicle was brought into 64377
this state. The registrar, in accordance with Chapter 119. of the 64378
Revised Code, shall prescribe the types of additional 64379
documentation sufficient to establish proof of ownership, 64380
including, but not limited to, receipts from the purchase of parts 64381
or components, photographs, and affidavits of other persons. 64382

For purposes of the transfer of a certificate of title, if 64383
the clerk is satisfied that a secured party has duly discharged a 64384
lien notation but has not canceled the lien notation with a clerk, 64385
the clerk may cancel the lien notation on the automated title 64386
processing system and notify the clerk of the county of origin. 64387

In the case of the sale of an off-highway motorcycle or 64388
all-purpose vehicle by a dealer to a general purchaser or user, 64389
the certificate of title shall be obtained in the name of the 64390
purchaser by the dealer upon application signed by the purchaser. 64391
In all other cases, the certificate shall be obtained by the 64392
purchaser. In all cases of transfer of an off-highway motorcycle 64393
or all-purpose vehicle, the application for certificate of title 64394
shall be filed within thirty days after the later of the date of 64395
purchase or assignment of ownership of the off-highway motorcycle 64396
or all-purpose vehicle. If the application for certificate of 64397
title is not filed within thirty days after the later of the date 64398
of purchase or assignment of ownership of the off-highway 64399
motorcycle or all-purpose vehicle, the clerk shall charge a late 64400
filing fee of five dollars in addition to the fee prescribed by 64401
section 4519.59 of the Revised Code. The clerk shall retain the 64402
entire amount of each late filing fee. 64403

Except in the case of an off-highway motorcycle or 64404
all-purpose vehicle purchased prior to July 1, 1999, the clerk 64405
shall refuse to accept an application for certificate of title 64406
unless the applicant either tenders with the application payment 64407
of all taxes levied by or pursuant to Chapter 5739. or 5741. of 64408
the Revised Code based on the purchaser's county of residence, or 64409
submits either of the following: 64410

(A) A receipt issued by the tax commissioner or a clerk of 64411
courts showing payment of the tax; 64412

(B) An exemption certificate, in any form prescribed by the 64413
tax commissioner, that specifies why the purchase is not subject 64414

to the tax imposed by Chapter 5739. or 5741. of the Revised Code. 64415

Payment of the tax shall be made in accordance with division 64416
(E) of section 4505.06 of the Revised Code and any rules issued by 64417
the tax commissioner. ~~When a dealer submits payment of the tax to~~ 64418
~~the clerk, the dealer shall retain any discount to which the~~ 64419
~~dealer is entitled under section 5739.12 of the Revised Code.~~ The 64420
clerk shall issue a receipt in the form prescribed by the tax 64421
commissioner to any applicant who tenders payment of the tax with 64422
the application for a certificate of title. If the application for 64423
a certificate of title is for an off-highway motorcycle or 64424
all-purpose vehicle purchased prior to July 1, 1999, the clerk 64425
shall accept the application without payment of the taxes levied 64426
by or pursuant to Chapter 5739. or 5741. of the Revised Code or 64427
presentation of either of the items listed in division (A) or (B) 64428
of this section. 64429

For receiving and disbursing such taxes paid to the clerk by 64430
a resident of the clerk's county, the clerk may retain a poundage 64431
fee of one and one-hundredth per cent of the taxes collected, 64432
which shall be paid into the certificate of title administration 64433
fund created by section 325.33 of the Revised Code. The clerk 64434
shall not retain a poundage fee from payments of taxes by persons 64435
who do not reside in the clerk's county. 64436

A clerk, however, may retain from the taxes paid to the clerk 64437
an amount equal to the poundage fees associated with certificates 64438
of title issued by other clerks of courts of common pleas to 64439
applicants who reside in the first clerk's county. The registrar, 64440
in consultation with the tax commissioner and the clerks of the 64441
courts of common pleas, shall develop a report from the automated 64442
title processing system that informs each clerk of the amount of 64443
the poundage fees that the clerk is permitted to retain from those 64444
taxes because of certificates of title issued by the clerks of 64445
other counties to applicants who reside in the first clerk's 64446

county. 64447

In the case of casual sales of off-highway motorcycles or 64448
all-purpose vehicles that are subject to the tax imposed by 64449
Chapter 5739. or 5741. of the Revised Code, the purchase price for 64450
the purpose of determining the tax shall be the purchase price on 64451
an affidavit executed and filed with the clerk by the seller on a 64452
form to be prescribed by the registrar, which shall be prima-facie 64453
evidence of the price for the determination of the tax. 64454

In addition to the information required by section 4519.57 of 64455
the Revised Code, each certificate of title shall contain in bold 64456
lettering the following notification and statements: "WARNING TO 64457
TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by 64458
law to state the true selling price. A false statement is in 64459
violation of section 2921.13 of the Revised Code and is punishable 64460
by six months imprisonment or a fine of up to one thousand 64461
dollars, or both. All transfers are audited by the department of 64462
taxation. The seller and buyer must provide any information 64463
requested by the department of taxation. The buyer may be assessed 64464
any additional tax found to be due." 64465

The clerk shall forward all payments of taxes, less poundage 64466
fees, to the treasurer of state in a manner to be prescribed by 64467
the tax commissioner and shall furnish information to the 64468
commissioner as the commissioner may require. 64469

Every clerk shall have the capability to transact by 64470
electronic means all procedures and transactions relating to the 64471
issuance of certificates of title for off-highway motorcycles and 64472
all-purpose vehicles that are described in the Revised Code as 64473
being accomplished by electronic means. 64474

Sec. 4705.09. (A)(1) Any person admitted to the practice of 64475
law in this state by order of the supreme court in accordance with 64476
its prescribed and published rules, or any law firm or legal 64477

professional association, may establish and maintain an 64478
interest-bearing trust account, for purposes of depositing client 64479
funds held by the attorney, firm, or association that are nominal 64480
in amount or are to be held by the attorney, firm, or association 64481
for a short period of time, with any bank, savings bank, or 64482
savings and loan association that is authorized to do business in 64483
this state and is insured by the federal deposit insurance 64484
corporation or the successor to that corporation, or any credit 64485
union insured by the national credit union administration 64486
operating under the "Federal Credit Union Act," 84 Stat. 994 64487
(1970), 12 U.S.C.A. 1751, or insured by a credit union share 64488
guaranty corporation established under Chapter 1761. of the 64489
Revised Code. Each 64490

(2) The account established under division (A) of this 64491
section shall be established and maintained at an eligible 64492
depository. 64493

(3) Each account established under ~~this~~ division (A) of this 64494
section shall be in the name of the attorney, firm, or association 64495
that established and is maintaining it and shall be identified as 64496
an IOLTA or an interest on lawyer's trust account. The name of the 64497
account may contain additional identifying features to distinguish 64498
it from other trust accounts established and maintained by the 64499
attorney, firm, or association. 64500

~~(2)~~(4) Each attorney who receives funds belonging to a client 64501
shall do one of the following: 64502

(a) Establish and maintain one or more interest-bearing trust 64503
accounts in accordance with division (A)(1) of this section or 64504
maintain one or more interest-bearing trust accounts previously 64505
established in accordance with that division, and deposit all 64506
client funds held that are nominal in amount or are to be held by 64507
the attorney for a short period of time in the account or 64508
accounts; 64509

(b) If the attorney is affiliated with a law firm or legal professional association, comply with division (A)~~(2)~~(4)(a) of this section or deposit all client funds held that are nominal in amount or are to be held by the attorney for a short period of time in one or more interest-bearing trust accounts established and maintained by the firm or association in accordance with division (A)(1) of this section.

~~(3)~~(5) No funds belonging to any attorney, firm, or legal professional association shall be deposited in any interest-bearing trust account established under division (A)~~(1)~~ ~~or (2)~~ of this section, except that funds sufficient to establish the account or to pay or enable a waiver of depository institution service charges on the account shall be deposited in the account and other funds belonging to the attorney, firm, or association may be deposited as authorized by the ~~Code of Professional Responsibility~~ Rules of Professional Conduct adopted by the supreme court. The determinations of whether funds held are nominal or more than nominal in amount and of whether funds are to be held for a short period or longer than a short period of time rests in the sound judgment of the particular attorney. No imputation of professional misconduct shall arise from the attorney's exercise of judgment in these matters.

(B) All interest earned on funds deposited in an interest-bearing trust account established under division (A)~~(1)~~ ~~or (2)~~ of this section shall be transmitted to the treasurer of state for deposit in the legal aid fund established under section 120.52 of the Revised Code. No part of the interest earned on funds deposited in an interest-bearing trust account established under division (A)~~(1)~~ ~~or (2)~~ of this section shall be paid to, or inure to the benefit of, the attorney, the attorney's law firm or legal professional association, the client or other person who owns or has a beneficial ownership of the funds deposited, or any

other account, person, or entity other than in accordance with 64542
this section, section 4705.10, and sections 120.51 to 120.55 of 64543
the Revised Code. 64544

(C) No liability arising out of any act or omission by any 64545
attorney, law firm, or legal professional association with respect 64546
to any interest-bearing trust account established under division 64547
(A)~~(1) or (2)~~ of this section shall be imputed to the depository 64548
institution. 64549

(D) The supreme court may adopt and enforce rules of 64550
professional conduct that pertain to the use, by attorneys, law 64551
firms, or legal professional associations, of interest-bearing 64552
trust accounts established under division (A)~~(1) or (2)~~ of this 64553
section, and that pertain to the enforcement of division (A)~~(2)~~ of 64554
this section. Any rules adopted by the supreme court under this 64555
authority shall conform to the provisions of this section, section 64556
4705.10, and sections 120.51 to 120.55 of the Revised Code and any 64557
rules adopted by the Ohio legal assistance foundation pursuant to 64558
section 120.52 of the Revised Code. 64559

(E) As used in this section, "eligible depository" has the 64560
same meaning as in section 3953.231 of the Revised Code. 64561

Sec. 4705.10. (A) All of the following apply to an 64562
interest-bearing trust account established under authority of 64563
section 4705.09 of the Revised Code: 64564

(1) All funds ~~in the~~ shall be deposited into an IOLTA account 64565
product at an eligible depository and shall be subject to 64566
withdrawal upon request and without delay, or as soon as is 64567
permitted by federal law; 64568

(2)~~(a)~~ The approved rate of interest payable on the account 64569
shall ~~not be less than the~~ equal or exceed the highest interest 64570
rate or dividend rate paid by the eligible depository ~~institution~~ 64571

~~to regular, nonattorney depositors on its account products that~~ 64572
~~are not IOLTA account products. Higher~~ The eligible depository 64573
~~shall pay on its IOLTA account product any higher~~ rates offered by 64574
~~the institution to customers whose deposits exceed certain time or~~ 64575
~~quantity qualifications, such as those offered in the form of~~ 64576
~~certificates of deposit, may be obtained by a person or law firm~~ 64577
~~establishing the account if there is no impairment of the right to~~ 64578
~~withdraw or transfer principal immediately~~ it on its account 64579
products that are not IOLTA account products. 64580

(b) In paying not less than the highest interest rate or 64581
dividend paid by the eligible depository on its account products 64582
that are not IOLTA account products, an eligible depository shall 64583
do both of the following: 64584

(i) For IOLTA accounts with balances of less than one hundred 64585
thousand dollars, pay a rate that equals or exceeds the highest 64586
rate paid on its business checking account paying preferred 64587
interest rates, such as money market or indexed rates, or any 64588
other similar, suitable interest-bearing account offered by the 64589
eligible depository on its account products that are not IOLTA 64590
account products; 64591

(ii) For IOLTA accounts with balances of one hundred thousand 64592
dollars or more, pay a rate that equals or exceeds the highest 64593
rate paid on its business checking account with an automated 64594
investment feature, such as an overnight sweep account, business 64595
investment or other similar premium checking account, short-term 64596
jumbo certificate of deposit, money market account, or any other 64597
similar, suitable interest-bearing account offered by the eligible 64598
depository on its account products that are not IOLTA account 64599
products. 64600

(c) In determining the highest interest rate or dividend paid 64601
by the eligible depository on its account products that are not 64602
IOLTA account products, an eligible depository shall consider the 64603

rates it offers its customers from internal rate sheets or through 64604
preferred or negotiated rates on a per customer basis. In 64605
considering the rate for the IOLTA account product, the eligible 64606
depository may also take into consideration and discount for 64607
factors such as fees paid by the account-holder, time commitments, 64608
and withdrawal limitations on other account products. The eligible 64609
depository shall not use these factors to preclude consideration 64610
of the rates paid on one or more of its account products that are 64611
not IOLTA account products in the eligible depository's 64612
establishment of a rate for the IOLTA account product. 64613

(d) If an eligible depository determines that it is unable to 64614
pay the rate required under this division during any reporting 64615
period, the eligible depository may request from the Ohio legal 64616
assistance foundation a waiver from the approved rate requirement 64617
for that reporting period. If an eligible depository requests a 64618
waiver from the approved rate requirement, the eligible depository 64619
shall demonstrate in the form and manner prescribed in rules 64620
adopted by the Ohio legal assistance foundation pursuant to 64621
section 120.52 of the Revised Code that the rates of interest paid 64622
on its IOLTA account product are generally not less than the 64623
highest rates paid by the eligible depository on its account 64624
products that are not IOLTA account products. At a minimum, the 64625
eligible depository shall demonstrate by an independent, 64626
third-party auditor's certification that not more than five per 64627
cent of the eligible depository's account products that are not 64628
IOLTA account products with an average daily balance of greater 64629
than or equal to one hundred thousand dollars have rates that are 64630
higher than the rate paid on the its IOLTA account product during 64631
the same reporting period. 64632

(3) The depository institution shall be directed, by the 64633
person or law firm establishing the account, shall direct the 64634
eligible depository to do all of the following: 64635

(a) Remit by the fifteenth day of each month interest or 64636
dividends, whichever is applicable, on the average monthly balance 64637
in the account earned in the preceding month or as otherwise 64638
computed in accordance with the ~~institution's~~ eligible 64639
depository's standard accounting practice, ~~less reasonable service~~ 64640
~~charges,~~ to the treasurer of state ~~at least quarterly~~ for deposit 64641
in the legal aid fund established under section 120.52 of the 64642
Revised Code; 64643

(b) Transmit to the treasurer of state, ~~upon its request,~~ to 64644
the Ohio Legal Assistance Foundation, and if requested, to the 64645
depositing attorney, law firm, or legal professional association 64646
upon the attorney's, firm's, or association's request, at the time 64647
of each remittance required by division (A)(3)(a) of this section, 64648
a statement showing the name of the attorney for whom or the law 64649
firm or legal professional association for which the remittance is 64650
sent, the comparable accounts or product types and the rates paid, 64651
as required in division (A)(2)(b) of this section, the rate of 64652
interest applied, the accounting period, the net amount remitted 64653
to the treasurer of state for each account, the total remitted, 64654
the average account balance for each month of the period for which 64655
the report is made, and the amount deducted for service charges 64656
assessed to and paid by the account holder or other party; 64657

~~(4) The depository institution shall notify~~ (c) Notify the 64658
office of disciplinary counsel or other entity designated by the 64659
supreme court on each occasion when a properly payable instrument 64660
is presented for payment from the account, and the account 64661
contains insufficient funds. ~~The depository institution shall,~~ 64662
provide this notice without regard to whether the instrument is 64663
honored by the eligible depository ~~institution.~~ ~~The depository~~ 64664
~~institution shall,~~ provide the notice described in division 64665
(A)~~(4)~~(3)(c) of this section by electronic or other means within 64666
five banking days of the date that the instrument was honored or 64667

returned as dishonored. ~~The, and include in the~~ notice shall
contain all of the following: 64668
64669

~~(a)(i)~~ The name and address of the eligible depository
institution; 64670
64671

~~(b)(ii)~~ The name and address of the lawyer, law firm, or
legal professional association that maintains the account; 64672
64673

~~(c)(iii)~~ The account number and either the amount of the
overdraft and the date issued or the amount of the dishonored
instrument and the date returned. 64674
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64676

(B)(1) The statements and reports of individual depositor
information made under ~~divisions~~ division (A)(3) ~~and (4)~~ of this
section are confidential and are not public records subject to
section 149.43 of the Revised Code and shall be used by the Ohio
legal assistance foundation only for purposes of administering the
legal aid fund and by the supreme court for enforcement of the
rules of professional conduct adopted by the supreme court. 64677
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(2) A depository institution may charge the lawyer, law firm,
or legal professional association that maintains the account with
fees associated with producing and mailing a notice required by
division (A)~~(4)~~(3)(c) of this section but shall not deduct such
fees from the interest earned on the account. 64684
64685
64686
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64688

(C) As used in this section: 64689

(1) "Approved rate" and "eligible depository" have the same
meaning as in section 3953.231 of the Revised Code. 64690
64691

(2) "IOLTA account product" means a separate and unique
product offered by an eligible depository that is used exclusively
for the deposit of funds transferred electronically or otherwise,
cash, money orders, or negotiable instruments that are received by
an attorney that is used to hold client funds and fully complies
with the account requirements of sections 120.52, 4705.09, and 64692
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4705.10 of the Revised Code. 64698

Sec. 4713.63. A practicing license, managing license, or 64699
instructor license that has not been renewed for any reason other 64700
than because it has been revoked, suspended, or classified 64701
inactive, or because the license holder has been given a waiver or 64702
extension under section 4713.60 of the Revised Code, is expired. 64703
An expired license may be restored if the person who held the 64704
license meets all of the following applicable conditions: 64705

(A) Pays to the state board of cosmetology the restoration 64706
fee, the current renewal fee, and any applicable late fees; 64707

(B) Pays ~~all a~~ a lapsed renewal fees fee of forty-five dollars 64708
per license renewal period that has elapsed since the license was 64709
last issued or renewed; 64710

(C) ~~Submits proof satisfactory to the state board of~~ 64711
~~cosmetology that the person has completed all applicable~~ 64712
~~continuing education requirements;~~ 64713

~~(D)~~ In the case of a practicing license or managing license 64714
that has been expired for more than two years, ~~retakes and passes~~ 64715
~~an examination conducted under section 4713.24 of the Revised Code~~ 64716
~~for the branch of cosmetology that the person seeks to practice or~~ 64717
~~type of salon the person seeks to manage~~ consecutive license 64718
renewal periods, completes eight hours of continuing education for 64719
each license renewal period that has elapsed since the license was 64720
last issued or renewed, up to a maximum of twenty-four hours. At 64721
least four of those hours shall include a course pertaining to 64722
sanitation and safety methods. 64723

The board shall deposit all fees it receives under division 64724
(B) of this section into the general revenue fund. 64725

Sec. 4713.64. (A) In accordance with Chapter 119. of the 64726
Revised Code, the state board of cosmetology may deny, revoke, or 64727

suspend a license or permit issued by the board or impose a fine	64728
for any of the following:	64729
(1) Failure to comply with the requirements of this chapter	64730
or rules adopted under it;	64731
(2) Continued practice by a person knowingly having an	64732
infectious or contagious disease;	64733
(3) Habitual drunkenness or addiction to any habit-forming	64734
drug;	64735
(4) Willful false and fraudulent or deceptive advertising;	64736
(5) Falsification of any record or application required to be	64737
filed with the board;	64738
(6) Failure to pay a fine or abide by a suspension order	64739
issued by the board.	64740
(B) The board may impose a separate fine for each offense	64741
listed in division (A) of this section. The amount of a fine shall	64742
be not more than one <u>five</u> hundred dollars if the violator has not	64743
previously been fined for that offense. The fine shall be not more	64744
than five hundred <u>one thousand</u> dollars if the violator has been	64745
fined for the same offense once before. The fine shall be not more	64746
than one thousand <u>five hundred</u> dollars if the violator has been	64747
fined for the same offense two or more times before.	64748
(C) If a person fails to request a hearing within thirty days	64749
of the date the board, in accordance with section 119.07 of the	64750
Revised Code, notifies the person of the board's intent to act	64751
against the person under division (A) of this section, the board	64752
by a majority vote of a quorum of the board members may take the	64753
action against the person without holding an adjudication hearing.	64754
(D) The board, after a hearing in accordance with Chapter	64755
119. of the Revised Code, may suspend a tanning facility permit if	64756
the owner or operator fails to correct an unsafe condition that	64757

exists in violation of the board's rules or fails to cooperate in 64758
an inspection of the tanning facility. If a violation has resulted 64759
in a condition reasonably believed by an inspector to create an 64760
immediate danger to the health and safety of any person using the 64761
tanning facility, the inspector may suspend the permit without a 64762
prior hearing until the condition is corrected or until a hearing 64763
in accordance with Chapter 119. of the Revised Code is held and 64764
the board either upholds the suspension or reinstates the permit. 64765

Sec. 4731.10. Upon the request of a person licensed who holds 64766
a certificate to practice in this state pursuant to Chapter 4731. 64767
of the Revised Code and is seeking licensure in another state, the 64768
state medical board shall ~~certify an application for licensure in~~ 64769
~~another~~ provide verification of the person's certificate to 64770
practice in this state. The fee for such ~~certification~~ 64771
verification shall be fifty dollars. 64772

Sec. 4731.26. Upon application by the holder of a certificate 64773
to practice or certificate of registration issued under this 64774
chapter, the state medical board shall issue a duplicate 64775
certificate to replace one missing or damaged, to reflect a name 64776
change, or for any other reasonable cause. The fee for ~~such a~~ 64777
duplicate certificate to practice or duplicate certificate of 64778
registration shall be thirty-five dollars. 64779

Sec. 4731.38. All vouchers of the state medical board shall 64780
be approved by the ~~board~~ board's president ~~or~~, the board's 64781
executive ~~secretary~~ director, or ~~both~~, as another person 64782
authorized by the board. 64783

Sec. 4733.10. The state board of registration for 64784
professional engineers and surveyors shall prepare annually a 64785
listing of all registered professional engineers, registered 64786

professional surveyors, and firms that possess a certificate of 64787
authorization. The board shall provide a copy of this listing upon 64788
request to registrants of the board and to firms possessing a 64789
certificate of authorization without charge and to the public upon 64790
request and payment of copy costs. 64791

Additionally, the board shall issue an official verification 64792
of the status of any person registered as a professional engineer 64793
or professional surveyor in this state upon receipt of a 64794
verification form and the payment of a fee established by the 64795
board. 64796

Sec. 4735.01. As used in this chapter: 64797

(A) "Real estate broker" includes any person, partnership, 64798
association, limited liability company, limited liability 64799
partnership, or corporation, foreign or domestic, who for another, 64800
whether pursuant to a power of attorney or otherwise, and who for 64801
a fee, commission, or other valuable consideration, or with the 64802
intention, or in the expectation, or upon the promise of receiving 64803
or collecting a fee, commission, or other valuable consideration 64804
does any of the following: 64805

(1) Sells, exchanges, purchases, rents, or leases, or 64806
negotiates the sale, exchange, purchase, rental, or leasing of any 64807
real estate; 64808

(2) Offers, attempts, or agrees to negotiate the sale, 64809
exchange, purchase, rental, or leasing of any real estate; 64810

(3) Lists, or offers, attempts, or agrees to list, or 64811
auctions, or offers, attempts, or agrees to auction, any real 64812
estate; 64813

(4) Buys or offers to buy, sells or offers to sell, or 64814
otherwise deals in options on real estate; 64815

(5) Operates, manages, or rents, or offers or attempts to 64816

operate, manage, or rent, other than as custodian, caretaker, or 64817
janitor, any building or portions of buildings to the public as 64818
tenants; 64819

(6) Advertises or holds self out as engaged in the business 64820
of selling, exchanging, purchasing, renting, or leasing real 64821
estate; 64822

(7) Directs or assists in the procuring of prospects or the 64823
negotiation of any transaction, other than mortgage financing, 64824
which does or is calculated to result in the sale, exchange, 64825
leasing, or renting of any real estate; 64826

(8) Is engaged in the business of charging an advance fee or 64827
contracting for collection of a fee in connection with any 64828
contract whereby the broker undertakes primarily to promote the 64829
sale, exchange, purchase, rental, or leasing of real estate 64830
through its listing in a publication issued primarily for such 64831
purpose, or for referral of information concerning such real 64832
estate to brokers, or both, except that this division does not 64833
apply to a publisher of listings or compilations of sales of real 64834
estate by their owners; 64835

(9) Collects rental information for purposes of referring 64836
prospective tenants to rental units or locations of such units and 64837
charges the prospective tenants a fee. 64838

(B) "Real estate" includes leaseholds as well as any and 64839
every interest or estate in land situated in this state, whether 64840
corporeal or incorporeal, whether freehold or nonfreehold, and the 64841
improvements on the land, but does not include cemetery interment 64842
rights. 64843

(C) "Real estate salesperson" means any person associated 64844
with a licensed real estate broker to do or to deal in any acts or 64845
transactions set out or comprehended by the definition of a real 64846
estate broker, for compensation or otherwise. 64847

(D) "Institution of higher education" means either of the 64848
following: 64849

(1) A nonprofit institution as defined in section 1713.01 of 64850
the Revised Code that actually awards, rather than intends to 64851
award, degrees for fulfilling requirements of academic work beyond 64852
high school; 64853

(2) An institution operated for profit that otherwise 64854
qualifies under the definition of an institution in section 64855
1713.01 of the Revised Code and that actually awards, rather than 64856
intends to award, degrees for fulfilling requirements of academic 64857
work beyond high school. 64858

(E) "Foreign real estate" means real estate not situated in 64859
this state and any interest in real estate not situated in this 64860
state. 64861

(F) "Foreign real estate dealer" includes any person, 64862
partnership, association, limited liability company, limited 64863
liability partnership, or corporation, foreign or domestic, who 64864
for another, whether pursuant to a power of attorney or otherwise, 64865
and who for a fee, commission, or other valuable consideration, or 64866
with the intention, or in the expectation, or upon the promise of 64867
receiving or collecting a fee, commission, or other valuable 64868
consideration, does or deals in any act or transaction specified 64869
or comprehended in division (A) of this section with respect to 64870
foreign real estate. 64871

(G) "Foreign real estate salesperson" means any person 64872
associated with a licensed foreign real estate dealer to do or 64873
deal in any act or transaction specified or comprehended in 64874
division (A) of this section with respect to foreign real estate, 64875
for compensation or otherwise. 64876

(H) Any person, partnership, association, limited liability 64877
company, limited liability partnership, or corporation, who, for 64878

another, in consideration of compensation, by fee, commission, 64879
salary, or otherwise, or with the intention, in the expectation, 64880
or upon the promise of receiving or collecting a fee, does, or 64881
offers, attempts, or agrees to engage in, any single act or 64882
transaction contained in the definition of a real estate broker, 64883
whether an act is an incidental part of a transaction, or the 64884
entire transaction, shall be constituted a real estate broker or 64885
real estate salesperson under this chapter. 64886

(I)(1) The terms "real estate broker," "real estate 64887
salesperson," "foreign real estate dealer," and "foreign real 64888
estate salesperson" do not include a person, partnership, 64889
association, limited liability company, limited liability 64890
partnership, or corporation, or the regular employees thereof, who 64891
perform any of the acts or transactions specified or comprehended 64892
in division (A) of this section, whether or not for, or with the 64893
intention, in expectation, or upon the promise of receiving or 64894
collecting a fee, commission, or other valuable consideration: 64895

~~(1)(a)~~ With reference to real estate situated in this state 64896
~~or any interest in it~~ owned by such person, partnership, 64897
association, limited liability company, limited liability 64898
partnership, or corporation, or acquired on its own account in the 64899
regular course of, or as an incident to the management of the 64900
property and the investment in it; 64901

~~(2)(b)~~ As receiver or trustee in bankruptcy, as guardian, 64902
executor, administrator, trustee, assignee, commissioner, or any 64903
person doing the things mentioned in this section, under authority 64904
or appointment of, or incident to a proceeding in, any court, or 64905
as a bona fide public officer, or as executor, trustee, or other 64906
bona fide fiduciary under any trust agreement, deed of trust, 64907
will, or other instrument that has been executed in good faith 64908
creating a like bona fide fiduciary obligation; 64909

~~(3)(c)~~ As a public officer while performing the officer's 64910

official duties; 64911

~~(4)~~(d) As an attorney at law in the performance of the 64912
attorney's duties; 64913

~~(5)~~(e) As a person who engages in the brokering of the sale 64914
of business assets, not including the ~~negotiation of the sale,~~ 64915
lease, exchange, or assignment of any interest in real estate; 64916

~~(6)~~(f) As a person who engages in the sale of manufactured 64917
homes as defined in division (C)(4) of section 3781.06 of the 64918
Revised Code, or of mobile homes as defined in division (O) of 64919
section 4501.01 of the Revised Code, provided the sale does not 64920
include the negotiation, sale, lease, exchange, or assignment of 64921
any interest in real estate; 64922

~~(7)~~(g) As a person who engages in the sale of commercial real 64923
estate pursuant to the requirements of section 4735.022 of the 64924
Revised Code. 64925

(2) A person, partnership, association, limited liability 64926
company, limited liability partnership, or corporation exempt 64927
under division (I)(1)(a) of this section shall be limited by the 64928
legal interest in the real estate held by that person or entity to 64929
performing any of the acts or transactions specified in or 64930
comprehended by division (A) of this section. 64931

(J) "~~Physically handicapped~~ Disabled licensee" means a person 64932
licensed pursuant to this chapter who is under a severe physical 64933
disability which is of such a nature as to prevent the person from 64934
being able to attend any instruction lasting at least three hours 64935
in duration. 64936

(K) "Division of real estate" may be used interchangeably 64937
with, and for all purposes has the same meaning as, "division of 64938
real estate and professional licensing." 64939

(L) "Superintendent" or "superintendent of real estate" means 64940

the superintendent of the division of real estate and professional 64941
licensing of this state. Whenever the division or superintendent 64942
of real estate is referred to or designated in any statute, rule, 64943
contract, or other document, the reference or designation shall be 64944
deemed to refer to the division or superintendent of real estate 64945
and professional licensing, as the case may be. 64946

(M) "Inactive license" means the license status in which a 64947
salesperson's license is in the possession of the division, 64948
renewed as required under this chapter or rules adopted under this 64949
chapter, and not associated with a real estate broker. 64950

(N) "Broker's license on deposit" means the license status in 64951
which a broker's license is in the possession of the division of 64952
real estate and professional licensing and renewed as required 64953
under this chapter or rules adopted under this chapter. 64954

(O) "Suspended license" means the license status that 64955
prohibits a licensee from providing services that require a 64956
license under this chapter for a specified interval of time. 64957

(P) "Reactivate" means the process prescribed by the 64958
superintendent of real estate and professional licensing to remove 64959
a license from an inactive, voluntary hold, suspended, or broker's 64960
license on deposit status to allow a licensee to provide services 64961
that require a license under this chapter. 64962

(Q) "Revoked" means the license status in which the license 64963
is void and not eligible for reactivation. 64964

(R) "Commercial real estate" means any parcel of real estate 64965
in this state other than real estate containing one to four 64966
residential units. "Commercial real estate" does not include 64967
single-family residential units such as condominiums, townhouses, 64968
manufactured homes, or homes in a subdivision when sold, leased, 64969
or otherwise conveyed on a unit-by-unit basis, even when those 64970
units are a part of a larger building or parcel of real estate 64971

containing more than four residential units. 64972

(S) "Out-of-state commercial broker" includes any person, 64973
partnership, association, limited liability company, limited 64974
liability partnership, or corporation that is licensed to do 64975
business as a real estate broker in a jurisdiction other than 64976
Ohio. 64977

(T) "Out-of-state commercial salesperson" includes any person 64978
affiliated with an out-of-state commercial broker who is not 64979
licensed as a real estate salesperson in Ohio. 64980

(U) "Exclusive right to sell or lease listing agreement" 64981
means an agency agreement between a seller and broker that meets 64982
the requirements of section 4735.55 of the Revised Code and does 64983
both of the following: 64984

(1) Grants the broker the exclusive right to represent the 64985
seller in the sale or lease of the seller's property; 64986

(2) Provides the broker will be compensated if the broker, 64987
the seller, or any other person or entity produces a purchaser or 64988
tenant in accordance with the terms specified in the listing 64989
agreement or if the property is sold or leased during the term of 64990
the listing agreement to anyone other than to specifically 64991
exempted persons or entities. 64992

(V) "Exclusive agency agreement" means an agency agreement 64993
between a seller and broker that meets the requirements of section 64994
4735.55 of the Revised Code and does both of the following: 64995

(1) Grants the broker the exclusive right to represent the 64996
seller in the sale or lease of the seller's property; 64997

(2) Provides the broker will be compensated if the broker or 64998
any other person or entity produces a purchaser or tenant in 64999
accordance with the terms specified in the listing agreement or if 65000
the property is sold or leased during the term of the listing 65001

agreement, unless the property is sold or leased solely through 65002
the efforts of the seller or to the specifically exempted persons 65003
or entities. 65004

(W) "Exclusive purchaser agency agreement" means an agency 65005
agreement between a purchaser and broker that meets the 65006
requirements of section 4735.55 of the Revised Code and does both 65007
of the following: 65008

(1) Grants the broker the exclusive right to represent the 65009
purchaser in the purchase or lease of property; 65010

(2) Provides the broker will be compensated in accordance 65011
with the terms specified in the exclusive agency agreement or if a 65012
property is purchased or leased by the purchaser during the term 65013
of the agency agreement unless the property is specifically 65014
exempted in the agency agreement. 65015

The agreement may authorize the broker to receive 65016
compensation from the seller or the seller's agent and may provide 65017
that the purchaser is not obligated to compensate the broker if 65018
the property is purchased or leased solely through the efforts of 65019
the purchaser. 65020

(X) "Seller" means a party in a real estate transaction who 65021
is the potential transferor of property. "Seller" includes an 65022
owner of property who is seeking to sell the property and a 65023
landlord who is seeking to rent or lease property to another 65024
person. 65025

(Y) "Voluntary hold" means the license status in which a 65026
license is in the possession of the division of real estate and 65027
professional licensing for a period of not more than twelve months 65028
pursuant to section 4735.142 of the Revised Code, is not renewed 65029
in accordance with the requirements specified in this chapter or 65030
the rules adopted pursuant to it, and is not associated with a 65031
real estate broker. 65032

(Z) "Resigned" means the license status in which a license
has been voluntarily surrendered to or is otherwise in the
possession of the division of real estate and professional
licensing, is not renewed in accordance with the requirements
specified in this chapter or the rules adopted pursuant to it, and
is not associated with a real estate broker.

Sec. 4735.03. There is hereby created the Ohio real estate
commission, consisting of five members who shall be appointed by
the governor, with the advice and consent of the senate. Four
members shall have been engaged in the real estate business as
licensed real estate brokers in the state for a period of ten
years immediately preceding the appointment. One member shall
represent the public. Terms of office shall be for five years,
commencing on the first day of July and ending on the thirtieth
day of June. Each member shall hold office from the date of
appointment until the end of the term for which appointed. No more
than three members shall be members of any one political party and
no member of the commission concurrently may be a member of the
commission and the real estate appraiser board created pursuant to
section 4763.02 of the Revised Code. Each member, before entering
upon the duties of office, shall subscribe to and file with the
secretary of state the constitutional oath of office. All
vacancies which occur shall be filled in the manner prescribed for
the regular appointments to the commission. Any member appointed
to fill a vacancy occurring prior to the expiration of the term
for which the member's predecessor was appointed shall hold office
for the remainder of such term. Any member shall continue in
office subsequent to the expiration date of the member's term
until the member's successor takes office, or until a period of
sixty days has elapsed, whichever occurs first. No member shall
hold office for more than two consecutive full terms. Annually,
upon the qualification of the member appointed in such year, the

commission shall organize by selecting from its members a 65065
president and vice-president, and shall do all things necessary 65066
and proper to carry out and enforce this chapter. A majority of 65067
the members of the commission shall constitute a quorum, but a 65068
lesser number may adjourn from time to time. Each member of the 65069
commission shall receive an amount fixed pursuant to section 65070
124.14 of the Revised Code for each day employed in the discharge 65071
of official duties, and the member's actual and necessary expenses 65072
incurred in the discharge of those duties. 65073

The commission or the superintendent of real estate may 65074
investigate complaints concerning the violation of section 4735.02 65075
or 4735.25 of the Revised Code and may subpoena witnesses in 65076
connection with such investigations as provided in section 4735.04 65077
of the Revised Code. The commission or the superintendent may make 65078
application to the appropriate court for an order enjoining the 65079
violation of section 4735.02 or 4735.25 of the Revised Code, and 65080
upon a showing by the commission or the superintendent that any 65081
person, firm, partnership, association, limited liability company, 65082
limited liability partnership, or corporation has violated or is 65083
about to violate section 4735.02 or 4735.25 of the Revised Code, 65084
an injunction, restraining order, or such other order as may be 65085
appropriate shall be granted by such court. 65086

The commission shall: 65087

(A) Adopt canons of ethics for the real estate industry; 65088

(B) Upon appeal by any party affected, or may upon its own 65089
motion, review any order or application determination of the 65090
superintendent, and may reverse, vacate, or modify any order of 65091
the superintendent; 65092

(C) Administer the real estate education and research fund 65093
and hear appeals from orders of the superintendent regarding 65094
claims against that fund or against the real estate recovery fund; 65095

(D) Direct the superintendent on the content, scheduling, 65096
instruction, and offerings of real estate courses for salesperson 65097
and broker educational requirements; 65098

(E) Disseminate to licensees and the public, information 65099
relative to commission activities and decisions; 65100

(F) Notify licensees of changes in state and federal civil 65101
rights laws pertaining to discrimination in the purchase or sale 65102
of real estate and relevant case law, and inform licensees that 65103
they are subject to disciplinary action if they do not comply with 65104
the changes; 65105

(G) Publish and furnish to public libraries and to brokers 65106
booklets on housing and remedies available to dissatisfied clients 65107
under this chapter and Chapter 4112. of the Revised Code; 65108

(H) Provide training to commission members and employees of 65109
the division of real estate and professional licensing on issues 65110
relative to the real estate industry, which may include but not be 65111
limited to investigative techniques, real estate law, and real 65112
estate practices and procedures. 65113

Sec. 4735.05. (A) The Ohio real estate commission is a part 65114
of the department of commerce for administrative purposes. The 65115
director of commerce is ex officio the executive officer of the 65116
commission, or the director may designate any employee of the 65117
department as superintendent of real estate and professional 65118
licensing to act as executive officer of the commission. 65119

The commission and the real estate appraiser board created 65120
pursuant to section 4763.02 of the Revised Code shall each submit 65121
to the director a list of three persons whom the commission and 65122
the board consider qualified to be superintendent within sixty 65123
days after the office of superintendent becomes vacant. The 65124
director shall appoint a superintendent from the lists submitted 65125

by the commission and the board, and the superintendent shall 65126
serve at the pleasure of the director. 65127

(B) The superintendent, except as otherwise provided, shall 65128
do all of the following in regard to this chapter: 65129

(1) Administer this chapter; 65130

(2) Issue all orders necessary to implement this chapter; 65131

(3) Investigate complaints concerning the violation of this 65132
chapter or the conduct of any licensee; 65133

(4) Establish and maintain an investigation and audit section 65134
to investigate complaints and conduct inspections, audits, and 65135
other inquiries as in the judgment of the superintendent are 65136
appropriate to enforce this chapter. The investigators or auditors 65137
have the right to review and audit the business records of 65138
licensees and continuing education course providers during normal 65139
business hours. 65140

(5) Appoint a hearing examiner for any proceeding involving 65141
disciplinary action under section 3123.47 or 4735.18 of the 65142
Revised Code; 65143

(6) Administer the real estate recovery fund. 65144

(C) The superintendent may do all of the following: 65145

(1) In connection with investigations and audits under 65146
division (B) of this section, subpoena witnesses as provided in 65147
section 4735.04 of the Revised Code; 65148

(2) Apply to the appropriate court to enjoin any violation of 65149
this chapter. Upon a showing by the superintendent that any person 65150
has violated or is about to violate any provision of this chapter, 65151
the court shall grant an injunction, restraining order, or other 65152
appropriate order. 65153

(3) Upon the death of a licensed broker or the revocation or 65154
suspension of the broker's license, if there is no other licensed 65155

broker within the business entity of the broker, appoint upon 65156
application by any interested party, or, in the case of a deceased 65157
broker, subject to the approval by the appropriate probate court, 65158
recommend the appointment of, an ancillary trustee who is 65159
qualified as determined by the superintendent to conclude the 65160
business transactions of the deceased, revoked, or suspended 65161
broker; 65162

(4) In conjunction with the enforcement of this chapter, when 65163
the superintendent of real estate has reasonable cause to believe 65164
that an applicant or licensee has committed a criminal offense, 65165
~~the superintendent of real estate may~~ request the superintendent 65166
of the bureau of criminal identification and investigation to 65167
conduct a criminal records check of the applicant or licensee. The 65168
superintendent of the bureau of criminal identification and 65169
investigation shall obtain information from the federal bureau of 65170
investigation as part of the criminal records check of the 65171
applicant or licensee. The superintendent of real estate may 65172
assess the applicant or licensee a fee equal to the fee assessed 65173
for the criminal records check. 65174

(5) In conjunction with the enforcement of this chapter, 65175
issue advisory letters. 65176

(D) All information that is obtained by investigators and 65177
auditors performing investigations or conducting inspections, 65178
audits, and other inquiries pursuant to division (B)(4) of this 65179
section, from licensees, complainants, or other persons, and all 65180
reports, documents, and other work products that arise from that 65181
information and that are prepared by the investigators, auditors, 65182
or other personnel of the department, shall be held in confidence 65183
by the superintendent, the investigators and auditors, and other 65184
personnel of the department. Notwithstanding division (D) of 65185
section 2317.023 of the Revised Code, all information obtained by 65186
investigators or auditors from an informal mediation meeting held 65187

pursuant to section 4735.051 of the Revised Code, including but 65188
not limited to the agreement to mediate and the accommodation 65189
agreement, shall be held in confidence by the superintendent, 65190
investigators, auditors, and other personnel of the department. 65191

(E) This section does not prevent the division of real estate 65192
and professional licensing from releasing information relating to 65193
licensees to the superintendent of financial institutions for 65194
purposes relating to the administration of sections 1322.01 to 65195
1322.12 of the Revised Code, to the superintendent of insurance 65196
for purposes relating to the administration of Chapter 3953. of 65197
the Revised Code, to the attorney general, or to local law 65198
enforcement agencies and local prosecutors. Information released 65199
by the division pursuant to this section remains confidential. 65200

Sec. 4735.051. (A) Within ~~five~~ ten business days after a 65201
person files a ~~signed~~ written complaint against a licensed real 65202
estate broker or licensed real estate salesperson with the 65203
division of real estate, the superintendent of real estate shall 65204
acknowledge receipt of the complaint and send a notice to the 65205
licensee ~~describing the acts complained of~~ with a copy of the 65206
complaint. The acknowledgment to the complainant and the notice to 65207
the licensee shall ~~state~~ provide that an informal mediation 65208
meeting ~~will~~ may be held with the complainant, the licensee, and 65209
an investigator from the investigation and audit section of the 65210
division if the complainant and licensee both file a request for 65211
such a meeting within ~~ten business~~ twenty calendar days ~~thereafter~~ 65212
~~on a form provided by the superintendent~~ after the acknowledgment 65213
and notice are mailed. 65214

(B) If the complainant and licensee both file with the 65215
division requests for an informal mediation meeting, the 65216
superintendent shall notify the complainant and licensee of the 65217
date of the meeting, ~~which shall be within twenty business days~~ 65218

thereafter, ~~except that any party may request an extension of up to fifteen business days for good cause shown by regular mail.~~ If the complainant and licensee reach an accommodation at an informal mediation meeting, the investigator shall ~~so~~ report the accommodation to the superintendent, the complainant, and licensee and the complaint file shall be closed upon the superintendent receiving satisfactory notice that the accommodation agreement has been fulfilled.

(C) If the complainant and licensee fail to agree to an informal mediation meeting or fail to reach or fulfill an accommodation the superintendent shall, ~~within five business days of such determination, so notify the complainant and licensee and shall investigate the conduct of the licensee against whom the complaint is filed~~ assign the complaint for investigation.

(D) ~~Within sixty business days after receipt of the complaint, or, if an informal meeting is held, within sixty days of such meeting~~ Upon conclusion of the investigation, the investigator shall file a written report of the results of the investigator's investigation with the superintendent. ~~Within fourteen business days thereafter, the~~ The superintendent shall review the report and determine whether there exists reasonable and substantial evidence of a violation of section 4735.18 of the Revised Code by the licensee. If the superintendent finds such evidence exists, ~~within seven business days of the determination,~~ the superintendent shall notify the complainant and licensee of the date of a hearing to be held by a hearing examiner pursuant to Chapter 119. of the Revised Code ~~within fifteen days but not prior to seven days thereafter, except that either the superintendent or the licensee may request an extension of up to thirty business days for good cause shown~~ determination. The licensee may request a hearing pursuant to Chapter 119. of the Revised Code. If the superintendent finds that such evidence does not exist, within

~~five~~ ten business days thereafter, the superintendent shall so 65251
notify the complainant and licensee of the superintendent's 65252
determination and the basis for the determination. Within fifteen 65253
business days after the superintendent notifies the complainant 65254
and licensee that such evidence does not exist, the complainant 65255
may file with the division a request that the ~~commissioners~~ 65256
commission review the determination. If the complainant files such 65257
request, the ~~commissioners~~ commission shall review the 65258
determination at the next regularly scheduled meeting held at 65259
least fifteen business days after the request is filed. The 65260
commission shall hear the testimony of either the complainant or 65261
the licensee at the meeting upon the request of the complainant or 65262
licensee. If the ~~commissioners affirm~~ commission affirms the 65263
determination of the superintendent, the superintendent shall so 65264
notify the complainant and the licensee within ~~five~~ ten business 65265
days thereafter. If the ~~commissioners reverse~~ commission reverses 65266
the determination of the superintendent, a hearing before a 65267
hearing examiner shall be held and the complainant and licensee 65268
notified as provided in this division. 65269

After the ~~date of a hearing to be held by a hearing examiner~~ 65270
~~has been scheduled pursuant to division (D) of this section, but~~ 65271
superintendent notifies the licensee of the determination, but 65272
before the commission issues an order, the superintendent upon 65273
receipt of additional evidence, may withdraw such notice. Or, if 65274
the licensee requests a hearing, before the issuance of the report 65275
of findings of fact and conclusions of law pursuant to division 65276
(E) of this section, the superintendent upon receipt of additional 65277
evidence, may withdraw the notice of hearing. Withdrawal by the 65278
superintendent does not constitute evidence that the original 65279
notice ~~of hearing~~ was not substantially justified. Upon withdrawal 65280
of the notice ~~of hearing~~, the superintendent shall notify the 65281
complainant and licensee of the superintendent's determination and 65282
basis for the determination. Within fifteen business days after 65283

the superintendent notifies the complainant and licensee, the 65284
complainant may file with the superintendent a request that the 65285
Ohio real estate commission review the determination. The 65286
commission shall review the request as provided in division (D) of 65287
this section. 65288

(E) ~~Within twenty five business days~~ If a hearing was 65289
requested, after the conclusion of formal hearings, the hearing 65290
examiner shall file a report of findings of fact and conclusions 65291
of law with the superintendent, the commission, and the 65292
complainant and licensee. Within ten days of receipt of the copy 65293
of the written report of findings of fact and conclusions of law, 65294
the respondent and the division may file with the commission 65295
written objections to the report, and the commission shall 65296
consider such objections before approving, modifying, or 65297
disapproving the report. 65298

(F) The ~~commissioners~~ commission shall review the hearing 65299
examiner's report at the next regularly scheduled commission 65300
meeting held at least fifteen business days after receipt of the 65301
hearing examiner's report. The commission shall hear the testimony 65302
of the complainant or the licensee ~~upon request~~. If the 65303
complainant is the Ohio civil rights commission, the complaint 65304
shall be reviewed by the commissioners directly upon request. 65305

(G) The commission shall decide whether to impose 65306
disciplinary sanctions upon a licensee for a violation of section 65307
4735.18 of the Revised Code. ~~The commission shall decide within~~ 65308
~~sixty days of the filing of the hearing examiner's report or~~ 65309
~~within sixty days of the filing of an Ohio civil rights commission~~ 65310
~~complaint.~~ The commission shall maintain a transcript record of 65311
the proceedings and issue a written opinion finding and order to 65312
the complainant and licensee, citing its findings ~~and grounds~~ for 65313
any action taken. ~~The commission shall notify the complainant and~~ 65314
~~any other person who may have suffered financial loss because of~~ 65315

~~the licensee's violations, that the complainant or other person~~ 65316
~~may sue for recovery under section 4735.12 of the Revised Code.~~ 65317

(H) An investigation under this section is subject to section 65318
4735.32 of the Revised Code. 65319

(I) The commission may impose the following sanctions upon a 65320
licensee for a violation of section 4735.18 of the Revised Code: 65321

(1) Revoke a license issued under Chapter 4735. of the 65322
Revised Code; 65323

(2) Suspend a license for a term set by the commission; 65324

(3) Impose a fine, not exceeding ~~two~~ five thousand ~~five~~ 65325
~~hundred~~ dollars per violation; 65326

(4) Issue a public reprimand; 65327

(5) Require the completion of additional ~~continuing education~~ 65328
~~course work~~ educational courses. Any ~~continuing education~~ 65329
work imposed pursuant to this section shall not count toward the 65330
continuing education or pre or postlicensure requirements set 65331
forth in ~~section 4735.14 of the Revised Code~~ this chapter. 65332

(6) Any other sanction the commission finds is appropriate to 65333
remedy the violation. 65334

All fines imposed pursuant to division (I)(3) of this section 65335
shall be credited to the real estate recovery fund, which is 65336
created in the state treasury under section 4735.12 of the Revised 65337
Code. 65338

(J) All notices, written reports, and determinations issued 65339
pursuant to this section shall be mailed via certified mail, 65340
return receipt requested. If the certified notice is returned 65341
because of failure of delivery, or was refused or unclaimed, the 65342
notice, written reports, or determinations are deemed served if 65343
the superintendent sends the notice, written report, or 65344
determination via regular mail and obtains a certificate of 65345

mailing of the notice, written reports, or determination. Refusal 65346
of delivery by personal service or by mail is not failure of 65347
delivery, and service is deemed to be complete. 65348

Sec. 4735.052. (A) Upon receipt of a written complaint or 65349
upon the superintendent's own motion, the superintendent may 65350
investigate any person that has allegedly violated section 4735.02 65351
or 4735.25 of the Revised Code, except that the superintendent 65352
shall not initiate an investigation, pursuant to this section, of 65353
any person who held ~~a valid~~ an active license under this chapter 65354
any time during the twelve months preceding the date of the 65355
alleged violation. 65356

(B) If, after investigation, the superintendent determines 65357
there exists reasonable evidence of a violation of section 4735.02 65358
or 4735.25 of the Revised Code, within ~~seven~~ fourteen business 65359
days after that determination, the superintendent shall send the 65360
party who is the subject of the investigation, a written notice, 65361
by regular mail, that includes all of the following information: 65362

(1) A description of the activity in which the party 65363
allegedly is engaging or has engaged that is a violation of 65364
section 4735.02 or 4735.25 of the Revised Code; 65365

(2) The applicable law allegedly violated; 65366

(3) A statement informing the party that a hearing concerning 65367
the alleged violation will be held ~~at the next regularly scheduled~~ 65368
~~meeting of the Ohio real estate commission~~ before a hearing 65369
examiner, and a statement giving the date and place of that 65370
~~meeting~~ hearing; 65371

(4) A statement informing the party that the party or the 65372
party's attorney may appear in person at the hearing and present 65373
evidence and examine witnesses appearing for and against the 65374
party, or the party may submit written testimony stating any 65375

positions, arguments, or contentions. 65376

(C) The ~~commission~~ hearing examiner shall hear the testimony 65377
of all parties present at the hearing and consider any written 65378
testimony submitted pursuant to division (B)(4) of this section, 65379
and determine if there has been a violation of section 4735.02 or 65380
4735.25 of the Revised Code. ~~If the commission finds that a~~ 65381
~~violation has occurred, the~~ 65382

After the conclusion of formal hearings, the hearing examiner 65383
shall file a report of findings of fact and conclusions of law 65384
with the superintendent, the commission, the complainant, and the 65385
parties. Within ten days of receipt of such copy of the written 65386
report of findings of fact and conclusions of law, the parties and 65387
the division may file with the commission written objections to 65388
the report, which objections shall be considered by the commission 65389
before approving, modifying, or disapproving the report. 65390

The commission shall review the hearing examiner's report at 65392
the next regularly scheduled commission meeting held at least 65393
fifteen business days after receipt of the hearing examiner's 65394
report. The commission shall hear the testimony of the complainant 65395
or the parties. 65396

The commission shall decide whether to impose disciplinary 65397
sanctions upon a party for a violation of section 4735.02 or 65398
4735.25 of the Revised Code. The commission may assess a civil 65399
penalty, in an amount it determines, not to exceed one thousand 65400
dollars per violation. Each day a violation occurs or continues is 65401
a separate violation. The commission shall determine the terms of 65402
payment. The commission shall maintain a transcript of the 65403
proceedings of the hearing and issue a written opinion to all 65404
parties, citing its findings and grounds for any action taken. 65405

(D) Civil penalties collected under this section shall be 65406

deposited in the real estate ~~recovery~~ operating fund, which is 65407
created in the state treasury under section ~~4735.12~~ 4735.211 of 65408
the Revised Code. 65409

(E) If a party fails to pay a civil penalty assessed pursuant 65410
to this section within the time prescribed by the commission, the 65411
superintendent shall forward to the attorney general the name of 65412
the party and the amount of the civil penalty, for the purpose of 65413
collecting that civil penalty. In addition to the civil penalty 65414
assessed pursuant to this section, the party also shall pay any 65415
fee assessed by the attorney general for collection of the civil 65416
penalty. 65417

Sec. 4735.06. (A) Application for a license as a real estate 65418
broker shall be made to the superintendent of real estate on forms 65419
furnished by the superintendent and filed with the superintendent 65420
and shall be signed by the applicant or its members or officers. 65421
Each application shall state the name of the person applying and 65422
the location of the place of business for which the license is 65423
desired, and give such other information as the superintendent 65424
requires in the form of application prescribed by the 65425
superintendent. 65426

If the applicant is a partnership, limited liability company, 65427
limited liability partnership, or association, the names of all 65428
the members also shall be stated, and, if the applicant is a 65429
corporation, the names of its president and of each of its 65430
officers also shall be stated. The superintendent has the right to 65431
reject the application of any partnership, association, limited 65432
liability company, limited liability partnership, or corporation 65433
if the name proposed to be used by such partnership, association, 65434
limited liability company, limited liability partnership, or 65435
corporation is likely to mislead the public or if the name is not 65436
such as to distinguish it from the name of any existing 65437

partnership, association, limited liability company, limited 65438
liability partnership, or corporation licensed under this chapter, 65439
unless there is filed with the application the written consent of 65440
such existing partnership, association, limited liability company, 65441
limited liability partnership, or corporation, executed by a duly 65442
authorized representative of it, permitting the use of the name of 65443
such existing partnership, association, limited liability company, 65444
limited liability partnership, or corporation. 65445

(B) A fee of ~~sixty-nine~~ one hundred dollars shall accompany 65446
the application for a real estate broker's license, which fee 65447
includes the fee for the initial year of the licensing period, if 65448
a license is issued. The initial year of the licensing period 65449
commences at the time the license is issued and ends on the 65450
applicant's first birthday thereafter. The application fee shall 65451
be ~~retained by the superintendent if the applicant is admitted to~~ 65452
~~the examination for the license or the examination requirement is~~ 65453
~~waived, but, if an applicant is not so admitted and a waiver is~~ 65454
~~not involved, one half of the fee shall be retained by the~~ 65455
~~superintendent to cover the expenses of processing the application~~ 65456
~~and the other one half shall be returned to the applicant~~ 65457
nonrefundable. A fee of ~~sixty-nine~~ one hundred dollars shall be 65458
charged by the superintendent for each successive application made 65459
by an applicant. In the case of issuance of a three-year license, 65460
upon passing the examination, or upon waiver of the examination 65461
requirement, if the superintendent determines it is necessary, the 65462
applicant shall submit an additional fee determined by the 65463
superintendent based upon the number of years remaining in a real 65464
estate salesperson's licensing period. 65465

(C) ~~Four dollars~~ One dollar of each application fee for a 65466
real estate broker's license shall be credited to the real estate 65467
education and research fund, which is hereby created in the state 65468
treasury. The Ohio real estate commission may use the fund in 65469

discharging the duties prescribed in divisions (E), (F), (G), and 65470
(H) of section 4735.03 of the Revised Code and shall use it in the 65471
advancement of education and research in real estate at any 65472
institution of higher education in the state, or in contracting 65473
with any such institution or a trade organization for a particular 65474
research or educational project in the field of real estate, or in 65475
advancing loans, not exceeding eight hundred dollars, to 65476
applicants for salesperson licenses, to defray the costs of 65477
satisfying the educational requirements of division (F) of section 65478
4735.09 of the Revised Code. Such loans shall be made according to 65479
rules established by the commission under the procedures of 65480
Chapter 119. of the Revised Code, and they shall be repaid to the 65481
fund within three years of the time they are made. No more than 65482
ten thousand dollars shall be lent from the fund in any one year. 65483

The governor may appoint a representative from the executive 65484
branch to be a member ex officio of the commission for the purpose 65485
of advising on research requests or educational projects. The 65486
commission shall report to the general assembly on the third 65487
Tuesday after the third Monday in January of each year setting 65488
forth the total amount contained in the fund and the amount of 65489
each research grant that it has authorized and the amount of each 65490
research grant requested. A copy of all research reports shall be 65491
submitted to the state library of Ohio and the library of the 65492
legislative service commission. 65493

(D) If the superintendent, with the consent of the 65494
commission, enters into an agreement with a national testing 65495
service to administer the real estate broker's examination, 65496
pursuant to division (A) of section 4735.07 of the Revised Code, 65497
the superintendent may require an applicant to pay the testing 65498
service's examination fee directly to the testing service. If the 65499
superintendent requires the payment of the examination fee 65500
directly to the testing service, each applicant shall submit to 65501

the superintendent a processing fee in an amount determined by the 65502
Ohio real estate commission pursuant to division (A)(2) of section 65503
4735.10 of the Revised Code. 65504

Sec. 4735.07. (A) The superintendent of real estate, with the 65505
consent of the Ohio real estate commission, may enter into 65506
agreements with recognized national testing services to administer 65507
the real estate broker's examination under the superintendent's 65508
supervision and control, consistent with the requirements of this 65509
chapter as to the contents of such examination. 65510

(B) No applicant for a real estate broker's license shall 65511
take the broker's examination who has not established to the 65512
satisfaction of the superintendent that the applicant: 65513

(1) Is honest, truthful, and of good reputation; 65514

(2)(a) Has not been convicted of a felony or crime of moral 65515
turpitude, or if the applicant has been so convicted, the 65516
superintendent has disregarded the conviction because the 65517
applicant has proven to the superintendent, by a preponderance of 65518
the evidence, that the applicant's activities and employment 65519
record since the conviction show that the applicant is honest, 65520
truthful, and of good reputation, and there is no basis in fact 65521
for believing that the applicant again will violate the laws 65522
involved; 65523

(b) Has not been finally adjudged by a court to have violated 65524
any municipal, state, or federal civil rights laws relevant to the 65525
protection of purchasers or sellers of real estate or, if the 65526
applicant has been so adjudged, at least two years have passed 65527
since the court decision and the superintendent has disregarded 65528
the adjudication because the applicant has proven, by a 65529
preponderance of the evidence, that the applicant's activities and 65530
employment record since the adjudication show that the applicant 65531
is honest, truthful, and of good reputation, and there is no basis 65532

in fact for believing that the applicant will again violate the laws involved.

(3) Has not, during any period in which the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to, this chapter, or, if the applicant has violated any such provision or rule, has established to the satisfaction of the superintendent that the applicant will not again violate such provision or rule;

(4) Is at least eighteen years of age;

(5) Fulfills either of the following criteria:

(a)(i) Has been a licensed real estate broker or salesperson for at least two years; ~~during~~

(ii) During at least two of the five years preceding the person's application, has worked as a licensed real estate broker or salesperson for an average of at least thirty hours per week; ~~and has~~

(iii) Has completed ~~one of the following:~~

~~(a)~~ ~~At~~ at least twenty real estate transactions, in which property was sold for another by the applicant while acting in the capacity of a real estate broker or salesperson~~+~~.

(b) ~~Such~~ Has such equivalent experience to division (B)(5)(a) of this section as is defined by rules adopted by the commission or as otherwise ordered by the commission.

(6)(a) If licensed as a real estate salesperson prior to August 1, 2001, successfully has completed at an institution of higher education all of the following:

(i) Thirty hours of classroom instruction in real estate practice;

(ii) Thirty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal

civil rights law, new case law on housing discrimination, 65563
desegregation issues, and methods of eliminating the effects of 65564
prior discrimination. If feasible, the classroom instruction in 65565
Ohio real estate law shall be taught by a member of the faculty of 65566
an accredited law school. If feasible, the classroom instruction 65567
in municipal, state, and federal civil rights law, new case law on 65568
housing discrimination, desegregation issues, and methods of 65569
eliminating the effects of prior discrimination shall be taught by 65570
a staff member of the Ohio civil rights commission who is 65571
knowledgeable with respect to those subjects. The requirements of 65572
this division do not apply to an applicant who is admitted to 65573
practice before the supreme court. 65574

(iii) Thirty hours of classroom instruction in real estate 65575
appraisal; 65576

(iv) Thirty hours of classroom instruction in real estate 65577
finance; 65578

(v) Three quarter hours, or its equivalent in semester hours, 65579
in financial management; 65580

(vi) Three quarter hours, or its equivalent in semester 65581
hours, in human resource or personnel management; 65582

(vii) Three quarter hours, or its equivalent in semester 65583
hours, in applied business economics; 65584

(viii) Three quarter hours, or its equivalent in semester 65585
hours, in business law. 65586

(b) If licensed as a real estate salesperson on or after 65587
August 1, 2001, successfully has completed at an institution of 65588
higher education all of the following: 65589

(i) Forty hours of classroom instruction in real estate 65590
practice; 65591

(ii) Forty hours of classroom instruction that includes the 65592

subjects of Ohio real estate law, municipal, state, and federal 65593
civil rights law, new case law on housing discrimination, 65594
desegregation issues, and methods of eliminating the effects of 65595
prior discrimination. If feasible, the classroom instruction in 65596
Ohio real estate law shall be taught by a member of the faculty of 65597
an accredited law school. If feasible, the classroom instruction 65598
in municipal, state, and federal civil rights law, new case law on 65599
housing discrimination, desegregation issues, and methods of 65600
eliminating the effects of prior discrimination shall be taught by 65601
a staff member of the Ohio civil rights commission who is 65602
knowledgeable with respect to those subjects. The requirements of 65603
this division do not apply to an applicant who is admitted to 65604
practice before the supreme court. 65605

(iii) Twenty hours of classroom instruction in real estate 65606
appraisal; 65607

(iv) Twenty hours of classroom instruction in real estate 65608
finance; 65609

(v) The training in the amount of hours specified under 65610
divisions (B)(6)(a)(v), (vi), (vii), and (viii) of this section. 65611

(c) Division (B)(6)(a) or (b) of this section does not apply 65612
to any applicant who holds a valid real estate salesperson's 65613
license issued prior to January 2, 1972. Divisions (B)(6)(a)(v), 65614
(vi), (vii), and (viii) or division (B)(6)(b)(v) of this section 65615
do not apply to any applicant who holds a valid real estate 65616
salesperson's license issued prior to January 3, 1984. 65617

(7) If licensed as a real estate salesperson on or after 65618
January 3, 1984, satisfactorily has completed a minimum of two 65619
years of post-secondary education, or its equivalent in semester 65620
or quarter hours, at an institution of higher education, and has 65621
fulfilled the requirements of division (B)(6)(a) or (b) of this 65622
section. The requirements of division (B)(6)(a) or (b) of this 65623

section may be included in the two years of post-secondary 65624
education, or its equivalent in semester or quarter hours, that is 65625
required by this division. 65626

(C) Each applicant for a broker's license shall be examined 65627
in the principles of real estate practice, Ohio real estate law, 65628
and financing and appraisal, and as to the duties of real estate 65629
brokers and real estate salespersons, the applicant's knowledge of 65630
real estate transactions and instruments relating to them, and the 65631
canons of business ethics pertaining to them. The commission from 65632
time to time shall promulgate such canons and cause them to be 65633
published in printed form. 65634

(D) Examinations shall be administered with reasonable 65635
accommodations in accordance with the requirements of the 65636
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 65637
U.S.C. 12101. The contents of an examination shall be consistent 65638
with the requirements of division (B)(6) of this section and with 65639
the other specific requirements of this section. An applicant who 65640
has completed the requirements of division (B)(6) of this section 65641
at the time of application shall be examined no later than twelve 65642
months after the applicant is notified of admission to the 65643
examination. 65644

(E) The superintendent may waive one or more of the 65645
requirements of this section in the case of an application from a 65646
nonresident real estate broker pursuant to a reciprocity agreement 65647
with the licensing authority of the state from which the 65648
nonresident applicant holds a valid real estate broker license. 65649

(F) There shall be no limit placed on the number of times an 65650
applicant may retake the examination. 65651

(G)(1) No later than twelve months after the date of issue of 65652
a real estate broker's license to a licensee, the licensee shall 65653
submit proof satisfactory to the superintendent, on forms made 65654

available by the superintendent, of the completion of ten hours of 65655
classroom instruction ~~in real estate brokerage at an institution~~ 65656
~~of higher education or any other institution that is~~ that shall be 65657
completed in schools, seminars, and educational institutions 65658
approved by the commission. ~~That instruction shall include, but~~ 65659
~~not be limited to, current issues in managing a real estate~~ 65660
~~company or office~~ The commission shall approve the curriculum and 65661
providers by adopting rules in accordance with section 4735.10 of 65662
the Revised Code. 65663

If the required proof of completion is not submitted to the 65664
superintendent within twelve months of the date a license is 65665
issued under this section, the license of the real estate broker 65666
is suspended automatically without the taking of any action by the 65667
superintendent. The broker's license shall not be reactivated by 65668
the superintendent until it is established, to the satisfaction of 65669
the superintendent, that the requirements of this division have 65670
been met and that the licensee is in compliance with this chapter. 65671
A licensee's license is revoked automatically without the taking 65672
of any action by the superintendent if the licensee fails to 65673
submit proof of completion of the education requirements specified 65674
under division (G)(1) of this section within twelve months of the 65675
date the license is suspended. 65676

(2) If the license of a real estate broker is suspended 65677
pursuant to division (G)(1) of this section, the license of a real 65678
estate salesperson associated with that broker correspondingly is 65679
suspended pursuant to division (H) of section 4735.20 of the 65680
Revised Code. However, the suspended license of the associated 65681
real estate salesperson shall be reactivated and no fee shall be 65682
charged or collected for that reactivation if all of the following 65683
occur: 65684

(a) That broker subsequently submits satisfactory proof to 65685
the superintendent that the broker has complied with the 65686

requirements of division (G)(1) of this section and requests that
the broker's license as a real estate broker be reactivated;

(b) The superintendent then reactivates the broker's license
as a real estate broker;

(c) The associated real estate salesperson intends to
continue to be associated with that broker and otherwise is in
compliance with this chapter.

Sec. 4735.09. (A) Application for a license as a real estate
salesperson shall be made to the superintendent of real estate on
forms furnished by the superintendent and signed by the applicant.
The application shall be in the form prescribed by the
superintendent and shall contain such information as is required
by this chapter and the rules of the Ohio real estate commission.
The application shall be accompanied by the recommendation of the
real estate broker with whom the applicant is associated or with
whom the applicant intends to be associated, certifying that the
applicant is honest, truthful, and of good reputation, has not
been convicted of a felony or a crime involving moral turpitude,
and has not been finally adjudged by a court to have violated any
municipal, state, or federal civil rights laws relevant to the
protection of purchasers or sellers of real estate, which
conviction or adjudication the applicant has not disclosed to the
superintendent, and recommending that the applicant be admitted to
the real estate salesperson examination.

(B) A fee of ~~forty-nine~~ seventy-five dollars shall accompany
the application, which fee includes the fee for the initial year
of the licensing period, if a license is issued. The initial year
of the licensing period commences at the time the license is
issued and ends on the applicant's first birthday thereafter. The
application fee shall be ~~retained by the superintendent if the
applicant is admitted to the examination for the license or the~~

~~examination requirement is waived, but, if an applicant is not so~~ 65718
~~admitted and a waiver is not involved, one half of the fee shall~~ 65719
~~be retained by the superintendent to cover the expenses of~~ 65720
~~processing the application and the other one half shall be~~ 65721
~~returned to the applicant nonrefundable.~~ A fee of ~~forty nine~~ 65722
seventy-five dollars shall be charged by the superintendent for 65723
each successive application made by the applicant. ~~Four dollars~~ 65724
One dollar of each application fee shall be credited to the real 65725
estate education and research fund. 65726

(C) There shall be no limit placed on the number of times an 65727
applicant may retake the examination. 65728

(D) The superintendent, with the consent of the commission, 65729
may enter into an agreement with a recognized national testing 65730
service to administer the real estate salesperson's examination 65731
under the superintendent's supervision and control, consistent 65732
with the requirements of this chapter as to the contents of the 65733
examination. 65734

If the superintendent, with the consent of the commission, 65735
enters into an agreement with a national testing service to 65736
administer the real estate salesperson's examination, the 65737
superintendent may require an applicant to pay the testing 65738
service's examination fee directly to the testing service. If the 65739
superintendent requires the payment of the examination fee 65740
directly to the testing service, each applicant shall submit to 65741
the superintendent a processing fee in an amount determined by the 65742
Ohio real estate commission pursuant to division (A)(1) of section 65743
4735.10 of the Revised Code. 65744

(E) The superintendent shall issue a real estate 65745
salesperson's license when satisfied that the applicant has 65746
received a passing score on each portion of the salesperson's 65747
examination as determined by rule by the real estate commission, 65748
except that the superintendent may waive one or more of the 65749

requirements of this section in the case of an applicant who is a 65750
licensed real estate salesperson in another state pursuant to a 65751
reciprocity agreement with the licensing authority of the state 65752
from which the applicant holds a valid real estate salesperson's 65753
license. 65754

(F) No applicant for a salesperson's license shall take the 65755
salesperson's examination who has not established to the 65756
satisfaction of the superintendent that the applicant: 65757

(1) Is honest, truthful, and of good reputation; 65758

(2)(a) Has not been convicted of a felony or crime of moral 65759
turpitude or, if the applicant has been so convicted, the 65760
superintendent has disregarded the conviction because the 65761
applicant has proven to the superintendent, by a preponderance of 65762
the evidence, that the applicant's activities and employment 65763
record since the conviction show that the applicant is honest, 65764
truthful, and of good reputation, and there is no basis in fact 65765
for believing that the applicant again will violate the laws 65766
involved; 65767

(b) Has not been finally adjudged by a court to have violated 65768
any municipal, state, or federal civil rights laws relevant to the 65769
protection of purchasers or sellers of real estate or, if the 65770
applicant has been so adjudged, at least two years have passed 65771
since the court decision and the superintendent has disregarded 65772
the adjudication because the applicant has proven, by a 65773
preponderance of the evidence, that the applicant is honest, 65774
truthful, and of good reputation, and there is no basis in fact 65775
for believing that the applicant again will violate the laws 65776
involved. 65777

(3) Has not, during any period in which the applicant was 65778
licensed under this chapter, violated any provision of, or any 65779
rule adopted pursuant to this chapter, or, if the applicant has 65780

violated such provision or rule, has established to the 65781
satisfaction of the superintendent that the applicant will not 65782
again violate such provision or rule; 65783

(4) Is at least eighteen years of age; 65784

(5) If born after the year 1950, has a high school diploma or 65785
its equivalent as recognized by the state department of education; 65786

(6)(a) If beginning instruction prior to August 1, 2001, has 65787
successfully completed at an institution of higher education all 65788
of the following: 65789

(i) Thirty hours of classroom instruction in real estate 65790
practice; 65791

(ii) Thirty hours of classroom instruction that includes the 65792
subjects of Ohio real estate law, municipal, state, and federal 65793
civil rights law, new case law on housing discrimination, 65794
desegregation issues, and methods of eliminating the effects of 65795
prior discrimination. If feasible, the classroom instruction in 65796
Ohio real estate law shall be taught by a member of the faculty of 65797
an accredited law school. If feasible, the classroom instruction 65798
in municipal, state, and federal civil rights law, new case law on 65799
housing discrimination, desegregation issues, and methods of 65800
eliminating the effects of prior discrimination shall be taught by 65801
a staff member of the Ohio civil rights commission who is 65802
knowledgeable with respect to those subjects. The requirements of 65803
this division do not apply to an applicant who is admitted to 65804
practice before the supreme court. 65805

(iii) Thirty hours of classroom instruction in real estate 65806
appraisal; 65807

(iv) Thirty hours of classroom instruction in real estate 65808
finance. 65809

(b) Any person who has not been licensed as a real estate 65810

salesperson or broker within a four-year period immediately 65811
preceding the person's current application for the salesperson's 65812
examination shall have successfully completed the classroom 65813
instruction required by division (F)(6)(a) of this section within 65814
a ten-year period immediately preceding the person's current 65815
application for the salesperson's examination. 65816

(7) If beginning instruction, as determined by the 65817
superintendent, on or after August 1, 2001, has successfully 65818
completed at an institution of higher education all of the 65819
following: 65820

(a) Forty hours of classroom instruction in real estate 65821
practice; 65822

(b) Forty hours of classroom instruction that includes the 65823
subjects of Ohio real estate law, municipal, state, and federal 65824
civil rights law, new case law on housing discrimination, 65825
desegregation issues, and methods of eliminating the effects of 65826
prior discrimination. If feasible, the classroom instruction in 65827
Ohio real estate law shall be taught by a member of the faculty of 65828
an accredited law school. If feasible, the classroom instruction 65829
in municipal, state, and federal civil rights law, new case law on 65830
housing discrimination, desegregation issues, and methods of 65831
eliminating the effects of prior discrimination shall be taught by 65832
a staff member of the Ohio civil rights commission who is 65833
knowledgeable with respect to those subjects. The requirements of 65834
this division do not apply to an applicant who is admitted to 65835
practice before the supreme court. 65836

(c) Twenty hours of classroom instruction in real estate 65837
appraisal; 65838

(d) Twenty hours of classroom instruction in real estate 65839
finance. 65840

(G) No later than twelve months after the date of issue of a 65841

real estate salesperson license to a licensee, the licensee shall 65842
submit proof satisfactory to the superintendent, on forms made 65843
available by the superintendent, of the completion, ~~at an~~ 65844
~~institution of higher education or any other institution approved~~ 65845
~~by the commission,~~ of ten hours of classroom instruction ~~in real~~ 65846
~~estate courses that cover current issues regarding consumers, real~~ 65847
~~estate practice, ethics, and real estate law~~ that shall be 65848
completed in schools, seminars, and educational institutions 65849
approved by the commission. The commission shall approve the 65850
curriculum and providers by adopting rules in accordance with 65851
section 4735.10 of the Revised Code. 65852

If proof of completion of the required instruction is not 65853
submitted within twelve months of the date a license is issued 65854
under this section, the licensee's license is suspended 65855
automatically without the taking of any action by the 65856
superintendent. The superintendent immediately shall notify the 65857
broker with whom such salesperson is associated of the suspension 65858
of the salesperson's license. A salesperson whose license has been 65859
suspended under this division shall have twelve months after the 65860
date of the suspension of the salesperson's license to submit 65861
proof of successful completion of the instruction required under 65862
this division. No such license shall be reactivated by the 65863
superintendent until it is established, to the satisfaction of the 65864
superintendent, that the requirements of this division have been 65865
met and that the licensee is in compliance with this chapter. A 65866
licensee's license is revoked automatically without the taking of 65867
any action by the superintendent when the licensee fails to submit 65868
the required proof of completion of the education requirements 65869
under division (G) of this section within twelve months of the 65870
date the license is suspended. 65871

(H) Examinations shall be administered with reasonable 65872
accommodations in accordance with the requirements of the 65873

"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 65874
U.S.C. 12101. The contents of an examination shall be consistent 65875
with the classroom instructional requirements of division (F)(6) 65876
or (7) of this section. An applicant who has completed the 65877
classroom instructional requirements of division (F)(6) or (7) of 65878
this section at the time of application shall be examined no later 65879
than twelve months after the applicant is notified of the 65880
applicant's admission to the examination. 65881

Sec. 4735.10. (A)(1) The Ohio real estate commission may 65882
adopt reasonable rules in accordance with Chapter 119. of the 65883
Revised Code, necessary for implementing the provisions of this 65884
chapter relating, but not limited to, the following: 65885

(a) The form and manner of filing applications for license; 65886

(b) Times and form of examination for license; 65887

(c) Placing an existing broker's license on deposit or a 65888
salesperson's license on an inactive status for an indefinite 65889
period; 65890

(d) Specifying the process by which a licensee may place the 65891
licensee's license on voluntary hold or resigned status; 65892

(e) Defining any additional license status that the 65893
commission determines is necessary and that is not otherwise 65894
defined in this chapter and establishing the process by which a 65895
licensee places the licensee's license in a status defined by the 65896
commission in the rules the commission adopts; 65897

(f) Clarification of the activities that require a license 65898
under this chapter. 65899

(2) The commission shall adopt reasonable rules in accordance 65900
with Chapter 119. of the Revised Code, for implementing the 65901
provisions of this chapter relating to the following: 65902

(a) The issuance, renewal, suspension, and revocation of 65903

licenses, other sanctions that may be imposed for violations of 65904
this chapter, the conduct of hearings related to these actions, 65905
and the process of reactivating a license; 65906

(b) ~~By not later than January 1, 2004, a~~ A three-year license 65907
and a three-year license renewal system; 65908

(c) Standards for the approval of the ten hour postlicensure 65909
courses as required by division (G) of section 4735.07 and 65910
division (G) of section 4735.09 of the Revised Code, courses of 65911
study required for licenses, ~~or~~ courses offered in preparation for 65912
license examinations, or courses required as continuing education 65913
for licenses. 65914

(d) Guidelines to ensure that continuing education classes 65915
are open to all persons licensed under this chapter. The rules 65916
shall specify that an organization that sponsors a continuing 65917
education class may offer its members a reasonable reduction in 65918
the fees charged for the class. 65919

(e) Requirements for trust accounts and property management 65920
accounts. The rules shall specify that: 65921

(i) Brokerages engaged in the management of property for 65922
another may, pursuant to a written contract with the property 65923
owner, exercise signatory authority for withdrawals from property 65924
management accounts maintained in the name of the property owner. 65925
The exercise of authority for withdrawals does not constitute a 65926
violation of any provision of division (A) of section 4735.18 of 65927
the Revised Code. 65928

(ii) The interest earned on property management trust 65929
accounts maintained in the name of the property owner or the 65930
broker shall be payable to the property owner unless otherwise 65931
specified in a written contract. 65932

(f) Notice of renewal forms and filing deadlines; 65933

(g) Special assessments under division (A) of section 4735.12 65934
of the Revised Code. 65935

(B) The commission may adopt rules in accordance with Chapter 65936
119. of the Revised Code establishing standards and guidelines 65937
with which the superintendent of real estate shall comply in the 65938
exercise of the following powers: 65939

(1) Appointment and recommendation of ancillary trustees 65940
under section 4735.05 of the Revised Code; 65941

(2) Rejection of names proposed to be used by partnerships, 65942
associations, limited liability companies, limited liability 65943
partnerships, and corporations, under division (A) of section 65944
4735.06 of the Revised Code; 65945

(3) Acceptance and rejection of applications to take the 65946
broker and salesperson examinations and licensure, with 65947
appropriate waivers pursuant to division (E) of section 4735.07 65948
and section 4735.09 of the Revised Code; 65949

(4) Approval of applications of brokers to place their 65950
licenses ~~on deposit~~ in an inactive status and to become 65951
salespersons under section 4735.13 of the Revised Code; 65952

(5) Appointment of hearing examiners under section 119.09 of 65953
the Revised Code; 65954

(6) Acceptance and rejection of applications to take the 65955
foreign real estate dealer and salesperson examinations and 65956
licensure, with waiver of examination, under sections 4735.27 and 65957
4735.28 of the Revised Code; 65958

(7) Qualification of foreign real estate under section 65959
4735.25 of the Revised Code. 65960

If at any time there is no rule in effect establishing a 65961
guideline or standard required by this division, the 65962
superintendent may adopt a rule in accordance with Chapter 119. of 65963

the Revised Code for such purpose. 65964

(C) The commission or superintendent may hear testimony in 65965
matters relating to the duties imposed upon them, and the 65966
president of the commission and superintendent may administer 65967
oaths. The commission or superintendent may require other proof of 65968
the honesty, truthfulness, and good reputation of any person named 65969
in an application for a real estate broker's or real estate 65970
salesperson's license before admitting the applicant to the 65971
examination or issuing a license. 65972

Sec. 4735.12. (A) The real estate recovery fund is hereby 65973
created in the state treasury, to be administered by the 65974
superintendent of real estate. Amounts collected by the 65975
superintendent as prescribed in this section and interest earned 65976
on the assets of the fund shall be credited by the treasurer of 65977
state to the fund. The amount of money in the fund shall be 65978
ascertained by the superintendent as of the first day of July of 65979
each year. 65980

The commission, in accordance with rules adopted under 65981
division (A)(2)(g) of section 4735.10 of the Revised Code, shall 65982
impose a special assessment not to exceed ten dollars per year for 65983
each year of a licensing period on each licensee filing a notice 65984
of renewal under section 4735.14 of the Revised Code if the amount 65985
available in the fund is less than one million dollars on the 65986
first day of July preceding that filing. The commission may impose 65987
a special assessment not to exceed five dollars per year for each 65988
year of a licensing period if the amount available in the fund is 65989
greater than one million dollars, but less than two million 65990
dollars on the first day of July preceding that filing. The 65991
commission shall not impose a special assessment if the amount 65992
available in the fund exceeds two million dollars on the first day 65993
of July preceding that filing. 65994

(B)(1) Any person who obtains a final judgment in any court 65995
of competent jurisdiction against any broker or salesperson 65996
licensed under this chapter, on the grounds of conduct that is in 65997
violation of this chapter or the rules adopted under it, and that 65998
is associated with an act or transaction that only a licensed real 65999
estate broker or licensed real estate salesperson is authorized to 66000
perform as specified in division (A) or (C) of section 4735.01 of 66001
the Revised Code, may file a verified application, as described in 66002
division (B)(3) of this section, in ~~any~~ the court of common pleas 66003
of Franklin county for an order directing payment out of the real 66004
estate recovery fund of the portion of the judgment that remains 66005
unpaid and that represents the actual and direct loss sustained by 66006
the applicant. 66007

(2) Punitive damages, attorney's fees, and interest on a 66008
judgment are not recoverable from the fund. In the discretion of 66009
the superintendent of real estate, court costs may be recovered 66010
from the fund, and, if the superintendent authorizes the recovery 66011
of court costs, the order of the court of common pleas then may 66012
direct their payment from the fund. 66013

(3) The application shall specify the nature of the act or 66014
transaction upon which the underlying judgment was based, the 66015
activities of the applicant in pursuit of remedies available under 66016
law for the collection of judgments, and the actual and direct 66017
losses, attorney's fees, and the court costs sustained or incurred 66018
by the applicant. The applicant shall attach to the application a 66019
copy of each pleading and order in the underlying court action. 66020

(4) The court shall order the superintendent to make such 66021
payments out of the fund when the person seeking the order has 66022
shown all of the following: 66023

(a) The person has obtained a judgment, as provided in this 66024
division; 66025

(b) All appeals from the judgment have been exhausted and the person has given notice to the superintendent, as required by division (C) of this section;

(c) The person is not a spouse of the judgment debtor, or the personal representative of such spouse;

(d) The person has diligently pursued the person's remedies against all the judgment debtors and all other persons liable to the person in the transaction for which the person seeks recovery from the fund;

(e) The person is making the person's application not more than one year after termination of all proceedings, including appeals, in connection with the judgment.

(5) Divisions (B)(1) to (4) of this section do not apply to any of the following:

(a) Actions arising from property management accounts maintained in the name of the property owner;

(b) A bonding company when it is not a principal in a real estate transaction;

(c) A person in an action for the payment of a commission or fee for the performance of an act or transaction specified or comprehended in division (A) or (C) of section 4735.01 of the Revised Code;

(d) Losses incurred by investors in real estate if the applicant and the licensee are principals in the investment.

(C) A person who applies to a court of common pleas for an order directing payment out of the fund shall file notice of the application with the superintendent. The superintendent may defend any such action on behalf of the fund and shall have recourse to all appropriate means of defense and review, including examination of witnesses, verification of actual and direct losses, and

challenges to the underlying judgment required in division 66056
(B)(4)(a) of this section to determine whether the underlying 66057
judgment is based on activity only a licensed broker or licensed 66058
salesperson is permitted to perform. The superintendent may move 66059
the court at any time to dismiss the application when it appears 66060
there are no triable issues and the application is without merit. 66061
The motion may be supported by affidavit of any person having 66062
knowledge of the facts and may be made on the basis that the 66063
application, including the judgment referred to in it, does not 66064
form the basis for a meritorious recovery claim; provided, that 66065
the superintendent shall give written notice to the applicant at 66066
least ten days before such motion. The superintendent may, subject 66067
to court approval, compromise a claim based upon the application 66068
of an aggrieved party. The superintendent shall not be bound by 66069
any prior compromise or stipulation of the judgment debtor. 66070

(D) Notwithstanding any other provision of this section, the 66071
liability of the fund shall not exceed forty thousand dollars for 66072
any one licensee. If a licensee's license is reactivated as 66073
provided in division (E) of this section, the liability of the 66074
fund for the licensee under this section shall again be forty 66075
thousand dollars, but only for transactions that occur subsequent 66076
to the time of reactivation. 66077

If the forty-thousand-dollar liability of the fund is 66078
insufficient to pay in full the valid claims of all aggrieved 66079
persons by whom claims have been filed against any one licensee, 66080
the forty thousand dollars shall be distributed among them in the 66081
ratio that their respective claims bear to the aggregate of valid 66082
claims or in such other manner as the court finds equitable. 66083
Distribution of moneys shall be among the persons entitled to 66084
share in it, without regard to the order of priority in which 66085
their respective judgments may have been obtained or their claims 66086
have been filed. Upon petition of the superintendent, the court 66087

may require all claimants and prospective claimants against one 66088
licensee to be joined in one action, to the end that the 66089
respective rights of all such claimants to the fund may be 66090
equitably adjudicated and settled. 66091

(E) If the superintendent pays from the fund any amount in 66092
settlement of a claim or toward satisfaction of a judgment against 66093
a licensed broker or salesperson, the license of the broker or 66094
salesperson shall be automatically suspended upon the date of 66095
payment from the fund. The superintendent shall not reactivate the 66096
suspended license of that broker or salesperson until the broker 66097
or salesperson has repaid in full, plus interest per annum at the 66098
rate specified in division (A) of section 1343.03 of the Revised 66099
Code, the amount paid from the fund on the broker's or 66100
salesperson's account. A discharge in bankruptcy does not relieve 66101
a person from the suspension and requirements for reactivation 66102
provided in this section unless the underlying judgment has been 66103
included in the discharge and has not been reaffirmed by the 66104
debtor. 66105

(F) If, at any time, the money deposited in the fund is 66106
insufficient to satisfy any duly authorized claim or portion of a 66107
claim, the superintendent shall, when sufficient money has been 66108
deposited in the fund, satisfy such unpaid claims or portions, in 66109
the order that such claims or portions were originally filed, plus 66110
accumulated interest per annum at the rate specified in division 66111
(A) of section 1343.03 of the Revised Code. 66112

(G) When, upon the order of the court, the superintendent has 66113
paid from the fund any sum to the judgment creditor, the 66114
superintendent shall be subrogated to all of the rights of the 66115
judgment creditor to the extent of the amount so paid, and the 66116
judgment creditor shall assign all the judgment creditor's right, 66117
title, and interest in the judgment to the superintendent to the 66118
extent of the amount so paid. Any amount and interest so recovered 66119

by the superintendent on the judgment shall be deposited in the fund. 66120
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(H) Nothing contained in this section shall limit the authority of the superintendent to take disciplinary action against any licensee under other provisions of this chapter; nor shall the repayment in full of all obligations to the fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to this chapter. 66122
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(I) The superintendent shall collect from the fund a service fee in an amount equivalent to the interest rate specified in division (A) of section 1343.03 of the Revised Code multiplied by the annual interest earned on the assets of the fund, to defray the expenses incurred in the administration of the fund. 66128
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Sec. 4735.13. (A) Every real estate broker licensed under this chapter shall have and maintain a definite place of business in this state. A post office box address is not a definite place of business for purposes of this section. The license of a real estate broker shall be prominently displayed in the office or place of business of the broker, and no license shall authorize the licensee to do business except from the location specified in it. If the broker maintains more than one place of business within the state, the broker shall apply for and procure a duplicate license for each branch office maintained by the broker. Each branch office shall be in the charge of a licensed broker or salesperson. The branch office license shall be prominently displayed at the branch office location. 66133
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(B) The license of each real estate salesperson shall be mailed to and remain in the possession of the licensed broker with whom the salesperson is or is to be associated until the licensee places the license on inactive, voluntary hold, or resigned status or until the salesperson leaves the brokerage or is terminated. 66146
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The broker shall keep each salesperson's license in a way that it can, and shall on request, be made immediately available for public inspection at the office or place of business of the broker. Except as provided in divisions (G) and (H) of this section, immediately upon the salesperson's leaving the association or termination of the association of a real estate salesperson with the broker, the broker shall return the salesperson's license to the superintendent of real estate.

The failure of a broker to return the license of a real estate salesperson or broker who leaves or who is terminated, via certified mail return receipt requested, within three business days of the receipt of a written request from the superintendent for the return of the license, is prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(C) Any licensee who satisfies any of the following criteria shall notify the superintendent of such satisfaction in writing within fifteen days of satisfying the criteria:

(1) The licensee is convicted of a felony ~~or~~;

(2) A licensee is convicted of a crime involving moral turpitude ~~or of violating~~;

(3) The licensee is found to have violated any federal, state, or municipal civil rights law pertaining to discrimination in housing, ~~or any court that issues a finding of~~;

(4) The licensee is found to have engaged in an unlawful discriminatory practice pertaining to housing accommodations described in division (H) of section 4112.02 of the Revised Code ~~or that convicts a~~;

(5) The licensee has been convicted of a ~~violation of~~ violating any municipal civil rights law pertaining to housing discrimination, ~~shall notify the superintendent of the conviction~~

~~or finding within fifteen days;~~ 66182

(6) The licensee is the subject of an order revoking or 66183
permanently surrendering any professional license, certificate, or 66184
registration by any public entity other than the division of real 66185
estate. If a licensee fails to notify the superintendent within 66186
the required time, the superintendent immediately may revoke the 66187
license of the licensee. 66188

Any court that convicts a licensee of a violation of any 66189
municipal civil rights law pertaining to housing discrimination 66190
also shall notify the Ohio civil rights commission within fifteen 66191
days of the conviction. 66192

(D) In case of any change of business location, a broker 66193
shall give notice ~~in writing~~ to the superintendent on a form 66194
prescribed by the superintendent within thirty days after the 66195
change of location, whereupon the superintendent shall issue new 66196
licenses for the unexpired period without charge. If a broker 66197
changes a business location without giving the required notice and 66198
without receiving new licenses that action is prima-facie evidence 66199
of misconduct under division (A)(6) of section 4735.18 of the 66200
Revised Code. 66201

(E) If a real estate broker desires to associate with another 66202
real estate broker in the capacity of a real estate salesperson, 66203
the broker shall apply to the superintendent to deposit the 66204
broker's real estate broker's license with the superintendent and 66205
for the issuance of a real estate salesperson's license. The 66206
application shall be made on a form prescribed by the 66207
superintendent and shall be accompanied by the recommendation of 66208
the real estate broker with whom the applicant intends to become 66209
associated and a fee of twenty-five dollars for the real estate 66210
salesperson's license. ~~Four dollars~~ One dollar of the fee shall be 66211
credited to the real estate education and research fund. If the 66212
superintendent is satisfied that the applicant is honest, 66213

truthful, and of good reputation, has not been convicted of a 66214
felony or a crime involving moral turpitude, and has not been 66215
finally adjudged by a court to have violated any municipal, state, 66216
or federal civil rights laws relevant to the protection of 66217
purchasers or sellers of real estate, and that the association of 66218
the real estate broker and the applicant will be in the public 66219
interest, the superintendent shall grant the application and issue 66220
a real estate salesperson's license to the applicant. Any license 66221
so deposited with the superintendent shall be subject to this 66222
chapter. A broker who intends to deposit the broker's license with 66223
the superintendent, as provided in this section, shall give 66224
written notice of this fact in a format prescribed by the 66225
superintendent to all salespersons associated with the broker when 66226
applying to place the broker's license on deposit. 66227

(F) If a real estate broker desires to become a member or 66228
officer of a partnership, association, limited liability company, 66229
limited liability partnership, or corporation that is or intends 66230
to become a licensed real estate broker, the broker shall notify 66231
the superintendent of the broker's intentions. The notice of 66232
intention shall be on a form prescribed by the superintendent and 66233
shall be accompanied by a fee of twenty-five dollars. ~~Four dollars~~ 66234
One dollar of the fee shall be credited to the real estate 66235
education and research fund. 66236

~~No~~ A licensed real estate broker who is a member or officer 66237
of a partnership, association, limited liability company, limited 66238
liability partnership, or corporation ~~that is a licensed real~~ 66239
~~estate broker~~ shall ~~perform any acts~~ only act as a real estate 66240
broker ~~other than as the agent of the~~ for such partnership, 66241
association, limited liability company, limited liability 66242
partnership, or corporation, ~~and such broker shall not have any~~ 66243
~~real estate salespersons associated with the broker.~~ 66244

(G) If a real estate broker or salesperson enters the armed 66245

forces, the broker or salesperson may place the broker's or 66246
salesperson's license on deposit with the Ohio real estate 66247
commission. The licensee shall not be required to renew the 66248
license until the renewal date that follows the date of discharge 66249
from the armed forces. Any license deposited with the commission 66250
shall be subject to this chapter. Any licensee whose license is on 66251
deposit under this division and who fails to meet the continuing 66252
education requirements of section 4735.141 of the Revised Code 66253
because the licensee is in the armed forces shall satisfy the 66254
commission that the licensee has complied with the continuing 66255
education requirements within twelve months of the licensee's 66256
first birthday after discharge. The ~~commission~~ superintendent 66257
shall notify the licensee of the licensee's obligations under 66258
section 4735.141 of the Revised Code at the time the licensee 66259
applies for reactivation of the licensee's license. 66260

(H) If a licensed real estate salesperson submits an 66261
application to the superintendent to leave the association of one 66262
broker to associate with a different broker, the broker possessing 66263
the licensee's license need not return the salesperson's license 66264
to the superintendent. The superintendent may process the 66265
application regardless of whether the licensee's license is 66266
returned to the superintendent. 66267

Sec. 4735.14. (A) Each license issued under this chapter, 66268
shall be valid without further recommendation or examination until 66269
it is placed in an inactive, voluntary hold, or resigned status, 66270
is revoked or suspended, or such license expires by operation of 66271
law. 66272

(B) Except for a licensee who has placed the licensee's 66273
license on voluntary hold or resigned status pursuant to section 66274
4735.142 of the Revised Code, each licensed broker, brokerage, or 66275
salesperson shall file, on or before the date the Ohio real estate 66276

commission has adopted by rule for that licensee in accordance 66277
with division (A)(2)(f) of section 4735.10 of the Revised Code, a 66278
notice of renewal on a form prescribed by the superintendent of 66279
real estate. The notice of renewal shall be mailed by the 66280
superintendent two months prior to the filing deadline to the ~~most~~ 66281
~~current~~ personal residence address of each broker or salesperson 66282
~~as filed with the superintendent by the licensee and the place of~~ 66283
~~business address of the brokerage~~ that is on file with the 66284
division. A licensee may not renew the licensee's license any 66285
earlier than two months prior to the filing deadline. 66286

(C) Except as otherwise provided in division (B) of this 66287
section, the license of any real estate broker, brokerage, or 66288
salesperson that fails to file a notice of renewal on or before 66289
the filing deadline of each ensuing year shall be suspended 66290
automatically without the taking of any action by the 66291
superintendent. A suspended license may be reactivated within 66292
twelve months of the date of suspension, provided that the renewal 66293
fee plus a penalty fee of fifty per cent of the renewal fee is 66294
paid to the superintendent. Failure to reactivate the license as 66295
provided in this division shall result in automatic revocation of 66296
the license without the taking of any action by the 66297
superintendent. No person, partnership, association, corporation, 66298
limited liability company, or limited partnership shall engage in 66299
any act or acts for which a real estate license is required while 66300
that entity's license is placed in an inactive, voluntary hold, or 66301
resigned status, or is suspended, or revoked. The commission shall 66302
adopt rules in accordance with Chapter 119. of the Revised Code to 66303
provide to licensees notice of suspension or revocation or both. 66304

(D) Each licensee shall notify the commission of a change in 66305
personal residence address. A licensee's failure to notify the 66306
commission of a change in personal residence address does not 66307
negate the requirement to file the license renewal by the required 66308

deadline established by the commission by rule under division 66309
(A)(2)(f) of section 4735.10 of the Revised Code. 66310

(E) The superintendent shall not renew a license if the 66311
licensee is no longer honest, trustworthy, or of good reputation, 66312
fails to comply with section 4735.141 of the Revised Code, or 66313
otherwise is not in compliance with this chapter. 66314

Sec. 4735.141. (A) Except as otherwise provided in this 66315
division and except for a licensee who has placed the licensee's 66316
license on voluntary hold or resigned status pursuant to section 66317
4735.142 of the Revised Code, each person licensed under section 66318
4735.07 or 4735.09 of the Revised Code shall submit proof 66319
satisfactory to the superintendent of real estate that the 66320
licensee has satisfactorily completed thirty hours of continuing 66321
education, as prescribed by the Ohio real estate commission 66322
pursuant to section 4735.10 of the Revised Code, on or before the 66323
licensee's birthday occurring three years after the licensee's 66324
date of initial licensure, and on or before the licensee's 66325
birthday every three years thereafter. 66326

Persons licensed as real estate salespersons who subsequently 66327
become licensed real estate brokers shall continue to submit proof 66328
of continuing education in accordance with the time period 66329
established in this section. 66330

The requirements of this section shall not apply to any 66331
~~physically handicapped~~ disabled licensee as provided in division 66332
(E) of this section. 66333

Each licensee who is seventy years of age or older, within a 66334
continuing education reporting period, shall submit proof 66335
satisfactory to the superintendent of real estate that the 66336
licensee has satisfactorily completed a total of nine classroom 66337
hours of continuing education, including instruction in Ohio real 66338
estate law; recently enacted state and federal laws affecting the 66339

real estate industry; municipal, state, and federal civil rights 66340
law; and canons of ethics for the real estate industry as adopted 66341
by the commission. The required proof of completion shall be 66342
submitted on or before the licensee's birthday that falls in the 66343
third year of that continuing education reporting period. A 66344
licensee who is seventy years of age or older whose license is in 66345
an inactive status is exempt from the continuing education 66346
requirements specified in this section. The commission shall adopt 66347
reasonable rules in accordance with Chapter 119. of the Revised 66348
Code to carry out the purposes of this paragraph. 66349

(B) The continuing education requirements of this section 66350
shall be completed in schools, seminars, and educational 66351
institutions approved by the commission. Such approval shall be 66352
given according to rules established by the commission under the 66353
procedures of Chapter 119. of the Revised Code, and shall not be 66354
limited to institutions providing two-year or four-year degrees. 66355
Each school, seminar, or educational institution approved under 66356
this division shall be open to all licensees on an equal basis. 66357

(C) If the requirements of this section are not met by a 66358
licensee within the period specified, the licensee's license shall 66359
be suspended automatically without the taking of any action by the 66360
superintendent. The superintendent shall notify the licensee of 66361
the license suspension, and such notification shall be sent to the 66362
personal residence address of the licensee that is on file with 66363
the division. Any license so suspended shall remain suspended 66364
until it is reactivated by the superintendent. No such license 66365
shall be reactivated until it is established, to the satisfaction 66366
of the superintendent, that the requirements of this section have 66367
been met. If the requirements of this section are not met within 66368
twelve months from the date the license was suspended, the license 66369
shall be revoked automatically without the taking of any action by 66370
the superintendent. 66371

(D) If the license of a real estate broker is suspended 66372
pursuant to division (C) of this section, the license of a real 66373
estate salesperson associated with that broker correspondingly is 66374
suspended pursuant to division (H) of section 4735.20 of the 66375
Revised Code. ~~However, the A sole broker shall notify affiliated~~ 66376
~~salespersons of the suspension in writing within three days of~~ 66377
~~receiving the notice required by division (C) of this section.~~ 66378

(1) The suspended license of the associated real estate 66379
salesperson shall be reactivated and no fee shall be charged or 66380
collected for that reactivation if ~~all of the following occur:~~ 66381

~~(1) That that~~ that broker subsequently submits proof to the 66382
superintendent that the broker has complied with the requirements 66383
of this section and requests that the broker's license as a real 66384
estate broker be reactivated. 66385

~~(2) The, and the~~ superintendent then reactivates the broker's 66386
license as a real estate broker. 66387

~~(3) The associated real estate salesperson intends to~~ 66388
~~continue to be associated with that broker, has complied with the~~ 66389
~~requirements of this section, and otherwise is in compliance with~~ 66390
~~this chapter.~~ 66391

(2) If the real estate salesperson submits an application to 66392
leave the association of the suspended broker in order to 66393
associate with a different broker, the suspended license of the 66394
associated real estate salesperson shall be reactivated and no fee 66395
shall be charged or collected for that reactivation. The 66396
superintendent may process the application regardless of whether 66397
the licensee's license is returned to the superintendent. 66398

Any person whose license is reactivated pursuant to this 66399
division shall ~~submit proof satisfactory to the superintendent~~ 66400
~~that the person has completed thirty hours of continuing~~ 66401
~~education, as prescribed by the Ohio real estate commission, on or~~ 66402

~~before the third year following the licensee's birthday occurring~~ 66403
~~immediately after reactivation~~ comply with the requirements of 66404
this section and otherwise be in compliance with this chapter. 66405

(E) Any licensee who is a ~~physically handicapped~~ disabled 66406
licensee at any time during the last three months of the third 66407
year of the licensee's continuing education reporting period may 66408
receive an extension of time of not more than six months to submit 66409
proof to the superintendent that the licensee has satisfactorily 66410
completed the required thirty hours of continuing education. To 66411
receive an extension of time, the licensee shall submit a request 66412
to the division of real estate for the extension and proof 66413
satisfactory to the commission that the licensee was a ~~physically~~ 66414
~~handicapped~~ disabled licensee at some time during the last three 66415
months of the three-year reporting period. The proof shall 66416
include, but is not limited to, a signed statement by the 66417
licensee's attending physician describing the ~~physical~~ disability, 66418
certifying that the licensee's disability is of such a nature as 66419
to prevent the licensee from attending any instruction lasting at 66420
least three hours in duration, and stating the expected duration 66421
of the ~~physical~~ disability. The licensee shall request the 66422
extension and provide the physician's statement to the division no 66423
later than one month prior to the end of the licensee's three-year 66424
continuing education reporting period, unless the ~~physical~~ 66425
disability did not arise until the last month of the three-year 66426
reporting period, in which event the licensee shall request the 66427
extension and provide the physician's statement as soon as 66428
practical after the occurrence of the ~~physical~~ disability. A 66429
licensee granted an extension pursuant to this division who is no 66430
longer a ~~physically handicapped~~ disabled licensee and who submits 66431
proof of completion of the continuing education during the 66432
extension period, shall submit, for future continuing education 66433
reporting periods, proof of completion of the continuing education 66434
requirements according to the schedule established in division (A) 66435

of this section. The superintendent shall only grant one extension. 66436
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(F) The superintendent shall not renew a license if the licensee fails to comply with this section, and the licensee shall be required to pay the penalty fee provided in section 4735.14 of the Revised Code. 66438
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(G) A licensee shall submit proof of completion of the required continuing education with the licensee's notice of renewal. Such proof shall be submitted in the manner provided by the superintendent. 66442
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Sec. 4735.15. (A) The nonrefundable fees for reactivation or transfer of a license shall be as follows: 66446
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(1) Reactivation or transfer of a broker's license into or out of a partnership, association, limited liability company, limited liability partnership, or corporation or from one partnership, association, limited liability company, limited liability partnership, or corporation to another partnership, association, limited liability company, limited liability partnership, or corporation, twenty-five dollars. An application for such transfer shall be made to the superintendent of real estate on forms provided by the superintendent. 66448
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(2) Reactivation or transfer of a license by a real estate salesperson, ~~twenty~~ twenty-five dollars. 66457
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(B) Except as may otherwise be specified pursuant to division (F) of this section, the nonrefundable fees for a branch office license, license renewal, late filing, and foreign real estate dealer and salesperson license are as follows per year for each year of a licensing period: 66459
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(1) Branch office license, ~~eight~~ fifteen dollars; 66464

(2) Renewal of a real estate broker's license, ~~forty-nine~~ 66465

seventy-five dollars. If the licensee is a partnership, 66466
association, limited liability company, limited liability 66467
partnership, or corporation, the full broker's renewal fee shall 66468
be required for each member of such partnership, association, 66469
limited liability company, limited liability partnership, or 66470
corporation that is a real estate broker. If the real estate 66471
broker has not less than eleven nor more than twenty real estate 66472
salespersons associated with the broker, an additional fee of 66473
~~sixty-four~~ seventy-five dollars shall be assessed to the 66474
brokerage. For every additional ten real estate salespersons or 66475
fraction of that number, the brokerage assessment fee shall be 66476
increased in the amount of ~~thirty-seven~~ forty dollars. 66477

(3) Renewal of a real estate salesperson's license, 66478
~~thirty-nine~~ sixty dollars; 66479

(4) Renewal of a real estate broker's or salesperson's 66480
license filed within twelve months after the licensee's renewal 66481
date, an additional late filing penalty of fifty per cent of the 66482
required fee; 66483

(5) Foreign real estate dealer's license and each renewal of 66484
the license, thirty dollars per salesperson employed by the 66485
dealer, but not less than one hundred fifty dollars; 66486

(6) Foreign real estate salesperson's license and each 66487
renewal of the license, fifty dollars. 66488

(C) All fees collected under this section shall be paid to 66489
the treasurer of state. ~~Four dollars~~ One dollar of each such fee 66490
shall be credited to the real estate education and research fund, 66491
except that for fees that are assessed only once every three 66492
years, ~~twelve~~ three dollars of each triennial fee shall be 66493
credited to the real estate education and research fund. 66494

(D) In all cases, the fee and any penalty shall accompany the 66495
application for the license, license transfer, or license 66496

reactivation or shall accompany the filing of the renewal. 66497

(E) The commission may establish by rule reasonable fees for 66498
services not otherwise established by this chapter. 66499

(F) The commission may adopt rules that provide for a 66500
reduction in the fees established in divisions (B)(2) and (3) of 66501
this section. 66502

Sec. 4735.16. (A) Every real estate broker licensed under 66503
this chapter ~~shall have and maintain a definite place of business~~ 66504
~~in this state and~~ shall erect or maintain a sign on the business 66505
premises plainly stating that the licensee is a real estate 66506
broker. If the real estate broker maintains one or more branch 66507
offices, the real estate broker shall erect or maintain a sign at 66508
each branch office plainly stating that the licensee is a real 66509
estate broker. 66510

(B)(1) Any licensed real estate broker or salesperson who 66511
advertises to buy, sell, exchange, or lease real estate, or to 66512
engage in any act regulated by this chapter, ~~including, but not~~ 66513
~~limited to, any licensed real estate broker or salesperson who~~ 66514
~~advertises to sell, exchange, or lease real estate that the~~ 66515
~~licensee owns~~ with respect to property the licensee does not own, 66516
shall be identified in the advertisement by name and ~~by indicating~~ 66517
~~that the licensee is a real estate broker or real estate~~ 66518
~~salesperson. Except a real estate salesperson who advertises the~~ 66519
~~sale, exchange, or lease of real estate that the salesperson owns~~ 66520
~~and that is not listed for sale, exchange, or lease with a real~~ 66521
~~estate broker, any real estate salesperson who advertises, as~~ 66522
~~provided in this section, also shall indicate in the advertisement~~ 66523
~~the name of the broker under whom the salesperson is licensed and~~ 66524
~~the fact that the salesperson's broker is a real estate broker.~~ 66525
The name of the broker shall be displayed in equal prominence with 66526
the name of the salesperson in the advertisement indicate the name 66527

of the brokerage with which the licensee is affiliated. 66528

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(2) Any licensed real estate broker or sales person who 66530
advertises to sell, exchange, or lease real estate, or to engage 66531
in any act regulated by this chapter, with respect to property 66532
that the licensee owns, shall be identified in the advertisement 66533
by name and indicate that the property is agent owned, and if the 66534
property is listed with a real estate brokerage, the advertisement 66535
shall also indicate the name of the brokerage with which the 66536
property is listed. 66537

(3) The name of the brokerage shall be displayed in equal 66538
prominence with the name of the salesperson in the advertisement. 66539
For purposes of this section, "brokerage" means the name the real 66540
estate company or sole broker is doing business as, or if the real 66541
estate company or sole broker does not use such a name, the name 66542
of the real estate company or sole broker as licensed. 66543

(4) A real estate broker who is representing a seller under 66544
an exclusive right to sell or lease listing agreement shall not 66545
advertise such property to the public as "for sale by owner" or 66546
otherwise mislead the public to believe that the seller is not 66547
represented by a real estate broker. 66548

~~(3)~~(5) If any real estate broker or real estate salesperson 66549
advertises in a manner other than as provided in this section or 66550
the rules adopted under this section, that advertisement is 66551
prima-facie evidence of a violation under division (A)(21) of 66552
section 4735.18 of the Revised Code. 66553

When the superintendent determines that prima-facie evidence 66554
of a violation of division (A)(21) of section 4735.18 of the 66555
Revised Code or any of the rules adopted thereunder exists, the 66556
superintendent may do either of the following: 66557

(a) Initiate disciplinary action under section 4735.051 of 66558

the Revised Code for a violation of division (A)(21) of section 66559
4735.18 of the Revised Code, in accordance with Chapter 119. of 66560
the Revised Code; 66561

(b) Personally, or by certified mail, serve a citation upon 66562
the licensee. 66563

(C)(1) Every citation served under this section shall give 66564
notice to the licensee of the alleged violation or violations 66565
charged and inform the licensee of the opportunity to request a 66566
hearing in accordance with Chapter 119. of the Revised Code. The 66567
citation also shall contain a statement of a fine of two hundred 66568
dollars per violation, not to exceed two thousand five hundred 66569
dollars per citation. All fines collected pursuant to this section 66570
shall be credited to the real estate recovery fund, created in the 66571
state treasury under section 4735.12 of the Revised Code. 66572

(2) If any licensee is cited three times within twelve 66573
consecutive months, the superintendent shall initiate disciplinary 66574
action pursuant to section 4735.051 of the Revised Code for any 66575
subsequent violation that occurs within the same twelve-month 66576
period. 66577

(3) If a licensee fails to request a hearing within thirty 66578
days of the date of service of the citation, or the licensee and 66579
the superintendent fail to reach an alternative agreement, the 66580
citation shall become final. 66581

(4) Unless otherwise indicated, the licensee named in a final 66582
citation must meet all requirements contained in the final 66583
citation within thirty days of the effective date of that 66584
citation. 66585

(5) The superintendent shall suspend automatically a 66586
licensee's license if the licensee fails to comply with division 66587
(C)(4) of this section. 66588

(D) A real estate broker or salesperson obtaining the 66589

signature of a party to a listing or other agreement involved in a 66590
real estate transaction shall furnish a copy of the listing or 66591
other agreement to the party immediately after obtaining the 66592
party's signature. Every broker's office shall prominently display 66593
in the same immediate area as licenses are displayed a statement 66594
that it is illegal to discriminate against any person because of 66595
race, color, religion, sex, familial status as defined in section 66596
4112.01 of the Revised Code, national origin, military status as 66597
defined in that section, disability as defined in that section, or 66598
ancestry in the sale or rental of housing or residential lots, in 66599
advertising the sale or rental of housing, in the financing of 66600
housing, or in the provision of real estate brokerage services and 66601
that blockbusting also is illegal. The statement shall bear the 66602
United States department of housing and urban development equal 66603
housing logo, shall contain the information that the broker and 66604
the broker's salespersons are licensed by the division of real 66605
estate and professional licensing and that the division can assist 66606
with any consumer complaints or inquiries, and shall explain the 66607
provisions of section 4735.12 of the Revised Code. The statement 66608
shall provide the division's address and telephone number. The 66609
Ohio real estate commission shall provide by rule for the wording 66610
and size of the statement. The pamphlet required under section 66611
4735.03 of the Revised Code shall contain the same statement that 66612
is required on the statement displayed as provided in this section 66613
and shall be made available by real estate brokers and 66614
salespersons to their clients. The commission shall provide the 66615
wording and size of the pamphlet. 66616

Sec. 4735.17. Licenses may be issued under sections 4735.01 66617
to ~~4735.23~~ 4735.21 of the Revised Code, to nonresidents of this 66618
state and to foreign corporations, subject to the following 66619
additional requirements: 66620

(A) The licensee, if a broker, shall maintain an active place 66621

of business in this state. A post office box is not an active 66622
place of business for purposes of this section. 66623

(B) Every nonresident applicant shall file an irrevocable 66624
consent that suits and actions may be commenced against such 66625
applicant in the proper court of any county of this state in which 66626
a cause of action may arise or in which the plaintiff may reside 66627
by the service of any process or pleading authorized by the laws 66628
of this state on the superintendent of real estate. The consent 66629
shall stipulate that such service shall be taken and held in all 66630
courts as valid and binding as if proper service had been made 66631
upon the applicant in this state. The instrument containing such 66632
consent shall be authenticated by signature or by corporate seal. 66633
All applications of firms or corporations shall be accompanied by 66634
a certified copy of the resolution of the proper officers or 66635
managing board authorizing the proper officer to execute them. A 66636
duplicate copy of any process or pleading served on the 66637
superintendent shall be immediately forwarded by certified mail to 66638
the main office of the licensee against which that process or 66639
pleading is directed. 66640

Sec. 4735.18. (A) Subject to section 4735.32 of the Revised 66641
Code, the superintendent of real estate, upon the superintendent's 66642
own motion, may investigate the conduct of any licensee. Subject 66643
to section 4735.32 of the Revised Code, the Ohio real estate 66644
commission shall, pursuant to section 4735.051 of the Revised 66645
Code, impose disciplinary sanctions upon any licensee who, whether 66646
or not acting in the licensee's capacity as a real estate broker 66647
or salesperson, or in handling the licensee's own property, is 66648
found to have been convicted of a felony or a crime of moral 66649
turpitude, and shall, pursuant to section 4735.051 of the Revised 66650
Code, impose disciplinary sanctions upon any licensee who, in the 66651
licensee's capacity as a real estate broker or salesperson, or in 66652
handling the licensee's own property, is found guilty of: 66653

- (1) ~~Knowingly making~~ Making any misrepresentation; 66654
- (2) Making any false promises with intent to influence, 66655
persuade, or induce; 66656
- (3) A continued course of misrepresentation or the making of 66657
false promises through agents, salespersons, advertising, or 66658
otherwise; 66659
- (4) Acting for more than one party in a transaction except as 66660
permitted by and in compliance with section 4735.71 of the Revised 66661
Code; 66662
- (5) Failure within a reasonable time to account for or to 66663
remit any money coming into the licensee's possession which 66664
belongs to others; 66665
- (6) Dishonest or illegal dealing, gross negligence, 66666
incompetency, or misconduct; 66667
- (7)(a) By final adjudication by a court, a violation of any 66668
municipal or federal civil rights law relevant to the protection 66669
of purchasers or sellers of real estate or, by final adjudication 66670
by a court, any unlawful discriminatory practice pertaining to the 66671
purchase or sale of real estate prohibited by Chapter 4112. of the 66672
Revised Code, provided that such violation arose out of a 66673
situation wherein parties were engaged in bona fide efforts to 66674
purchase, sell, or lease real estate, in the licensee's practice 66675
as a licensed real estate broker or salesperson; 66676
- (b) A second or subsequent violation of any unlawful 66677
discriminatory practice pertaining to the purchase or sale of real 66678
estate prohibited by Chapter 4112. of the Revised Code or any 66679
second or subsequent violation of municipal or federal civil 66680
rights laws relevant to purchasing or selling real estate whether 66681
or not there has been a final adjudication by a court, provided 66682
that such violation arose out of a situation wherein parties were 66683
engaged in bona fide efforts to purchase, sell, or lease real 66684

estate. For any second offense under this division, the commission shall suspend for a minimum of two months or revoke the license of the broker or salesperson. For any subsequent offense, the commission shall revoke the license of the broker or salesperson.

(8) Procuring a license under this chapter, for the licensee or any salesperson by fraud, misrepresentation, or deceit;

(9) Having violated or failed to comply with any provision of sections 4735.51 to 4735.74 of the Revised Code or having willfully disregarded or violated any other provisions of this chapter;

(10) As a real estate broker, having demanded, without reasonable cause, other than from a broker licensed under this chapter, a commission to which the licensee is not entitled, or, as a real estate salesperson, having demanded, without reasonable cause, a commission to which the licensee is not entitled;

(11) Except as permitted under section 4735.20 of the Revised Code, having paid commissions or fees to, or divided commissions or fees with, anyone not licensed as a real estate broker or salesperson under this chapter or anyone not operating as an out-of-state commercial real estate broker or salesperson under section 4735.022 of the Revised Code;

(12) Having falsely represented membership in any real estate professional association of which the licensee is not a member;

(13) Having accepted, given, or charged any undisclosed commission, rebate, or direct profit on expenditures made for a principal;

(14) Having offered anything of value other than the consideration recited in the sales contract as an inducement to a person to enter into a contract for the purchase or sale of real estate or having offered real estate or the improvements on real estate as a prize in a lottery or scheme of chance;

(15) Having acted in the dual capacity of real estate broker and undisclosed principal, or real estate salesperson and undisclosed principal, in any transaction without having placed all disclosures in writing;

(16) Having guaranteed, authorized, or permitted any person to guarantee future profits which may result from the resale of real property;

(17) Having placed a sign on any property offering it for sale or for rent without the consent of the owner or the owner's authorized agent;

(18) Having induced any party to a contract of sale or lease to break such contract for the purpose of substituting in lieu of it a new contract with another principal;

(19) Having negotiated the sale, exchange, or lease of any real property directly with a seller, purchaser, lessor, or tenant knowing that such seller, purchaser, lessor, or tenant is represented by another broker under a written exclusive agency agreement, exclusive right to sell or lease listing agreement, or exclusive purchaser agency agreement with respect to such property except as provided for in section 4735.75 of the Revised Code;

(20) Having offered real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized agent, or on any terms other than those authorized by the owner or the owner's authorized agent;

(21) Having published advertising, whether printed, radio, display, or of any other nature, which was misleading or inaccurate in any material particular, or in any way having misrepresented any properties, terms, values, policies, or services of the business conducted;

(22) Having knowingly withheld from or inserted in any statement of account or invoice any statement that made it

inaccurate in any material particular; 66747

(23) Having published or circulated unjustified or 66748
unwarranted threats of legal proceedings which tended to or had 66749
the effect of harassing competitors or intimidating their 66750
customers; 66751

(24) Having failed to keep complete and accurate records of 66752
all transactions for a period of three years from the date of the 66753
transaction, such records to include copies of listing forms, 66754
earnest money receipts, offers to purchase and acceptances of 66755
them, records of receipts and disbursements of all funds received 66756
by the licensee as broker and incident to the licensee's 66757
transactions as such, and records required pursuant to divisions 66758
(C)(4) and (5) of section 4735.20 of the Revised Code, and any 66759
other instruments or papers related to the performance of any of 66760
the acts set forth in the definition of a real estate broker; 66761

(25) Failure of a real estate broker or salesperson to 66762
furnish all parties involved in a real estate transaction true 66763
copies of all listings and other agreements to which they are a 66764
party, at the time each party signs them; 66765

(26) Failure to maintain at all times a special or trust bank 66766
account in a depository located in this state. The account shall 66767
be noninterest-bearing, separate and distinct from any personal or 66768
other account of the broker, and, except as provided in division 66769
(A)(27) of this section, shall be used for the deposit and 66770
maintenance of all escrow funds, security deposits, and other 66771
moneys received by the broker in a fiduciary capacity. The name, 66772
account number, if any, and location of the depository wherein 66773
such special or trust account is maintained shall be submitted in 66774
writing to the superintendent. Checks drawn on such special or 66775
trust bank accounts are deemed to meet the conditions imposed by 66776
section 1349.21 of the Revised Code. Funds deposited in the trust 66777
or special account in connection with a purchase agreement shall 66778

be maintained in accordance with section 4735.24 of the Revised Code. 66779
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(27) Failure to maintain at all times a special or trust bank account in a depository in this state, to be used exclusively for the deposit and maintenance of all rents, security deposits, escrow funds, and other moneys received by the broker in a fiduciary capacity in the course of managing real property. This account shall be separate and distinct from any other account maintained by the broker. The name, account number, and location of the depository shall be submitted in writing to the superintendent. This account may earn interest, which shall be paid to the property owners on a pro rata basis. 66781
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Division (A)(27) of this section does not apply to brokers who are not engaged in the management of real property on behalf of real property owners. 66791
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(28) Having failed to put definite expiration dates in all written agency agreements to which the broker is a party; 66794
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(29) Having an unsatisfied final judgment or lien in any court of record against the licensee arising out of the licensee's conduct as a licensed broker or salesperson; 66796
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(30) Failing to render promptly upon demand a full and complete statement of the expenditures by the broker or salesperson of funds advanced by or on behalf of a party to a real estate transaction to the broker or salesperson for the purpose of performing duties as a licensee under this chapter in conjunction with the real estate transaction; 66799
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(31) Failure within a reasonable time, after the receipt of the commission by the broker, to render an accounting to and pay a real estate salesperson the salesperson's earned share of it; 66805
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(32) Performing any service for another constituting the practice of law, as determined by any court of law; 66808
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(33) Having been adjudicated incompetent for the purpose of holding the license by a court, as provided in section 5122.301 of the Revised Code. A license revoked or suspended under this division shall be reactivated upon proof to the commission of the removal of the disability.

(34) Having authorized or permitted a person to act as an agent in the capacity of a real estate broker, or a real estate salesperson, who was not then licensed as a real estate broker or real estate salesperson under this chapter or who was not then operating as an out-of-state commercial real estate broker or salesperson under section 4735.022 of the Revised Code;

(35) Having knowingly inserted or participated in inserting any materially inaccurate term in a document, including naming a false consideration;

(36) Having failed to inform the licensee's client of the existence of an offer or counteroffer or having failed to present an offer or counteroffer in a timely manner, unless otherwise instructed by the client, provided the instruction of the client does not conflict with any state or federal law.

(B) Notwithstanding division (A)(24) of this section, any broker required to file a report of unclaimed funds or a negative unclaimed funds report, pursuant to division (F)(2) of section 169.03 of the Revised Code, shall retain all records designated by the superintendent of unclaimed funds as applicable for five years beyond the relevant time period provided in section 169.02 of the Revised Code or until completion of an audit conducted pursuant to division (F) of section 169.03 of the Revised Code, whichever occurs first.

(C) Whenever the commission, pursuant to section 4735.051 of the Revised Code, imposes disciplinary sanctions for any violation of this section, the commission also may impose such sanctions

upon the broker with whom the salesperson is affiliated if the 66841
commission finds that the broker had knowledge of the 66842
salesperson's actions that violated this section. 66843

~~(C)~~(D) The commission shall, pursuant to section 4735.051 of 66844
the Revised Code, impose disciplinary sanctions upon any foreign 66845
real estate dealer or salesperson who, in that capacity or in 66846
handling the dealer's or salesperson's own property, is found 66847
guilty of any of the acts or omissions specified or comprehended 66848
in division (A) of this section insofar as the acts or omissions 66849
pertain to foreign real estate. If the commission imposes such 66850
sanctions upon a foreign real estate salesperson for a violation 66851
of this section, the commission also may suspend or revoke the 66852
license of the foreign real estate dealer with whom the 66853
salesperson is affiliated if the commission finds that the dealer 66854
had knowledge of the salesperson's actions that violated this 66855
section. 66856

~~(D)~~(E) The commission may suspend, in whole or in part, the 66857
imposition of the penalty of suspension of a license under this 66858
section. 66859

~~(E) The commission immediately shall notify the real estate 66860
appraiser board of any disciplinary action taken under this 66861
section against a licensee who also is a state certified real 66862
estate appraiser under Chapter 4763. of the Revised Code. 66863~~

Sec. 4735.181. (A) No real estate broker or salesperson 66864
licensed pursuant to this chapter shall fail to comply with 66865
divisions (B) or (D) of section 4735.13, division (D) of section 66866
4735.14, or sections 4735.55, 4735.56, and 4735.58 of the Revised 66867
Code or any rules adopted under those divisions or sections. 66868

(B) When the superintendent determines that a licensee has 66869
violated division (A) of this section, the superintendent may do 66870
either of the following: 66871

(1) Initiate disciplinary action under section 4735.051 of the Revised Code, in accordance with Chapter 119. of the Revised Code; 66872
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(2) Personally, or by certified mail, serve a citation and impose sanctions in accordance with this section upon the licensee. 66875
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(C) Every citation served under this section shall give notice to the licensee of the alleged violation or violations charged and inform the licensee of the opportunity to request a hearing in accordance with Chapter 119. of the Revised Code. The citation also shall contain a statement of a fine of up to two hundred dollars per violation. All fines collected pursuant to this section shall be credited to the real estate recovery fund, created in the state treasury under section 4735.12 of the Revised Code. 66878
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(D) If any licensee is cited three times under this section within twelve consecutive months, the superintendent shall initiate disciplinary action pursuant to section 4735.051 of the Revised Code for any subsequent violation that occurs within the same twelve-month period. 66887
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If a licensee fails to request a hearing within thirty days after the date of service of the citation, or the licensee and the superintendent fail to reach an alternative agreement, the citation shall become final. 66892
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(E) Unless otherwise indicated, the licensee named in a final citation under this section must meet all requirements contained in the final citation within thirty days after the effective date of that citation. 66896
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(F) The superintendent shall suspend automatically a licensee's license if the licensee fails to comply with division (E) of this section. 66900
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Sec. 4735.182. If a check or other draft instrument used to pay any fee required under this chapter is returned to the superintendent ~~for insufficient funds~~ unpaid by the financial institution upon which it is drawn for any reason, the superintendent shall notify the licensee, applicant, or provider that the check or other draft instrument was returned for insufficient funds ~~and~~. If the check or draft instrument was remitted by a licensee, the superintendent also shall notify the licensee that the licensee's license will be suspended, or if the check or draft instrument was remitted by an applicant for licensure, that the applicant's application automatically shall be rejected, unless the licensee or applicant, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the licensee does not submit both fees within that time period, or if any check or other draft instrument used to pay either of those fees is returned to the superintendent ~~for insufficient funds~~ unpaid by the financial institution upon which it is drawn for any reason, the license shall be suspended immediately without a hearing and the licensee shall cease activity as a licensee under this chapter.

Sec. 4735.19. The Ohio real estate commission shall keep a record of its proceedings and, upon application of an interested party, or upon its own motion ~~and notice to the interested parties~~, may hold a hearing to consider whether or not the commission should reverse, vacate, or modify its own orders. An application ~~to the commission to reverse, vacate, or modify an order~~ shall be filed with the division within fifteen days after the mailing of the notice of the order of the commission to the interested parties ~~pursuant to section 119.09 of the Revised Code~~.

Any applicant, ~~licensee, or complainant~~ respondent,

dissatisfied with an order of the commission may appeal in 66934
accordance with Chapter 119. of the Revised Code. 66935

Sec. 4735.21. No right of action shall accrue to any person, 66936
partnership, association, or corporation for the collection of 66937
compensation for the performance of the acts mentioned in section 66938
4735.01 of the Revised Code, without alleging and proving that 66939
such person, partnership, association, or corporation was licensed 66940
as a real estate broker or foreign real estate dealer. Nothing 66941
contained in this section shall prevent a right of action from 66942
accruing after the expiration of a real estate or foreign real 66943
estate license if the act giving rise to the cause of action was 66944
performed by a licensee prior to such expiration. 66945

No real estate ~~salesman~~ salesperson or foreign real estate 66946
~~salesman~~ salesperson shall collect any money in connection with 66947
any real estate or foreign real estate brokerage transaction, 66948
whether as a commission, deposit, payment, rental, or otherwise, 66949
except in the name of and with the consent of the licensed real 66950
estate broker or licensed foreign real estate dealer under whom ~~he~~ 66951
the salesperson is licensed at the time the salesperson earned the 66952
commission. Nor shall any real estate ~~salesman~~ salesperson or 66953
foreign real estate ~~salesman~~ salesperson commence or maintain any 66954
action for a commission or other compensation in connection with a 66955
real estate or foreign real estate brokerage transaction, against 66956
any person except a person licensed as a real estate broker or 66957
foreign real estate dealer under whom ~~he~~ the salesperson is 66958
licensed as a ~~salesman~~ salesperson at the time the cause of action 66959
arose. 66960

A salesperson licensed under this chapter shall not assign 66961
the salespersons interest in a commission or any portion thereof. 66962

Sec. 4735.211. All fines imposed under section 4735.051 of 66963

the Revised Code, and all fees and charges collected under 66964
sections 4735.06, 4735.09, 4735.13, 4735.15, 4735.25, 4735.27, 66965
4735.28, and 4735.29 of the Revised Code, except such fees as are 66966
paid to the real estate education and research fund and real 66967
estate recovery fund as provided in this chapter, shall be paid 66968
into the state treasury to the credit of the division of real 66969
estate operating fund, which is hereby created. All operating 66970
expenses of the division of real estate shall be paid from the 66971
division of real estate operating fund. 66972

The division of real estate operating fund shall be assessed 66973
a proportionate share of the administrative costs of the 66974
department of commerce in accordance with procedures prescribed by 66975
the director of commerce and approved by the director of budget 66976
and management. Such assessments shall be paid from the division 66977
of real estate operating fund to the division of administration 66978
fund. 66979

If funds in the division of real estate operating fund are 66980
determined by the director of commerce to be in excess of those 66981
necessary to fund all the expenses of the division in any 66982
biennium, ~~he shall~~ the director may pay the excess funds to the 66983
real estate education and research fund. 66984

Sec. 4735.32. (A)(1) The Ohio real estate commission or the 66985
superintendent of real estate may commence, at any time within 66986
three years from the date on which an alleged violation of a 66987
provision of this or another chapter of the Revised Code occurred, 66988
any investigation that relates to the conduct of a licensed real 66989
estate broker, real estate salesperson, foreign real estate 66990
dealer, or foreign real estate salesperson, that is authorized 66991
pursuant to section 1349.11, 4735.051, or 4735.18, or any other 66992
section of the Revised Code, and that is for purposes of 66993
determining whether the licensee has violated a provision of this 66994

or another chapter of the Revised Code and whether, as a 66995
consequence, the licensee's license should be suspended or 66996
revoked, or other disciplinary action taken, as provided in this 66997
or another chapter of the Revised Code. If such an investigation 66998
is not commenced within the three-year period, it shall be barred, 66999
and neither the commission nor the superintendent shall suspend or 67000
revoke the license of any licensee, or take other disciplinary 67001
action against any licensee, because of the alleged violation of a 67002
provision of this or another chapter of the Revised Code that 67003
could have been the subject of the barred investigation. 67004

(2) For purposes of division (A)(1) of this section, if an 67005
investigation that is authorized by section 4735.051 of the 67006
Revised Code is involved, it shall be considered to be commenced 67007
as of the date on which a person files a the complaint with the 67008
division of real estate ~~pursuant to division (A) of that section.~~ 67009

(B) This section does not affect any criminal or civil 67010
liability that a licensed real estate broker, real estate 67011
salesperson, foreign real estate dealer, or foreign real estate 67012
salesperson, or any unlicensed person, may have under this or 67013
another chapter of the Revised Code or under the common law of 67014
this state. 67015

Sec. 4735.55. (A) Each written agency agreement shall contain 67016
all of the following: 67017

(1) An expiration date; 67018

(2) A statement that it is illegal, pursuant to the Ohio fair 67019
housing law, division (H) of section 4112.02 of the Revised Code, 67020
and the federal fair housing law, 42 U.S.C.A. 3601, to refuse to 67021
sell, transfer, assign, rent, lease, sublease, or finance housing 67022
accommodations, refuse to negotiate for the sale or rental of 67023
housing accommodations, or otherwise deny or make unavailable 67024
housing accommodations because of race, color, religion, sex, 67025

familial status as defined in section 4112.01 of the Revised Code, 67026
ancestry, military status as defined in that section, disability 67027
as defined in that section, or national origin or to so 67028
discriminate in advertising the sale or rental of housing, in the 67029
financing of housing, or in the provision of real estate brokerage 67030
services; 67031

(3) A statement defining the practice known as "blockbusting" 67032
and stating that it is illegal; 67033

(4) A copy of the United States department of housing and 67034
urban development equal housing opportunity logotype, ~~as set forth~~ 67035
~~in 24 C.F.R. 109.30.~~ 67036

(B) Each written agency agreement shall contain a place for 67037
the licensee and the client to sign and date the agreement. 67038

(C) A licensee shall furnish a copy of any written agency 67039
agreement to a client in a timely manner after the licensee and 67040
the client have signed and dated it. 67041

Sec. 4735.58. (A)(1) A licensee who is a purchaser's agent or 67042
a seller's subagent working with a purchaser shall present the 67043
agency disclosure statement described in section 4735.57 of the 67044
Revised Code to the purchaser and request the purchaser to sign 67045
and date the statement no later than the preparation of an offer 67046
to purchase or lease, or a written request for a proposal to 67047
lease. The licensee shall deliver the statement signed by the 67048
purchaser to the seller's agent, or to the seller if the seller is 67049
not represented by an agent. Prior to presenting the seller with 67050
either a written offer to purchase or lease, or a written request 67051
for a proposal to lease, the seller's agent, or the purchaser's 67052
agent if the seller is not represented by an agent, shall present 67053
the agency disclosure statement to the seller and request the 67054
seller to sign and date the statement. 67055

(2) A licensee shall indicate the accurate agency relationship on the agency disclosure statement. 67056
67057

(B) A licensee selling property at auction shall, prior to the auction, verbally disclose to the audience that the licensee represents the seller in the real estate transaction. The licensee shall provide the agency disclosure statement described in section 4735.57 of the Revised Code to the successful bidder prior to the bidder's signing a purchase contract. 67058
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(C) Evidence that a licensee has failed to comply with this section constitutes prima-facie evidence of misconduct in violation of division (A)(6) of section 4735.18 of the Revised Code. 67064
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(D) The disclosure requirements of this section do not apply in any of the following situations: 67068
67069

(1) The rental or leasing of residential premises as defined in section 5321.01 of the Revised Code, if the rental or lease agreement can be performed in eighteen months or less; 67070
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67072

(2) The referral of a prospective purchaser or seller to another licensee; 67073
67074

(3) Transactions involving the sale, lease, or exchange of foreign real estate as defined in division (E) of section 4735.01 of the Revised Code; 67075
67076
67077

(4) Transactions involving the sale of a cemetery lot or a cemetery interment right. 67078
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(E) The licensee is obligated to perform all duties imposed on a real estate agent at common law except to the extent the duties are inconsistent with the duties prescribed in this chapter or are otherwise modified by agreement. 67080
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Sec. 4735.71. (A) No licensee or brokerage shall participate in a dual agency relationship described in section 4735.70 of the 67084
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Revised Code unless both the seller and the purchaser in the 67086
transaction have full knowledge of the dual representation and 67087
consent in writing to the dual representation on the agency 67088
disclosure statement described in section 4735.57 of the Revised 67089
Code. Before a licensee obtains the consent of any party to a dual 67090
agency relationship, the licensee shall disclose to both the 67091
purchaser and the seller all relevant information necessary to 67092
enable each party to make an informed decision as to whether to 67093
consent to the dual agency relationship. If, after consent is 67094
obtained, there is a material change in the information disclosed 67095
to the purchaser and the seller, the licensee shall disclose the 67096
change of information to the purchaser and the seller and give 67097
them an opportunity to revoke their consent. 67098

(B) No brokerage shall participate in a dual agency 67099
relationship described in division (C) of section 4735.70 of the 67100
Revised Code, unless each of the following conditions is met: 67101

(1) The brokerage has established a procedure under section 67102
4735.54 of the Revised Code under which licensees, including 67103
management level licensees, who represent one client will not have 67104
access to and will not obtain confidential information concerning 67105
another client of the brokerage involved in the dual agency 67106
transaction. 67107

(2) Each licensee fulfills the licensee's duties exclusively 67108
to the licensee's client. 67109

(C) No salesperson or broker licensed under this chapter 67110
shall participate in a dual agency relationship in which the 67111
licensee is a party to the transaction, either personally or as an 67112
officer or member of a partnership, association, limited liability 67113
company, limited liability partnership, or corporation that has an 67114
interest in the real property that is the subject of the 67115
transaction. 67116

Sec. 4735.72. (A) The brokerage and management level 67117
licensees in a brokerage in which there is a dual agency 67118
relationship described in section 4735.70 of the Revised Code 67119
shall do each of the following: 67120

(1) Objectively supervise the affiliated licensees in the 67121
fulfillment of their duties and obligations to their respective 67122
clients; 67123

(2) Refrain from advocating or negotiating on behalf of 67124
either the seller or the purchaser; 67125

(3) Refrain from disclosing to any other employee of the 67126
brokerage or any party or client, any confidential information of 67127
a client of which the brokerage or management level licensee 67128
becomes aware and from utilizing or allowing to be utilized for 67129
the benefit of another client, any confidential information 67130
obtained from a client. 67131

(B) When two licensees affiliated with the same brokerage 67132
represent separate clients in the same transaction, each 67133
affiliated licensee shall do both of the following: 67134

(1) Serve as the agent of only the party in the transaction 67135
the licensee agreed to represent; 67136

(2) Fulfill the duties owed to the respective client as set 67137
forth in this chapter and as agreed in the agency agreement. 67138

(C)(1) In all cases, a management level licensee shall keep 67139
information of the client or brokerage confidential. 67140

(2) Nothing in this section prohibits the brokerage or 67141
management level licensees in the brokerage from providing 67142
factual, nonconfidential information that presents or suggests 67143
objective options or solutions, or assisting the parties in an 67144
unbiased manner to negotiate or fulfill the terms of the purchase 67145
contract or lease, provided that confidential information of a 67146

client is not utilized in any manner in formulating such 67147
suggestions or providing this assistance. 67148

(D) No cause of action shall arise on behalf of any person 67149
against a licensee in a dual agency relationship for making 67150
disclosures to the parties that are permitted or required by this 67151
chapter or that have been made on the agency disclosure statement. 67152
Making permitted disclosures does not terminate any agency 67153
relationship between a licensee and a client. 67154

(E)(1) If a brokerage determines that confidential 67155
information of one client in a dual agency relationship has become 67156
known to any licensee employed by or affiliated with the brokerage 67157
who is representing the other client in the dual agency 67158
relationship, as a result of the failure of the brokerage, its 67159
licensees, or its employees to maintain such confidentiality, the 67160
brokerage shall do both of the following: 67161

(a) Notify both clients of the fact immediately in writing; 67162

(b) Offer to resign representation of both clients. 67163

(2) If either client elects to accept the resignation, the 67164
brokerage shall not be entitled to any compensation from that 67165
client. If either client does not accept the resignation, the 67166
brokerage may continue to represent that client. 67167

(3) A licensee who obtains confidential information 67168
concerning another client of the brokerage in a dual agency 67169
relationship shall not, under any circumstances, disclose that 67170
information to or use that information for the benefit of the 67171
licensee's client. 67172

(F) A client of a brokerage who is involved in a dual agency 67173
relationship may bring an individual action against a brokerage 67174
and any licensee who has failed to comply with the procedure 67175
described in division (B)(1) of section 4735.71 of the Revised 67176
Code to recover actual damages and to rescind an agency agreement 67177

with the brokerage. 67178

(G) A sole broker shall not represent either the buyer or the seller individually when the brokerage is a dual agent. 67179
67180

Sec. 4735.74. Unless otherwise agreed in writing, a licensee 67181
owes no further duty to a client after performance of all duties 67182
or after any contract has terminated or expired, except for both 67183
of the following: 67184

(A) Providing the client with an accounting of all moneys and 67185
property relating to the transaction; 67186

(B) Keeping confidential all information received during the 67187
course of the transaction unless: 67188

(1) The client permits disclosure; 67189

(2) Disclosure is required by law or by court order; 67190

(3) The information becomes public from a source other than 67191
the licensee; 67192

(4) The information is necessary to prevent a crime the 67193
client intends to commit; 67194

(5) Disclosure is necessary to defend the brokerage or its 67195
licensees against an accusation of wrongful conduct or to 67196
establish or defend a claim that a commission is owed on a 67197
transaction. 67198

(6) Disclosure is regarding sales information requested by a 67199
registered appraiser assistant or a licensed or certified 67200
appraiser for the purposes of performing an appraisal. 67201

Sec. 4735.99. (A) Whoever violates section 4735.02~~7~~ or 67202
4735.021~~7~~ or 4735.22 of the Revised Code is guilty of a 67203
misdemeanor of the first degree. 67204

(B) Whoever violates section 4735.25 or 4735.30 of the 67205

Revised Code is guilty of a felony of the fifth degree, and the 67206
court may impose upon the offender an additional fine of not more 67207
than two thousand five hundred dollars. 67208

Sec. 4740.03. (A) The administrative section of the Ohio 67209
construction industry licensing board annually shall elect from 67210
among its members a chairperson and other officers as the board, 67211
by rule, designates. The chairperson shall preside over meetings 67212
of the administrative section or designate another member to 67213
preside in the chairperson's absence. The administrative section 67214
shall hold at least two regular meetings each year, but may meet 67215
at additional times as specified by rule, at the call of the 67216
chairperson, or upon the request of two or more members. A 67217
majority of the members of the administrative section constitutes 67218
a quorum for the transaction of all business. The administrative 67219
section may not take any action without the concurrence of at 67220
least three of its members. 67221

(B)(1) The administrative section shall employ a secretary, 67222
who is not a member of the board, to serve at the pleasure of the 67223
administrative section, and shall fix the compensation of the 67224
secretary. The secretary shall be in the unclassified civil 67225
service of the state. 67226

(2) The secretary shall do all of the following: 67227

(a) Keep or set standards for and delegate to another person 67228
the keeping of the minutes, books, and other records and files of 67229
the board and each section of the board; 67230

(b) Issue all licenses in the name of the board; 67231

(c) Send out all notices, including advance notices of 67232
meetings of the board and each section of the board, and attend to 67233
all correspondence of the board and each section of the board, 67234
under the direction of the administrative section; 67235

(d) Receive and deposit all fees payable pursuant to this chapter into the ~~industrial compliance~~ labor operating fund created pursuant to section 121.084 of the Revised Code;

(e) Perform all other duties incidental to the office of the secretary or properly assigned to the secretary by the administrative section of the board.

(3) Before entering upon the discharge of the duties of the secretary, the secretary shall file with the treasurer of state a bond in the sum of five thousand dollars, payable to the state, to ensure the faithful performance of the secretary's duties. The board shall pay the premium of the bond in the same manner as it pays other expenditures of the board.

(C) Upon the request of the administrative section of the board, the director of commerce shall supply the board and its sections with personnel, office space, and supplies, as the director determines appropriate. The administrative section of the board shall employ any additional staff it considers necessary and appropriate.

(D) The chairperson of the board or the secretary, or both, as authorized by the board, shall approve all vouchers of the board.

Sec. 4740.11. The Ohio construction industry licensing board and its sections shall deposit all receipts and fines collected under this chapter into the state treasury to the credit of the ~~industrial compliance~~ labor operating fund created in section 121.084 of the Revised Code.

Sec. 4740.14. (A) There is hereby created within the department of commerce the residential construction advisory committee consisting of nine persons the director of commerce appoints. Of the advisory committee's members, three shall be

general contractors who have recognized ability and experience in 67266
the construction of residential buildings, two shall be building 67267
officials who have experience administering and enforcing a 67268
residential building code, one, chosen from a list of three names 67269
the Ohio fire chief's association submits, shall be from the fire 67270
service certified as a fire safety inspector who has at least ten 67271
years of experience enforcing fire or building codes, one shall be 67272
a residential contractor who has recognized ability and experience 67273
in the remodeling and construction of residential buildings, one 67274
shall be an architect registered pursuant to Chapter 4703. of the 67275
Revised Code, with recognized ability and experience in the 67276
architecture of residential buildings, and one, chosen from a list 67277
of three names the Ohio municipal league submits to the director, 67278
shall be a mayor of a municipal corporation in which the Ohio 67279
residential building code is being enforced in the municipal 67280
corporation by a certified building department. 67281

(B) The director shall make appointments to the advisory 67282
committee within ninety days after May 27, 2005. Terms of office 67283
shall be for three years, with each term ending on the date three 67284
years after the date of appointment. Each member shall hold office 67285
from the date of appointment until the end of the term for which 67286
the member was appointed. The director shall fill a vacancy in the 67287
manner provided for initial appointments. Any member appointed to 67288
fill a vacancy in an unexpired term shall hold office for the 67289
remainder of that term. 67290

(C) The advisory committee shall do all of the following: 67291

(1) Recommend to the board of building standards a building 67292
code for residential buildings. The committee shall recommend a 67293
code that it models on a residential building code a national 67294
model code organization issues, with adaptations necessary to 67295
implement the code in this state. If the board of building 67296

standards decides not to adopt a code the committee recommends, 67297
the committee shall revise the code and resubmit it until the 67298
board adopts a code the committee recommends as the state 67299
residential building code; 67300

(2) Advise the board regarding the establishment of standards 67301
for certification of building officials who enforce the state 67302
residential building code; 67303

(3) Assist the board in providing information and guidance to 67304
residential contractors and building officials who enforce the 67305
state residential building code; 67306

(4) Advise the board regarding the interpretation of the 67307
state residential building code; 67308

(5) Provide other assistance the committee considers 67309
necessary. 67310

(D) In making its recommendation to the board pursuant to 67311
division (C)(1) of this section, the advisory committee shall 67312
consider all of the following: 67313

(1) The impact that the state residential building code may 67314
have upon the health, safety, and welfare of the public; 67315

(2) The economic reasonableness of the residential building 67316
code; 67317

(3) The technical feasibility of the residential building 67318
code; 67319

(4) The financial impact that the residential building code 67320
may have on the public's ability to purchase affordable housing. 67321

(E) Members of the advisory committee shall receive no salary 67322
for the performance of their duties as members, but shall receive 67323
their actual and necessary expenses incurred in the performance of 67324
their duties as members of the advisory committee and shall 67325
receive a per diem for each day in attendance at an official 67326

meeting of the committee, to be paid from the ~~industrial~~ 67327
~~compliance labor~~ operating fund in the state treasury, using fees 67328
collected in connection with residential buildings pursuant to 67329
division (F)(2) of section 3781.102 of the Revised Code and 67330
deposited in that fund. 67331

(F) The advisory committee is not subject to divisions (A) 67332
and (B) of section 101.84 of the Revised Code. 67333

Sec. 4755.06. The occupational therapy section of the Ohio 67334
occupational therapy, physical therapy, and athletic trainers 67335
board may make reasonable rules in accordance with Chapter 119. of 67336
the Revised Code relating to, but not limited to, the following: 67337

(A) The form and manner for filing applications for licensure 67338
under sections 4755.04 to 4755.13 of the Revised Code; 67339

(B) The issuance, suspension, and revocation of the licenses 67340
and the conducting of investigations and hearings; 67341

(C) Standards for approval of courses of study relative to 67342
the practice of occupational therapy; 67343

(D) The time and form of examination for the licensure; 67344

(E) Standards of ethical conduct in the practice of 67345
occupational therapy; 67346

(F) The form and manner for filing applications for renewal 67347
and a schedule of deadlines for renewal; 67348

(G) ~~Late fees and the~~ The conditions under which a license of 67349
a licensee who files a late application for renewal will be 67350
reinstated; 67351

(H) Placing an existing license in escrow; 67352

(I) The amount, scope, and nature of continuing education 67353
activities required for license renewal, including waivers ~~and the~~ 67354
~~establishment of appropriate fees to be charged for the~~ 67355

~~administrative costs associated with the review of the continuing~~ 67356
~~education activities requirements;~~ 67357

~~(J) Limited permit guidelines Guidelines for limited permits;~~ 67358

~~(K) Requirements for criminal records checks of applicants~~ 67359
~~under section 4776.03 of the Revised Code;~~ 67360

~~(L) The amounts to be charged for the fees specified in~~ 67361
~~section 4755.12 of the Revised Code;~~ 67362

~~(M) The establishment of fees under division (A)(10) of~~ 67363
~~section 4755.12 of the Revised Code and the amounts to be charged~~ 67364
~~for the fees.~~ 67365

The section may hear testimony in matters relating to the 67366
duties imposed upon it, and the chairperson and secretary of the 67367
section may administer oaths. The section may require proof, 67368
beyond the evidence found in the application, of the honesty, 67369
truthfulness, and good reputation of any person named in an 67370
application for ~~such~~ licensure, before admitting the applicant to 67371
an examination or issuing a license. 67372

Sec. 4755.12. ~~(A)~~ The occupational therapy section of the 67373
Ohio occupational therapy, physical therapy, and athletic trainers 67374
board shall charge ~~a~~ all of the following fees: 67375

~~(1) A nonrefundable examination fee, established pursuant to~~ 67376
~~section 4755.03 of the Revised Code,~~ which is to be paid at the 67377
time of application for licensure. 67378

~~The section shall charge an~~; 67379

~~(2) An application fee for an initial license;~~ 67380

~~(3) An initial licensure fee, established pursuant to section~~ 67381
~~4755.03 of the Revised Code.~~ 67382

~~The section shall charge a~~; 67383

~~(4) A fee for biennial renewal fee and shall charge a of a~~ 67384

<u>license;</u>	67385
<u>(6) A fee for late renewal of a license;</u>	67386
<u>(7) An appropriate fee for the administrative costs</u> <u>associated with the review of continuing education activities;</u>	67387 67388
<u>(8) A fee for a limited permit, established pursuant to;</u>	67389
<u>(9) A fee for verification of a license;</u>	67390
<u>(10) Any other fee the occupational therapy section considers</u> <u>appropriate and establishes in rules adopted under section 4755.03</u> <u>4755.06 of the Revised Code.</u>	67391 67392 67393
<u>(B) Any person who is qualified to practice occupational</u> <u>therapy as certified by the section, but who is not in the active</u> <u>practice, as defined by section rule, may register with the</u> <u>section as a nonactive licensee at a biennial fee, established</u> <u>pursuant to section 4755.03 of the Revised Code.</u>	67394 67395 67396 67397 67398
<u>(C) The section may, by rule, provide for the waiver of all</u> <u>or part of a fee when the license is issued less than one hundred</u> <u>days before the date on which it will expire.</u>	67399 67400 67401
<u>(D) Except when all of part of a fee is waived under division</u> <u>(C) of this section, the amount charged by the occupational</u> <u>therapy section for each of its fees shall be the applicable</u> <u>amount determined in rules adopted under section 4755.06 of the</u> <u>Revised Code.</u>	67402 67403 67404 67405 67406
Sec. 4757.10. The counselor, social worker, and marriage and family therapist board may adopt any rules necessary to carry out this chapter.	67407 67408 67409
The board shall adopt rules that do all of the following:	67410
(A) Concern intervention for and treatment of any impaired person holding a license or certificate of registration issued under this chapter;	67411 67412 67413

(B) Establish standards for training and experience of supervisors described in division (C) of section 4757.30 of the Revised Code;

(C) Define the requirement that an applicant be of good moral character in order to be licensed or registered under this chapter;

(D) Establish requirements for criminal records checks of applicants under section 4776.03 of the Revised Code;

(E) Establish a graduated system of fines based on the scope and severity of violations and the history of compliance, not to exceed five hundred dollars per incident, that any professional standards committee of the board may charge for a disciplinary violation described in section 4757.36 of the Revised Code.

All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. When it adopts rules under this section or any other section of this chapter, the board may consider standards established by any national association or other organization representing the interests of those involved in professional counseling, social work, or marriage and family therapy.

Sec. 4757.31. (A) Subject to division (B) of this section, the counselor, social worker, and marriage and family therapist board shall establish, and may from time to time adjust, fees to be charged for the following:

(1) Examination for licensure as a professional clinical counselor, professional counselor, marriage and family therapist, independent marriage and family therapist, social worker, or independent social worker;

(2) Initial licenses of professional clinical counselors, professional counselors, marriage and family therapists,

independent marriage and family therapists, social workers, and 67444
independent social workers, except that the board shall charge 67445
only one fee to a person who fulfills all requirements for more 67446
than one of the following initial licenses: an initial license as 67447
a social worker or independent social worker, an initial license 67448
as a professional counselor or professional clinical counselor, 67449
and an initial license as a marriage and family therapist or 67450
independent marriage and family therapist; 67451

(3) Initial certificates of registration of social work 67452
assistants; 67453

(4) Renewal and late renewal of licenses of professional 67454
clinical counselors, professional counselors, marriage and family 67455
therapists, independent marriage and family therapists, social 67456
workers, and independent social workers and renewal and late 67457
renewal of certificates of registration of social work assistants; 67458

(5) Verification, to another jurisdiction, of a license or 67459
registration issued by the board; 67460

(6) Continuing education programs offered by the board to 67461
licensees or registrants. 67462

(B) The fees charged under division (A)(1) of this section 67463
shall be established in amounts sufficient to cover the direct 67464
expenses incurred in examining applicants for licensure. The fees 67465
charged under divisions (A)(2), ~~(3), and (4)~~ to (A)(6) of this 67466
section shall be nonrefundable and shall be established in amounts 67467
sufficient to cover the necessary expenses in administering this 67468
chapter and rules adopted under it that are not covered by fees 67469
charged under division (A)(1) or (C) of this section. The renewal 67470
fee for a license or certificate of registration shall not be less 67471
than the initial fee for that license or certificate. The fees 67472
charged for licensure and registration and the renewal of 67473
licensure and registration may differ for the various types of 67474

licensure and registration, but shall not exceed one hundred 67475
twenty-five dollars each, unless the board determines that amounts 67476
in excess of one hundred twenty-five dollars are needed to cover 67477
its necessary expenses in administering this chapter and rules 67478
adopted under it and the amounts in excess of one hundred 67479
twenty-five dollars are approved by the controlling board. 67480

(C) All receipts of the board shall be deposited in the state 67481
treasury to the credit of the occupational licensing and 67482
regulatory fund. All vouchers of the board shall be approved by 67483
the chairperson or executive director of the board, or both, as 67484
authorized by the board. 67485

Sec. 4757.36. (A) The appropriate professional standards 67486
~~committees~~ committee of the counselor, social worker, and marriage 67487
and family therapist board may, in accordance with Chapter 119. of 67488
the Revised Code, ~~may refuse to issue a license or certificate of~~ 67489
~~registration applied for under this chapter; refuse to renew a~~ 67490
~~license or certificate of registration issued under this chapter;~~ 67491
~~suspend, revoke, or otherwise restrict a license or certificate of~~ 67492
~~registration issued under this chapter; or reprimand a person~~ 67493
~~holding a license or certificate of registration issued under this~~ 67494
~~chapter. Such actions may be taken by the appropriate committee if~~ 67495
~~the applicant for a license or certificate of registration or the~~ 67496
~~person holding a license or certificate of registration has~~ take 67497
any action specified in division (B) of this section against an 67498
individual who has applied for or holds a license to practice as a 67499
professional clinical counselor, professional counselor, 67500
independent marriage and family therapist, marriage and family 67501
therapist, social worker, or independent social worker, or a 67502
certificate of registration to practice as a social work 67503
assistant, for any reason described in division (C) of this 67504
section. 67505

<u>(B) In its imposition of sanctions against an individual, the</u>	67506
<u>board may do any of the following:</u>	67507
<u>(1) Refuse to issue a license or certificate of registration;</u>	67508
<u>(2) Suspend, revoke, or otherwise restrict a license or</u>	67509
<u>certificate of registration;</u>	67510
<u>(3) Reprimand an individual holding a license or certificate</u>	67511
<u>of registration;</u>	67512
<u>(4) Impose a fine in accordance with the graduated system of</u>	67513
<u>finest established by the board in rules adopted under section</u>	67514
<u>4757.10 of the Revised Code.</u>	67515
<u>(C) The appropriate professional standards committee of the</u>	67516
<u>board may take an action specified in division (B) of this section</u>	67517
<u>for any of the following reasons:</u>	67518
<u>(1) Committed a violation of <u>Commission of an act that</u></u>	67519
<u>violates any provision of this chapter or rules adopted under it;</u>	67520
<u>(2) Knowingly made <u>making</u> a false statement on an application</u>	67521
<u>for licensure or registration, or for renewal of a license or</u>	67522
<u>certificate of registration;</u>	67523
<u>(3) Accepted <u>Accepting</u> a commission or rebate for referring</u>	67524
<u>persons to any professionals licensed, certified, or registered by</u>	67525
<u>any court or board, commission, department, division, or other</u>	67526
<u>agency of the state, including, but not limited to, individuals</u>	67527
<u>practicing counseling, social work, or marriage and family therapy</u>	67528
<u>or practicing in fields related to counseling, social work, or</u>	67529
<u>marriage and family therapy;</u>	67530
<u>(4) Failed <u>A failure</u> to comply with section 4757.12 of the</u>	67531
<u>Revised Code;</u>	67532
<u>(5) Been convicted <u>A conviction</u> in this or any other state of</u>	67533
<u>any a crime that is a felony in this state;</u>	67534
<u>(6) Had the ability <u>A failure</u> to perform properly as a</u>	67535

professional clinical counselor, professional counselor, 67536
independent marriage and family therapist, marriage and family 67537
therapist, social work assistant, social worker, or independent 67538
social worker ~~impaired~~ due to the use of alcohol or other drugs or 67539
any other physical or mental condition; 67540

(7) ~~Been convicted~~ A conviction in this state or in any other 67541
state of a misdemeanor committed in the course of practice as a 67542
professional clinical counselor, professional counselor, 67543
independent marriage and family therapist, marriage and family 67544
therapist, social work assistant, social worker, or independent 67545
social worker; 67546

(8) ~~Practiced~~ Practicing outside the scope of practice 67547
applicable to that person; 67548

(9) ~~Practiced without complying with~~ Practicing in violation 67549
of the supervision requirements specified under sections 4757.21 67550
and 4757.26, and division (F) of section 4757.30, of the Revised 67551
Code; 67552

(10) ~~Violated~~ A violation of the person's code of ethical 67553
practice adopted by rule of the board pursuant to section 4757.11 67554
of the Revised Code; 67555

(11) ~~Had~~ Revocation or suspension of a license or certificate 67556
of registration ~~revoked or suspended~~, or ~~voluntarily surrendered~~ 67557
the voluntary surrender of a license or certificate of 67558
registration in another state or jurisdiction for an offense that 67559
would be a violation of this chapter. 67560

~~(B)~~(D) One year or more after the date of suspension or 67561
revocation of a license or certificate of registration under this 67562
section, application may be made to the appropriate professional 67563
standards committee for reinstatement. The committee may accept or 67564
refuse an application for reinstatement. If a license has been 67565
suspended or revoked, the committee may require an examination for 67566

reinstatement. 67567

(E) On request of the board, the attorney general shall bring 67568
and prosecute to judgment a civil action to collect any fine 67569
imposed under division (B)(4) of this section that remains unpaid. 67570

(F) All fines collected under division (B)(4) of this section 67571
shall be deposited into the state treasury to the credit of the 67572
occupational licensing and regulatory fund. 67573

Sec. 4763.01. As used in this chapter: 67574

(A) "Real estate appraisal" or "appraisal" means an analysis, 67575
opinion, or conclusion relating to the nature, quality, value, or 67576
utility of specified interests in, or aspects of identified real 67577
estate that is classified as either a valuation or an analysis. 67578

(B) "Valuation" means an estimate of the value of real 67579
estate. 67580

(C) "Analysis" means a study of real estate for purposes 67581
other than valuation. 67582

(D) "Appraisal report" means a written communication of a 67583
real estate appraisal, appraisal review, or appraisal consulting 67584
service or an oral communication of a real estate appraisal 67585
accompanied, appraisal review, or appraisal consulting service 67586
that is documented by a writing that supports the oral 67587
communication. 67588

(E) "Appraisal assignment" means an engagement for which a 67589
person licensed or certified under this chapter is employed ~~or~~, 67590
retained, or engaged to act, or would be perceived by third 67591
parties or the public as acting, as a disinterested third party in 67592
rendering an unbiased real estate appraisal. 67593

(F) "Specialized services" means all appraisal services, 67594
other than appraisal assignments, including, but not limited to, 67595
valuation and analysis given in connection with activities such as 67596

real estate brokerage, mortgage banking, real estate counseling, 67597
and real estate tax counseling, and specialized marketing, 67598
financing, and feasibility studies. 67599

(G) "Real estate" has the same meaning as in section 4735.01 67600
of the Revised Code. 67601

(H) "Appraisal foundation" means a nonprofit corporation 67602
incorporated under the laws of the state of Illinois on November 67603
30, 1987, for the purposes of establishing and improving uniform 67604
appraisal standards by defining, issuing, and promoting those 67605
standards; establishing appropriate criteria for the certification 67606
and recertification of qualified appraisers by defining, issuing, 67607
and promoting the qualification criteria and disseminating the 67608
qualification criteria to others; and developing or assisting in 67609
development of appropriate examinations for qualified appraisers. 67610

(I) "Prepare" means to develop and communicate, whether 67611
through a personal physical inspection or through the act or 67612
process of critically studying a report prepared by another who 67613
made the physical inspection, an appraisal, analysis, or opinion, 67614
or specialized service and to report the results. If the person 67615
who develops and communicates the appraisal or specialized service 67616
does not make the personal inspection, the name of the person who 67617
does make the personal inspection shall be identified on the 67618
appraisal or specialized service reported. 67619

(J) "Report" means any communication, written, oral, or by 67620
any other means of transmission of information, of a real estate 67621
appraisal, appraisal review, appraisal consulting service, or 67622
specialized service that is transmitted to a client or employer 67623
upon completion of the appraisal or service. 67624

(K) "State-certified general real estate appraiser" means any 67625
person who satisfies the certification requirements of this 67626
chapter relating to the appraisal of all types of real property 67627

and who holds a current and valid certificate or renewal 67628
certificate issued to the person pursuant to this chapter. 67629

(L) "State-certified residential real estate appraiser" means 67630
any person who satisfies the certification requirements only 67631
relating to the appraisal of one to four units of single-family 67632
residential real estate without regard to transaction value or 67633
complexity and who holds a current and valid certificate or 67634
renewal certificate issued to the person pursuant to this chapter. 67635

(M) "State-licensed residential real estate appraiser" means 67636
any person who satisfies the licensure requirements of this 67637
chapter relating to the appraisal of noncomplex one-to-four unit 67638
single-family residential real estate having a transaction value 67639
of less than one million dollars and complex one-to-four unit 67640
single-family residential real estate having a transaction value 67641
of less than two hundred fifty thousand dollars and who holds a 67642
current and valid license or renewal license issued to the person 67643
pursuant to this chapter. 67644

(N) "Certified or licensed real estate appraisal" means an 67645
appraisal prepared and reported by a certificate holder or 67646
licensee under this chapter acting within the scope of 67647
certification or licensure and as a disinterested third party. 67648

(O) "State-registered real estate appraiser assistant" means 67649
any person, other than a state-certified general real estate 67650
appraiser, state-certified residential real estate appraiser, or a 67651
state-licensed residential real estate appraiser, who satisfies 67652
the registration requirements of this chapter for participating in 67653
the development and preparation of real estate appraisals and who 67654
holds a current and valid registration or renewal registration 67655
issued to the person pursuant to this chapter. 67656

(P) "Institution of higher education" means a state 67657
university or college, a private college or university located in 67658

this state that possesses a certificate of authorization issued by 67659
the Ohio board of regents pursuant to Chapter 1713. of the Revised 67660
Code, or an accredited college or university located outside this 67661
state that is accredited by an accrediting organization or 67662
professional accrediting association recognized by the Ohio board 67663
of regents. 67664

(Q) "Division of real estate" may be used interchangeably 67665
with, and for all purposes has the same meaning as, "division of 67666
real estate and professional licensing." 67667

(R) "Superintendent" or "superintendent of real estate" means 67668
the superintendent of the division of real estate and professional 67669
licensing of this state. Whenever the division or superintendent 67670
of real estate is referred to or designated in any statute, rule, 67671
contract, or other document, the reference or designation shall be 67672
deemed to refer to the division or superintendent of real estate 67673
and professional licensing, as the case may be. 67674

(S) "Appraisal review" means the act or process of developing 67675
and communicating an opinion about the quality of another 67676
appraiser's work that was performed as part of an appraisal, 67677
appraisal review, or appraisal consulting assignment. 67678

(T) "Appraisal consulting" means the act or process of 67679
developing an analysis, recommendation, or opinion to solve a 67680
problem related to real estate. 67681

(U) "Work file" means documentation used during the 67682
preparation of an appraisal report or necessary to support an 67683
appraiser's analyses, opinions, or conclusions. 67684

Sec. 4763.03. (A) In addition to any other duties imposed on 67685
the real estate appraiser board under this chapter, the board 67686
shall: 67687

(1) Adopt rules, in accordance with Chapter 119. of the 67688

Revised Code, in furtherance of this chapter, including, but not limited to, all of the following:

(a) Defining, with respect to state-certified general real estate appraisers, state-certified residential real estate appraisers, and state-licensed residential real estate appraisers, the type of educational experience, appraisal experience, and other equivalent experience that satisfy the requirements of this chapter. The rules shall require that all appraisal experience performed after January 1, 1996, meet the uniform standards of professional practice established by the appraisal foundation.

(b) Establishing the examination specifications for state-certified general real estate appraisers, state-certified residential real estate appraisers, and state-licensed residential real estate appraisers;

(c) Relating to disciplinary proceedings conducted in accordance with section 4763.11 of the Revised Code, including rules governing the reinstatement of certificates, registrations, and licenses that have been suspended pursuant to those proceedings;

(d) Identifying any additional information to be included on the forms specified in division (C) of section 4763.12 of the Revised Code, provided that the rules shall not require any less information than is required in that division;

(e) Establishing the fees set forth in section 4763.09 of the Revised Code;

(f) Establishing the amount of the assessment required by division (A)(2) of section 4763.05 of the Revised Code. The board annually shall determine the amount due from each applicant for an initial certificate, registration, and license in an amount that will maintain the real estate appraiser recovery fund at the level specified in division (A) of section 4763.16 of the Revised Code.

The board may, if the fund falls below that amount, require 67720
current certificate holders, registrants, and licensees to pay an 67721
additional assessment. 67722

(g) Defining the educational requirements pursuant to 67723
division (C) of section 4763.05 of the Revised Code; 67724

(h) Establishing a real estate appraiser assistant program 67725
for the registration of real estate appraiser assistants. 67726

(2) Prescribe by rule the requirements for the examinations 67727
required by division (D) of section 4763.05 of the Revised Code; 67728

(3) Periodically review the standards for ~~preparation and~~ 67729
~~reporting of real estate appraisals~~ the development and reporting 67730
of appraisal reports provided in this chapter and adopt rules 67731
explaining and interpreting those standards; 67732

(4) Hear appeals, pursuant to Chapter 119. of the Revised 67733
Code, from decisions and orders the superintendent of real estate 67734
issues pursuant to this chapter; 67735

(5) Request the initiation by the superintendent of 67736
investigations of violations of this chapter or the rules adopted 67737
pursuant thereto, as the board determines appropriate; 67738

(6) Determine the appropriate disciplinary actions to be 67739
taken against certificate holders, registrants, and licensees 67740
under this chapter as provided in section 4763.11 of the Revised 67741
Code. 67742

(B) In addition to any other duties imposed on the 67743
superintendent of real estate under this chapter, the 67744
superintendent shall: 67745

(1) Prescribe the form and content of all applications 67746
required by this chapter; 67747

(2) Receive applications for certifications, registrations, 67748
and licenses and renewal thereof under this chapter and establish 67749

the procedures for processing, approving, and disapproving those applications; 67750
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(3) Retain records and all application materials submitted to the superintendent; 67752
67753

(4) Establish the time and place for conducting the examinations required by division (D) of section 4763.05 of the Revised Code; 67754
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67756

(5) Issue certificates, registrations, and licenses and maintain a register of the names and addresses of all persons issued a certificate, registration, or license under this chapter; 67757
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(6) Perform any other functions and duties, including the employment of staff, necessary to administer this chapter; 67760
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(7) Administer this chapter; 67762

(8) Issue all orders necessary to implement this chapter; 67763

(9) Investigate complaints, upon the superintendent's own motion or upon receipt of a complaint or upon a request of the board, concerning any violation of this chapter or the rules adopted pursuant thereto or the conduct of any person holding a certificate, registration, or license issued pursuant to this chapter; 67764
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(10) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The investigators and auditors have the right to review and audit the business records of certificate holders, registrants, and licensees during normal business hours. The superintendent may utilize the investigators and auditors employed pursuant to division (B)(4) of section 4735.05 of the Revised Code or currently licensed certificate holders or licensees to assist in performing the duties of this 67770
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division. 67780

(11) Appoint a referee or examiner for any proceeding 67781
involving the ~~revocation or suspension of a certificate,~~ 67782
~~registration, or license under section 3123.47 or disciplinary~~ 67783
action of a certificate holder, licensee, or registrant under 67784
section 4763.11 of the Revised Code; 67785

(12) Administer the real estate appraiser recovery fund; 67786

(13) Conduct the examinations required by division (D) of 67787
section 4763.05 of the Revised Code at least four times per year. 67788

(C) The superintendent may do all of the following: 67789

(1) In connection with investigations and audits under 67790
division (B) of this section, subpoena witnesses as provided in 67791
section 4763.04 of the Revised Code; 67792

(2) Apply to the appropriate court to enjoin any violation of 67793
this chapter. Upon a showing by the superintendent that any person 67794
has violated or is about to violate this chapter, the court shall 67795
grant an injunction, restraining order, or other appropriate 67796
relief, or any combination thereof. 67797

(D) All information that is obtained by investigators and 67798
auditors performing investigations or conducting inspections, 67799
audits, and other inquiries pursuant to division (B)(10) of this 67800
section, from certificate holders, registrants, licensees, 67801
complainants, or other persons, and all reports, documents, and 67802
other work products that arise from that information and that are 67803
prepared by the investigators, auditors, or other personnel of the 67804
department of commerce, shall be held in confidence by the 67805
superintendent, the investigators and auditors, and other 67806
personnel of the department. 67807

(E) This section does not prevent the division of real estate 67808
and professional licensing from releasing information relating to 67809

certificate holders, registrants, and licensees to the 67810
superintendent of financial institutions for purposes relating to 67811
the administration of sections 1322.01 to 1322.12 of the Revised 67812
Code, to the superintendent of insurance for purposes relating to 67813
the administration of Chapter 3953. of the Revised Code, to the 67814
attorney general, or to local law enforcement agencies and local 67815
prosecutors. Information released by the division pursuant to this 67816
section remains confidential. 67817

(F) Any rule the board adopts shall not exceed the 67818
requirements specified in federal law or regulations. 67819

Sec. 4763.04. The real estate appraiser board or the 67820
superintendent ~~or~~ of real estate may compel, by order or subpoena, 67821
the attendance of witnesses to testify in relation to any matter 67822
over which the board or the superintendent has jurisdiction and 67823
which is the subject of the inquiry and investigation by the board 67824
or superintendent, and require the production of any book, paper, 67825
or document pertaining to such matter. For such purpose, the board 67826
or the superintendent has the same power as judges of county 67827
courts to administer oaths, compel the attendance of witnesses, 67828
and punish witnesses for refusal to testify. ~~Sheriffs and service~~ 67829
of the subpoena may be made by constables or by certified mail, 67830
return receipt requested, and the subpoena shall be deemed served 67831
on the date delivery is made or the date the person refuses to 67832
accept delivery. Sheriffs or constables shall ~~serve and~~ return 67833
such process and shall receive the same fees for doing so as are 67834
allowed for like service if service of the subpoena is made by 67835
sheriffs or constables. Witnesses shall receive, after their 67836
appearance before the board or the superintendent, the fees and 67837
mileage provided for under section 119.094 of the Revised Code. If 67838
two or more witnesses travel together in the same vehicle, the 67839
mileage fee shall be paid to only one of those witnesses, but the 67840
witnesses may agree to divide the fee among themselves in any 67841

manner. 67842

In addition to the powers and duties granted to the board and 67843
the superintendent under this section, in case any person fails to 67844
file any statement or report, obey any subpoena, give testimony, 67845
answer questions, or produce books, records, or papers as required 67846
by the board or the superintendent under this chapter, the court 67847
of common pleas of any county in the state, upon application made 67848
to it by the board or the superintendent setting forth the 67849
failure, may make an order awarding process of subpoena or 67850
subpoena duces tecum for the person to appear and testify before 67851
the board or the superintendent, and may order any person to give 67852
testimony and answer questions, and to produce books, records, or 67853
papers, as required by the board or the superintendent. Upon the 67854
filing of such order in the office of the clerk of the court of 67855
common pleas, the clerk, under the seal of the court, shall issue 67856
process or subpoena, and each day thereafter until the examination 67857
of the person is completed. The subpoena may contain a direction 67858
that the witness bring with the witness to the examination any 67859
books, records, or papers mentioned in the subpoena. The clerk 67860
also shall issue, under the seal of the court, such other orders, 67861
in reference to the examination, appearance, and production of 67862
books, records, or papers, as the court directs. If any person 67863
summoned by subpoena fails to obey the subpoena, to give 67864
testimony, to answer questions as required, or to obey an order of 67865
the court, the court, on motion supported by proof, may order an 67866
attachment for contempt to be issued against the person charged 67867
with disobedience of any order or injunction issued by the court 67868
under this chapter. If the person is brought before the court by 67869
virtue of the attachment, and if upon a hearing the disobedience 67870
appears, the court may order the offender to be committed and kept 67871
in close custody. 67872

Sec. 4763.05. (A)(1)(a) A person shall make application for 67873

an initial state-certified general real estate appraiser 67874
certificate, an initial state-certified residential real estate 67875
appraiser certificate, an initial state-licensed residential real 67876
estate appraiser license, or an initial state-registered real 67877
estate appraiser assistant registration in writing to the 67878
superintendent of real estate on a form the superintendent 67879
prescribes. The application shall include the address of the 67880
applicant's principal place of business and all other addresses at 67881
which the applicant currently engages in the business of preparing 67882
real estate appraisals and the address of the applicant's current 67883
residence. The superintendent shall retain the applicant's current 67884
residence address in a separate record which shall not constitute 67885
a public record for purposes of section 149.03 of the Revised 67886
Code. The application shall indicate whether the applicant seeks 67887
certification as a general real estate appraiser or as a 67888
residential real estate appraiser, licensure as a residential real 67889
estate appraiser, or registration as a real estate appraiser 67890
assistant and be accompanied by the prescribed examination and 67891
certification, registration, or licensure fees set forth in 67892
section 4763.09 of the Revised Code. The application also shall 67893
include ~~a fingerprint of the applicant;~~ a pledge, signed by the 67894
applicant, that the applicant will comply with the standards set 67895
forth in this chapter; and a statement that the applicant 67896
understands the types of misconduct for which disciplinary 67897
proceedings may be initiated against the applicant pursuant to 67898
this chapter. 67899

(b) Upon the filing of an application and payment of any 67900
examination and certification, registration, or licensure fees, 67901
the superintendent of real estate shall request the superintendent 67902
of the bureau of criminal identification and investigation, or a 67903
vendor approved by the bureau, to conduct a criminal records check 67904
based on the applicant's fingerprints in accordance with division 67905
(A)(11) of section 109.572 of the Revised Code. Notwithstanding 67906

division (K) of section 121.08 of the Revised Code, the 67907
superintendent of real estate shall request that criminal record 67908
information from the federal bureau of investigation be obtained 67909
as part of the criminal records check. Any fee required under 67910
division (C)(3) of section 109.572 of the Revised Code shall be 67911
paid by the applicant. 67912

(2) For purposes of providing funding for the real estate 67913
appraiser recovery fund established by section 4763.16 of the 67914
Revised Code, the real estate appraiser board shall levy an 67915
assessment against each person issued an initial certificate, 67916
registration, or license and against current licensees, 67917
registrants, and certificate holders, as required by board rule. 67918
The assessment is in addition to the application and examination 67919
fees for initial applicants required by division (A)(1) of this 67920
section and the renewal fees required for current certificate 67921
holders, registrants, and licensees. The superintendent of real 67922
estate shall deposit the assessment into the state treasury to the 67923
credit of the real estate appraiser recovery fund. The assessment 67924
for initial certificate holders, registrants, and licensees shall 67925
be paid prior to the issuance of a certificate, registration, or 67926
license, and for current certificate holders, registrants, and 67927
licensees, at the time of renewal. 67928

(B) An applicant for an initial general real estate appraiser 67929
certificate, residential real estate appraiser certificate, or 67930
residential real estate appraiser license shall possess experience 67931
in real estate appraisal as the board prescribes by rule. In 67932
addition to any other information required by the board, the 67933
applicant shall furnish, under oath, a detailed listing of the 67934
appraisal reports or file memoranda for each year for which 67935
experience is claimed and, upon request of the superintendent or 67936
the board, shall make available for examination a sample of the 67937
appraisal reports prepared by the applicant in the course of the 67938

applicant's practice. 67939

(C) An applicant for an initial certificate, registration, or 67940
license shall be at least eighteen years of age, honest, truthful, 67941
and of good reputation and shall present satisfactory evidence to 67942
the superintendent that the applicant has successfully completed 67943
any education requirements the board prescribes by rule. 67944

(D) An applicant for an initial general real estate appraiser 67945
or residential real estate appraiser certificate or residential 67946
real estate appraiser license shall take and successfully complete 67947
a written examination in order to qualify for the certificate or 67948
license. 67949

The board shall prescribe the examination requirements by 67950
rule. 67951

(E)(1) A nonresident, natural person of this state who has 67952
complied with this section may obtain a certificate, registration, 67953
or license. The board shall adopt rules relating to the 67954
certification, registration, and licensure of a nonresident 67955
applicant whose state of residence the board determines to have 67956
certification, registration, or licensure requirements that are 67957
substantially similar to those set forth in this chapter and the 67958
rules adopted thereunder. 67959

(2) The board shall recognize on a temporary basis a 67960
certification or license issued in another state and shall 67961
register on a temporary basis an appraiser who is certified or 67962
licensed in another state if all of the following apply: 67963

(a) The temporary registration is to perform an appraisal 67964
assignment that is part of a federally related transaction. 67965

(b) The appraiser's business in this state is of a temporary 67966
nature. 67967

(c) The appraiser registers with the board pursuant to this 67968

division. 67969

An appraiser who is certified or licensed in another state 67970
shall register with the board for temporary practice before 67971
performing an appraisal assignment in this state in connection 67972
with a federally related transaction. 67973

The board shall adopt rules relating to registration for the 67974
temporary recognition of certification and licensure of appraisers 67975
from another state. The registration for temporary recognition of 67976
certified or licensed appraisers from another state shall not 67977
authorize completion of more than one appraisal assignment in this 67978
state. The board shall not issue more than two registrations for 67979
temporary practice to any one applicant in any calendar year. 67980

(3) In addition to any other information required to be 67981
submitted with the nonresident applicant's or appraiser's 67982
application for a certificate, registration, license, or temporary 67983
recognition of a certificate or license, each nonresident 67984
applicant or appraiser shall submit a statement consenting to the 67985
service of process upon the nonresident applicant or appraiser by 67986
means of delivering that process to the secretary of state if, in 67987
an action against the applicant, certificate holder, registrant, 67988
or licensee arising from the applicant's, certificate holder's, 67989
registrant's, or licensee's activities as a certificate holder, 67990
registrant, or licensee, the plaintiff, in the exercise of due 67991
diligence, cannot effect personal service upon the applicant, 67992
certificate holder, registrant, or licensee. 67993

(F) The superintendent shall not issue a certificate, 67994
registration, or license to, or recognize on a temporary basis an 67995
appraiser from another state that is a corporation, partnership, 67996
or association. This prohibition shall not be construed to prevent 67997
a certificate holder or licensee from signing an appraisal report 67998
on behalf of a corporation, partnership, or association. 67999

(G) Every person licensed, registered, or certified under this chapter shall notify the superintendent, on a form provided by the superintendent, of a change in the address of the licensee's, registrant's, or certificate holder's principal place of business or residence within thirty days of the change. If a licensee's, registrant's, or certificate holder's license, registration, or certificate is revoked or not renewed, the licensee, registrant, or certificate holder immediately shall return the annual and any renewal certificate, registration, or license to the superintendent.

(H)(1) The superintendent shall not issue a certificate, registration, or license to any person, or recognize on a temporary basis an appraiser from another state, who does not meet applicable minimum criteria for state certification, registration, or licensure prescribed by federal law or rule.

(2) The superintendent shall not issue a general real estate appraiser certificate, residential real estate appraiser certificate, residential real estate appraiser license, or real estate appraiser assistant registration to any person who has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities, including a violation of an existing or former law of this state, any other state, or the United States that substantially is equivalent to such an offense. However, if the applicant has pleaded guilty to or been convicted of such an offense, the superintendent shall not consider the offense if the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the

applicant will commit such an offense again. 68032

Sec. 4763.07. (A) Every state-certified general real estate 68033
appraiser, state-certified residential real estate appraiser, and 68034
state-licensed residential real estate appraiser, ~~and~~ 68035
~~state-registered real estate appraiser assistant~~ shall submit 68036
proof of successfully completing a minimum of fourteen classroom 68037
hours of continuing education instruction in courses or seminars 68038
approved by the real estate appraiser board. The certificate 68039
holder and licensee shall have satisfied the fourteen-hour 68040
continuing education requirements within the one-year period 68041
immediately following the issuance of the initial certificate or 68042
license and shall satisfy those requirements annually thereafter. 68043
A state-registered real estate appraiser assistant who remains in 68044
this classification for more than two years shall satisfy in the 68045
third and successive years this section's requirements. If the 68046
certificate holder ~~or~~, licensee, or registrant fails to submit 68047
proof to the superintendent of meeting these requirements, the 68048
certificate holder's, registrant's, or licensee's certificate ~~or~~, 68049
license, or registration automatically is suspended. The 68050
superintendent shall notify the certificate holder ~~or~~, licensee, 68051
or registrant of the suspension and if the certificate holder ~~or~~, 68052
licensee, or registrant fails to submit proof to the 68053
superintendent of meeting those requirements within three months 68054
from the date of suspension, the superintendent shall revoke the 68055
certificate ~~or~~, license, or registration. If a certificate holder 68056
~~or~~, licensee, or registrant whose certificate ~~or~~, license, or 68057
registration has been revoked under this division desires to be 68058
certified ~~or~~, licensed, or registered under this chapter the 68059
certificate holder ~~or~~, licensee, or registrant shall apply for an 68060
initial certificate ~~or~~, license, or registration and shall meet 68061
all of the requirements of section 4763.05 of the Revised Code for 68062
the issuance of a certificate ~~or~~, license, or registration. 68063

A certificate holder ~~and~~, licensee, or registrant may satisfy 68064
all or a portion of the required hours of classroom instruction in 68065
the following manner: 68066

(1) Completion of an educational program of study determined 68067
by the board to be equivalent, for continuing education purposes, 68068
to courses or seminars approved by the board; 68069

(2) Participation, other than as a student, in educational 68070
processes or programs approved by the board that relate to real 68071
estate appraisal theory, practices, or techniques. 68072

A certificate holder and a licensee shall present to the 68073
superintendent of real estate evidence of the manner in which the 68074
certificate holder and licensee satisfied the requirements of 68075
division (A) of this section. 68076

(B) The board shall adopt rules for implementing a continuing 68077
education program for state-certified general real estate 68078
appraisers, state-certified residential real estate appraisers, 68079
state-licensed residential real estate appraisers, and 68080
state-registered real estate appraiser assistants for the purpose 68081
of assuring that certificate holders ~~and~~, licensees, and 68082
registrants have current knowledge of real estate appraisal 68083
theories, practices, and techniques that will provide a high 68084
degree of service and protection to members of the public. In 68085
addition to any other provisions the board considers appropriate, 68086
the rules adopted by the board shall prescribe the following: 68087

(1) Policies and procedures for obtaining board approval of 68088
courses of instruction and seminars; 68089

(2) Standards, policies, and procedures to be applied in 68090
evaluating the alternative methods of complying with continuing 68091
education requirements set forth in divisions (A)(1) and (2) of 68092
this section; 68093

(3) Standards, monitoring methods, and systems for recording 68094

attendance to be employed by course sponsors as a prerequisite to approval of courses for continuing education credit. 68095
68096

(C) No amendment or rescission of a rule the board adopts pursuant to division (B) of this section shall operate to deprive a certificate holder or licensee of credit toward renewal of certification or licensure for any course of instruction completed by the certificate holder or licensee prior to the effective date of the amendment or rescission that would have qualified for credit under the rule as it existed prior to amendment or rescission. 68097
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(D) The superintendent of real estate shall not issue a renewal certificate, registration, or license to any person who does not meet applicable minimum criteria for state certification, registration, or licensure prescribed by federal law or rule. 68105
68106
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68108

Sec. 4763.09. (A) The real estate appraiser board shall adopt rules, in accordance with Chapter 119. of the Revised Code, for the establishment of the following fees: 68109
68110
68111

(1) The examination fee required under division (A) of section 4763.05 of the Revised Code, up to a maximum of one hundred fifty dollars, which fee shall be nonrefundable; 68112
68113
68114

(2) The initial state-certified general real estate appraiser and state-certified residential real estate appraiser certification and state-licensed residential real estate appraiser license fees, and the annual renewal thereof, up to a maximum of one hundred ~~twenty-five~~ seventy-five dollars each; 68115
68116
68117
68118
68119

(3) The initial real estate appraiser assistant registration fee, and the annual renewal thereof, up to a maximum of ~~fifty one~~ hundred dollars; 68120
68121
68122

(4) The late filing fee for renewal of a certification, registration, or license, which shall be one-half of the 68123
68124

certification, registration, and licensure fees established 68125
pursuant to divisions (A)(2) and (3) of this section; 68126

(5) The amount to be charged to cover the cost of the 68127
issuance of a temporary certificate or license under division 68128
(E)(2) of section 4763.05 of the Revised Code; 68129

(6) Other reasonable fees as needed, including any annual 68130
pass-through charges imposed by the federal government. 68131

(B) An applicant for certification or licensure under this 68132
chapter shall pay the examination fee directly to a testing 68133
service if so prescribed and in such amount as the superintendent 68134
of real estate prescribes. The balance, if any, of the examination 68135
fee shall accompany the application. 68136

Sec. 4763.11. (A) Within ~~five~~ ten business days after a 68137
person files a ~~signed~~ written complaint against a person 68138
certified, registered, or licensed under this chapter with the 68139
division of real estate, the superintendent of real estate shall 68140
acknowledge receipt of the complaint ~~or request and send a~~ by 68141
sending notice to the certificate holder, registrant, or licensee 68142
~~describing the acts of which there is a~~ that includes a copy of 68143
the complaint. The acknowledgement to the complainant and the 68144
notice to the certificate holder, registrant, or licensee ~~shall~~ 68145
may state that an informal mediation meeting will be held with the 68146
complainant, the certificate holder, registrant, or licensee, and 68147
an investigator from the investigation and audit section of the 68148
division, if the complainant and certificate holder, registrant, 68149
or licensee both file a request for such a meeting within ~~ten~~ 68150
business twenty calendar days ~~thereafter on a form the~~ 68151
~~superintendent provides~~ after the acknowledgment and notice are 68152
mailed. 68153

(B) If the complainant and certificate holder, registrant, or 68154
licensee both file with the division requests for an informal 68155

mediation meeting, the superintendent shall notify the complainant 68156
and certificate holder, registrant, or licensee of the date of the 68157
meeting, ~~which shall be within twenty business days thereafter,~~ 68158
~~except that the complainant, certificate holder, registrant, or~~ 68159
~~licensee may request an extension of up to fifteen business days~~ 68160
~~for good cause shown~~ by regular mail. If the complainant and 68161
certificate holder, registrant, or licensee reach an accommodation 68162
at an informal mediation meeting, the investigator shall ~~se~~ report 68163
the accommodation to the superintendent ~~and to,~~ the complainant, 68164
and the certificate holder, registrant, or licensee and the 68165
complaint file shall be closed, ~~unless, based upon the~~ 68166
~~investigator's report, the superintendent finds evidence that the~~ 68167
~~certificate holder, registrant, or licensee has violated division~~ 68168
~~(C) of this section~~ upon the superintendent receiving satisfactory 68169
notice that the accommodation has been fulfilled. 68170

(C) If the complainant and certificate holder, registrant, or 68171
licensee fail to agree to an informal mediation meeting or fail to 68172
reach an accommodation, ~~or if the superintendent finds evidence of~~ 68173
~~a violation of division (C) of this section pursuant to an~~ 68174
~~investigation conducted pursuant to division (B)(9) of section~~ 68175
~~4763.03 of the Revised Code~~ agreement, or fail to fulfill an 68176
accommodation agreement, the superintendent shall, ~~within five~~ 68177
~~business days of such determination, notify the complainant and~~ 68178
~~certificate holder, registrant, or licensee and investigate~~ assign 68179
the complaint to an investigator for an investigation into the 68180
conduct of the certificate holder, registrant, or licensee against 68181
whom the complaint is filed. 68182

(D) ~~Within sixty business days after receipt of the~~ 68183
~~complaint, or, if an informal meeting is held, within sixty days~~ 68184
~~after such meeting~~ Upon the conclusion of the investigation, the 68185
investigator shall file a written report of the results of the 68186
investigation with the superintendent. ~~Within ten business days~~ 68187

~~thereafter, the~~ The superintendent shall review the report and 68188
determine whether there exists reasonable and substantial evidence 68189
of a violation of division (G) of this section by the certificate 68190
holder, registrant, or licensee. If the superintendent finds such 68191
evidence exists, ~~within five business days of that determination,~~ 68192
the superintendent shall notify the complainant and certificate 68193
holder, registrant, or licensee of the determination. The 68194
certificate holder, registrant, or licensee may request a hearing 68195
pursuant to Chapter 119. of the Revised Code. If a formal hearing 68196
is conducted, the hearing examiner shall file a report of findings 68197
of fact and conclusions of law with the superintendent, the board, 68198
the complainant and the certificate holder, licensee, or 68199
registrant after the conclusion of the formal hearing. Within ten 68200
calendar days of receipt of the copy of the hearing examiner's 68201
finding of fact and conclusions of law, the certificate holder, 68202
licensee, or registrant or the division may file with the board 68203
written objections to the hearing examiner's report, which shall 68204
be considered by the board before approving, modifying, or 68205
rejecting the hearing examiner's report. If the superintendent 68206
finds that such evidence does not exist, ~~within five business days~~ 68207
~~thereafter,~~ the superintendent shall notify the complainant and 68208
certificate holder, registrant, or licensee of that determination 68209
and the basis for the determination. Within fifteen business days 68210
after the superintendent notifies the complainant and certificate 68211
holder, registrant, or licensee that such evidence does not exist, 68212
the complainant may file with the division a request that the real 68213
estate appraiser board review the determination. If the 68214
complainant files such request, the board shall review the 68215
determination at the next regularly scheduled meeting held at 68216
least fifteen business days after the request is filed but no 68217
longer than six months after the request is filed. The board may 68218
hear the testimony of the complainant, certificate holder, 68219
registrant, or licensee at the meeting upon the request of that 68220

party. If the board affirms the determination of the 68221
superintendent, the superintendent shall notify the complainant 68222
and the certificate holder, registrant, or licensee within five 68223
business days thereafter. If the board reverses the determination 68224
of the superintendent, a hearing before a hearing examiner shall 68225
be held and the complainant and certificate holder, registrant, or 68226
licensee notified as provided in this division. 68227

(E) The board shall review the referee's or hearing 68228
examiner's report and the evidence at the next regularly scheduled 68229
board meeting held at least fifteen business days after receipt of 68230
the referee's or examiner's report. The board may hear the 68231
testimony of the complainant, certificate holder, registrant, or 68232
licensee upon request. If the complainant is the Ohio civil rights 68233
commission, the board shall review the complaint 68234

(F) If the board determines that a licensee, registrant, or 68235
certificate holder has violated this chapter for which 68236
disciplinary action may be taken under division (G) of this 68237
section, after review of the referee's or examiner's report and 68238
the evidence as provided in division (E) of this section, the 68239
board shall order the disciplinary action the board considers 68240
appropriate, which may include, but is not limited to, any of the 68241
following: 68242

(1) Reprimand of the certificate holder, registrant, or 68243
licensee; 68244

(2) Imposition of a fine, not exceeding, two thousand five 68245
hundred dollars per violation; 68246

(3) Requirement of the completion of additional education 68247
courses. Any course work imposed pursuant to this section shall 68248
not count toward continuing education requirements or prelicense 68249
or precertification requirements set forth in section 4763.05 of 68250
the Revised Code. 68251

(4) Suspension of the certificate, registration, or license
for a specific period of time; 68252
68253

~~(3) Suspension of the certificate, registration, or license
until the certificate holder, registrant, or licensee complies
with conditions the board sets, including but not limited to,
successful completion of the real estate appraiser examination
described in division (D) of section 4763.05 of the Revised Code
or completion of a specific number of hours of continuing
education instruction in courses or seminars approved by the
board;~~ 68254
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~~(4)~~(5) Revocation of the certificate, registration, or
license. 68262
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The decision and order of the board is final, subject to 68264
review in the manner provided for in Chapter 119. of the Revised 68265
Code and appeal to any court of common pleas. 68266

(G) The board shall take any disciplinary action authorized 68267
by this section against a certificate holder, registrant, or 68268
licensee who is found to have committed any of the following acts, 68269
omissions, or violations during the appraiser's certification, 68270
registration, or licensure: 68271

(1) Procuring or attempting to procure a certificate, 68272
registration, or license pursuant to this chapter by knowingly 68273
making a false statement, submitting false information, refusing 68274
to provide complete information in response to a question in an 68275
application for certification, registration, or licensure, or by 68276
any means of fraud or misrepresentation; 68277

(2) Paying, or attempting to pay, anything of value, other 68278
than the fees or assessments required by this chapter, to any 68279
member or employee of the board for the purpose of procuring a 68280
certificate, registration, or license; 68281

(3) Being convicted in a criminal proceeding for a felony or 68282

a crime involving moral turpitude;	68283
(4) Dishonesty, fraud, or misrepresentation, with the intent to either benefit the certificate holder, registrant, or licensee or another person or injure another person;	68284 68285 68286
(5) Violation of any of the standards for the development or, preparation, communication, or reporting of real estate appraisals <u>an appraisal report</u> set forth in this chapter and rules of the board;	68287 68288 68289 68290
(6) Failure or refusal to exercise reasonable diligence in developing an appraisal, preparing, or communicating an appraisal report, or communicating an appraisal;	68291 68292 68293
(7) Negligence or incompetence in developing an appraisal, in preparing, communicating, or reporting an appraisal report, or in communicating an appraisal;	68294 68295 68296
(8) Willfully <u>Violating or willfully</u> disregarding or violating this chapter or the rules adopted thereunder;	68297 68298
(9) Accepting an appraisal assignment where the employment is contingent upon the appraiser preparing or reporting a predetermined estimate, analysis, or opinion, or where the fee to be paid for the appraisal is contingent upon the opinion, conclusion, or valuation attained or upon the consequences resulting from the appraisal assignment;	68299 68300 68301 68302 68303 68304
(10) Violating the confidential nature of governmental records to which the certificate holder, registrant, or licensee gained access through employment or engagement as an appraiser by a governmental agency;	68305 68306 68307 68308
(11) Entry of final judgment against the certificate holder, registrant, or licensee on the grounds of fraud, deceit, misrepresentation, or gross negligence in the making of any appraisal of real estate;	68309 68310 68311 68312

(12) Violating any federal or state civil rights law; 68313

(13) Having published advertising, whether printed, radio, 68314
display, or of any other nature, which was misleading or 68315
inaccurate in any material particular, or in any way having 68316
misrepresented any appraisal or specialized service; 68317

(14) Failing to provide copies of records to the 68318
superintendent or failing to maintain records for five years as 68319
required by section 4763.14 of the Revised Code. Failure of a 68320
certificate holder, licensee, or registrant to comply with a 68321
subpoena issued under division (C)(1) of section 4763.03 of the 68322
Revised Code is prima-facie evidence of a violation of division 68323
(G)(14) of section 4763.11 of the Revised Code. 68324

(15) Failing to provide notice to the board as required in 68325
division (I) of this section. 68326

(H) The board immediately shall notify the superintendent of 68327
real estate of any disciplinary action taken under this section 68328
against a certificate holder, registrant, or licensee who also is 68329
licensed under Chapter 4735. of the Revised Code, and also shall 68330
notify any other federal, state, or local agency and any other 68331
public or private association that the board determines is 68332
responsible for licensing or otherwise regulating the professional 68333
or business activity of the appraiser. Additionally, the board 68334
shall notify the complainant and any other party who may have 68335
suffered financial loss because of the certificate holder's, 68336
registrant's, or licensee's violations, that the complainant or 68337
other party may sue for recovery under section 4763.16 of the 68338
Revised Code. The notice provided under this division shall 68339
specify the conduct for which the certificate holder, registrant, 68340
or licensee was disciplined and the disciplinary action taken by 68341
the board and the result of that conduct. 68342

(I) A certificate holder, registrant, or licensee shall 68343

notify the board of ~~the existence of a criminal conviction of the~~ 68344
~~type within fifteen days of the agency's issuance of an order~~ 68345
~~revoking or permanently surrendering any professional license,~~ 68346
~~certificate, or registration by any public entity other than the~~ 68347
~~division of real estate. A certificate holder, registrant, or~~ 68348
~~licensee who is convicted of a felony or crime of moral turpitude~~ 68349
~~as described in division (G)(3) of this section shall notify the~~ 68350
~~board of the conviction within fifteen days of the conviction.~~ 68351

(J) If the board determines that a certificate holder, 68352
registrant, or licensee has violated this chapter for which 68353
disciplinary action may be taken under division (G) of this 68354
section as a result of an investigation conducted by the 68355
superintendent upon the superintendent's own motion or upon the 68356
request of the board, the superintendent shall notify the 68357
certificate holder, registrant, or licensee of the certificate 68358
holder's, registrant's, or licensee's right to a hearing pursuant 68359
to Chapter 119. of the Revised Code and to an appeal of a final 68360
determination of such administrative proceedings to any court of 68361
common pleas. 68362

(K) All notices, written reports, and determinations issued 68363
pursuant to this section shall be mailed via certified mail, 68364
return receipt requested. If the certified notice is returned 68365
because of failure of delivery or was unclaimed, the notice, 68366
written reports, or determinations are deemed served if the 68367
superintendent sends the notice, written reports, or determination 68368
via regular mail and obtains a certificate of mailing of the 68369
notice, written reports, or determination. Refusal of delivery by 68370
personal service or by mail is not failure of delivery and service 68371
is deemed to be complete. 68372

Sec. 4763.13. (A) In engaging in appraisal activities, a 68373
person certified, registered, or licensed under this chapter shall 68374

comply with the applicable standards prescribed by the board of 68375
governors of the federal reserve system, the federal deposit 68376
insurance corporation, the comptroller of the currency, the office 68377
of thrift supervision, the national credit union administration, 68378
and the resolution trust corporation in connection with federally 68379
related transactions under the jurisdiction of the applicable 68380
agency or instrumentality. A certificate holder, registrant, and 68381
licensee also shall comply with the uniform standards of 68382
professional appraisal practice, as adopted by the appraisal 68383
standards board of the appraisal foundation and such other 68384
standards adopted by the real estate appraiser board, to the 68385
extent that those standards do not conflict with applicable 68386
federal standards in connection with a particular federally 68387
related transaction. 68388

(B) The terms "state-licensed residential real estate 68389
appraiser," "state-certified residential real estate appraiser," 68390
"state-certified general real estate appraiser," and 68391
"state-registered real estate appraiser assistant" shall be used 68392
to refer only to those persons who have been issued the applicable 68393
certificate, registration, or license or renewal certificate, 68394
registration, or license pursuant to this chapter. None of these 68395
terms shall be used following or in connection with the name or 68396
signature of a partnership, corporation, or association or in a 68397
manner that could be interpreted as referring to a person other 68398
than the person to whom the certificate, registration, or license 68399
has been issued. No person shall fail to comply with this 68400
division. 68401

(C) No person, other than a certificate holder, a registrant, 68402
or a licensee, shall assume or use a title, designation, or 68403
abbreviation that is likely to create the impression that the 68404
person possesses certification, registration, or licensure under 68405
this chapter, provided that professional designations containing 68406

the term "certified appraiser" and being used on or before July 68407
26, 1989, shall not be construed as being misleading under this 68408
division. No person other than a person certified or licensed 68409
under this chapter shall describe or refer to an appraisal or 68410
other evaluation of real estate located in this state as being 68411
certified. 68412

(D) The terms "state-certified or state-licensed real estate 68413
appraisal report," "state-certified or state-licensed appraisal 68414
report," or "state-certified or state-licensed appraisal" shall be 68415
used to refer only to those real estate appraisals conducted by a 68416
certificate holder or licensee as a disinterested and unbiased 68417
third party provided that the certificate holder or licensee 68418
provides certification with the appraisal and provided further 68419
that if a licensee is providing the appraisal, such terms shall 68420
only be used if the licensee is acting within the scope of the 68421
licensee's license. No person shall fail to comply with this 68422
division. 68423

(E) Nothing in this chapter shall preclude a partnership, 68424
corporation, or association which employs ~~or~~, retains, or engages 68425
the services of a certificate holder or licensee to advertise that 68426
the partnership, corporation, or association offers 68427
state-certified or state-licensed appraisals through a certificate 68428
holder or licensee if the advertisement clearly states such fact 68429
in accordance with guidelines for such advertisements established 68430
by rule of the real estate appraiser board. 68431

(F) Except as otherwise provided in section 4763.19 of the 68433
Revised Code, nothing in this chapter shall preclude a person who 68434
is not licensed or certified under this chapter from appraising 68435
real estate for compensation. 68436

Sec. 4763.14. A person licensed, registered, or certified 68437

under this chapter shall retain for a period of five years the 68438
original or a true copy of each written contract for the person's 68439
services relating to real estate appraisal work ~~and~~, all appraisal 68440
reports, and all work file documentation and ~~supporting~~ data 68441
assembled ~~and formulated by the person~~ in preparing those reports. 68442
The retention period begins on the date the appraisal is submitted 68443
to the client unless, prior to expiration of the retention period, 68444
the certificate holder, registrant, or licensee is notified that 68445
the appraisal or report is the subject of or is otherwise involved 68446
in pending litigation, in which case the retention period begins 68447
on the date of final disposition of the litigation. 68448

A certificate holder, registrant, and a licensee shall make 68449
available all records required to be maintained under this section 68450
for inspection and copying by the superintendent of real estate or 68451
the real estate appraiser board, or both, upon reasonable notice 68452
to the certificate holder, registrant, or licensee. 68453

Sec. 4763.17. Every partnership, corporation, or association 68454
which employs ~~or~~, retains, or engages the services of a person 68455
licensed, registered, or certified under this chapter, whether the 68456
certificate holder, registrant, or licensee is an independent 68457
contractor or under the supervision or control of the partnership, 68458
corporation, or association, is jointly and severally liable for 68459
any damages incurred by any person as a result of an act or 68460
omission concerning a state-certified or state-licensed real 68461
estate appraisal prepared or facilitated in the preparation by a 68462
certificate holder, registrant, or licensee while employed ~~or~~, 68463
retained, or engaged by the partnership, corporation, or 68464
association. 68465

Sec. 4766.09. This chapter does not apply to any of the 68466
following: 68467

(A) A person rendering services with an ambulance in the event of a disaster situation when licensees' vehicles based in the locality of the disaster situation are incapacitated or insufficient in number to render the services needed;

(B) Any person operating an ambulance, ambulette, rotorcraft air ambulance, or fixed wing air ambulance outside this state unless receiving a person within this state for transport to a location within this state;

(C) A publicly owned or operated emergency medical service organization and the vehicles it owns or leases and operates, except as provided in section 307.051, division (G) of section 307.055, division (F) of section 505.37, division (B) of section 505.375, and division (B)(3) of section 505.72 of the Revised Code;

(D) An ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, or nontransport vehicle owned or leased and operated by the federal government;

(E) A publicly owned and operated fire department vehicle;

(F) Emergency vehicles owned by a corporation and operating only on the corporation's premises, for the sole use by that corporation;

(G) An ambulance, nontransport vehicle, or other emergency medical service organization vehicle owned and operated by a municipal corporation;

(H) A motor vehicle titled in the name of a volunteer rescue service organization, as defined in section 4503.172 of the Revised Code;

(I) A public emergency medical service organization;

(J) A fire department, rescue squad, or life squad comprised of volunteers who provide services without expectation of

remuneration and do not receive payment for services other than 68498
reimbursement for expenses; 68499

(K) A private, nonprofit emergency medical service 68500
organization when fifty per cent or more of its personnel are 68501
volunteers, as defined in section 4765.01 of the Revised Code; 68502

(L) Emergency medical service personnel who are regulated by 68503
the state board of emergency medical services under Chapter 4765. 68504
of the Revised Code; 68505

(M) Any of the following that operates a transit bus, as that 68506
term is defined in division (Q) of section 5735.01 of the Revised 68507
Code, unless the entity provides ambulette services that are 68508
reimbursed under the state medicaid plan: 68509

(1) A public nonemergency medical service organization; 68510

(2) An urban or rural public transit system; 68511

(3) A private nonprofit organization that receives grants 68512
under section 5501.07 of the Revised Code. 68513

(N)~~(1)~~ An entity ~~or vehicle owned by an entity that, to the~~ 68514
~~extent it provides ambulette services, if the entity meets all of~~ 68515
~~the following conditions:~~ 68516

(a) The entity is certified by the department of aging or the 68517
department's designee ~~under in accordance with~~ section 173.391 of 68518
the Revised Code ~~and or operates under a contract or grant~~ 68519
~~agreement with the department or the department's designee in~~ 68520
~~accordance with section 173.392 of the Revised Code.~~ 68521

(b) The entity meets the requirements of section 4766.14 of 68522
the Revised Code, ~~unless the entity or.~~ 68523

(c) The entity does not provide ambulette services that are 68524
reimbursed under the state medicaid plan. 68525

(2) A vehicle, to the extent it is used to provide ambulette 68526
services, if the vehicle meets both of the following conditions: 68527

(a) The vehicle is owned by an entity that meets the 68528
conditions specified in division (N)(1) of this section. 68529

(b) The vehicle ~~provides~~ does not provide ambulette services 68530
that are reimbursed under the state medicaid plan~~r~~. 68531

(O) A vehicle that meets both of the following criteria, 68532
unless the vehicle provides services that are reimbursed under the 68533
state medicaid plan: 68534

(1) The vehicle was purchased with funds from a grant made by 68535
the United States secretary of transportation under 49 U.S.C. 68536
5310; 68537

(2) The department of transportation holds alien on the 68538
vehicle. 68539

Sec. 4767.05. (A) There is hereby created the Ohio cemetery 68540
dispute resolution commission, which shall consist of nine members 68541
to be appointed by the governor with the advice and consent of the 68542
senate as follows: 68543

(1) One member shall be the management authority of a 68544
municipal, township, or union cemetery and shall be selected from 68545
a list of four names submitted to the governor. Two of the four 68546
names shall be submitted by the Ohio township association and two 68547
names shall be submitted by the Ohio municipal league. 68548

(2) Four members shall be individuals employed in a 68549
management position by a cemetery company or cemetery association. 68550
Two of the four members shall be selected from a list of four 68551
names submitted to the governor by the Ohio association of 68552
cemeteries and two shall be selected from a list of four names 68553
submitted by the Ohio association of cemetery superintendents and 68554
officials. 68555

(3) Two members shall be employed in a management position by 68556
a cemetery that is owned or operated by a religious, fraternal, or 68557

benevolent society and shall be selected from a list of four names 68558
submitted by the Ohio association of cemetery superintendents and 68559
officials. 68560

(4) Two members, at least one of whom shall be at least 68561
sixty-five years of age, shall be representatives of the public 68562
with no financial interest in the death care industry. 68563

Each member of the commission, except for the two members who 68564
represent the public, shall, at the time of appointment, have had 68565
a minimum of five consecutive years of experience in the active 68566
administration and management of a cemetery in this state. 68567

(B) Within ninety days after the effective date of this 68568
section, the governor shall make initial appointments to the 68569
commission. Of the initial appointments, two shall be for terms 68570
ending one year after the effective date of this section, two 68571
shall be for terms ending two years after that date, two shall be 68572
for terms ending three years after that date, and three shall be 68573
for terms ending four years after that date. Thereafter, terms of 68574
office shall be for four years, with each term ending on the same 68575
day of the same month as did the term that it succeeds. Each 68576
member shall hold office from the date of appointment until the 68577
end of the term for which the member was appointed. Vacancies 68578
shall be filled in the manner provided for original appointments, 68579
with each appointee, other than a representative of the public, 68580
being appointed from a list of two names submitted to the governor 68581
by the association or organization that was required to nominate 68582
candidates for initial appointment to the position that has become 68583
vacant. Any member appointed to fill a vacancy occurring prior to 68584
the expiration date of the term for which the member's predecessor 68585
was appointed shall hold office for the remainder of that term. A 68586
member shall continue in office subsequent to the expiration date 68587
of the member's term until the member's successor takes office or 68588
until a period of sixty days has elapsed, whichever occurs first. 68589

No person shall serve as a member of the commission for more than 68590
two consecutive terms, excluding any term served to fill an 68591
initial appointment to a term of less than four years or an 68592
unexpired term caused by a vacancy. 68593

(C) The commission annually shall elect from among its 68594
members a chairperson, vice-chairperson, and secretary, each of 68595
whom shall serve a term of one year in that office. The commission 68596
shall meet at least four times a year. Additional meetings may be 68597
called by the chairperson, or by the vice-chairperson when the 68598
chairperson is disabled, or by a majority of the members of the 68599
commission. A majority of the members constitutes a quorum to 68600
transact and vote on business of the commission. 68601

The chairperson or vice-chairperson may: 68602

(1) Administer oaths; 68603

(2) Issue subpoenas; 68604

(3) Summon witnesses; 68605

(4) Compel the production of books, papers, records, and 68606
other forms of evidence; 68607

(5) Fix the time and place for hearing any matter related to 68608
compliance with sections 1721.19, 1721.20, 1721.21, 1721.211, 68609
4735.02, ~~4735.22~~, and 4767.02 of the Revised Code. 68610

The chairperson shall designate three members of the 68611
commission to serve on the crematory review board in accordance 68612
with section 4717.03 of the Revised Code for such time as the 68613
chairperson finds appropriate. Members designated to serve on the 68614
crematory review board shall perform all functions necessary to 68615
carry out the duties of the board as described in section 4717.03 68616
of the Revised Code. Members who serve on the crematory review 68617
board shall receive no compensation for such service. 68618

(D) Before entering upon the duties of office, each member of 68619

the commission shall take the oath pursuant to section 3.22 of the Revised Code. The governor may remove any member for misconduct, neglect of duty, incapacity, or malfeasance in accordance with section 3.04 of the Revised Code.

(E) Members of the commission shall receive no compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the commission.

(F) The division of real estate in the department of commerce shall provide the commission with meeting space, staff services, and other technical assistance required by the commission in carrying out its duties pursuant to sections 4767.05 to 4767.08 of the Revised Code.

Sec. 4767.07. (A) Any person may file a complaint regarding the activity, practice, policy, or procedure of, or regarding an alleged violation of section 1721.19, 1721.20, 1721.21, 1721.211, 4735.02, ~~4735.22~~, or 4767.02 of the Revised Code by, any person operating or maintaining a cemetery registered pursuant to section 4767.03 of the Revised Code that adversely affects or may adversely affect the interest of an owner or family member of the owner of a cemetery lot or burial, entombment, or columbarium right. All complaints shall be in writing and submitted to the division of real estate in the department of commerce on forms provided by the division.

(B) With respect to complaints filed pursuant to division (A) of this section, the division of real estate shall do all of the following:

(1) Acknowledge receipt of the complaint by sending written notice to the person who filed the complaint not more than twenty days after receipt of the complaint;

(2) Send written notice of the complaint within seven days after receipt of the complaint to the person responsible for the operation and maintenance of the cemetery that is the subject of the complaint;

(3) Before taking further action, allow the owner or the person responsible for the operation and maintenance of the cemetery that is the subject of a complaint thirty days after the date the division sends notice of the complaint to respond to the division with respect to the complaint.

(C) The cemetery dispute resolution commission shall hear each complaint filed pursuant to division (A) of this section within one hundred eighty days after its filing, unless it has been resolved by the parties to the complaint.

Sec. 4767.08. (A) The Ohio cemetery dispute resolution commission, on its own motion or as a result of a complaint received pursuant to section 4767.07 of the Revised Code and with good cause shown, shall investigate or cause to be investigated alleged violations of sections 1721.19, 1721.20, 1721.21, 1721.211, 4735.02, ~~4735.22, and 4767.03~~ 4767.02, and 4767.03 of the Revised Code. If the commission or the superintendent of the division of real estate in the department of commerce believes that a violation has occurred, the commission or superintendent shall do all of the following:

(1) Review the financial records of the cemetery to ensure compliance with sections 1721.21 and 1721.211 of the Revised Code;

(2) Request the prosecuting attorney of the county in which the alleged violation occurred to initiate such proceedings as are appropriate.

(B) If, as a result of an investigation, the commission or the superintendent believes that a person has violated Chapter

1345. of the Revised Code, the commission or superintendent shall 68680
report the findings to the attorney general. 68681

(C) The commission, at any time, may dismiss a complaint if 68682
it determines there is not good cause shown for the complaint. If 68683
the commission dismisses a complaint, it shall notify the person 68684
who filed the complaint within twenty days of reaching its 68685
decision and identify the reason why the complaint was dismissed. 68686

(D) When necessary for the division of real estate to perform 68687
the duties required by sections 4767.07 and 4767.08 of the Revised 68688
Code, the superintendent of the division, after consultation with 68689
at least a majority of the members of the cemetery dispute 68690
resolution commission, may issue subpoenas and compel the 68691
production of books, papers, records, and other forms of evidence. 68692

Sec. 5101.073. There is hereby created in the state treasury 68693
the ODJFS general services administration and operating fund. The 68694
director of job and family services shall submit a deposit 68695
modification and payment detail report to the treasurer of state 68696
when there is a final closeout of a federal grant regarding a 68697
program the department of job and family services administers or a 68698
reconciliation of all final transactions with the federal 68699
government regarding federal funds for a program the department 68700
administers. On receipt of the report, the treasurer of state 68701
shall transfer the money in the refunds and audit settlements fund 68702
that is the subject of the report to the ODJFS general services 68703
administration and operating fund. Money in the ODJFS general 68704
services administration and operating fund shall be used to pay 68705
for the department's administrative expenses, including the costs 68706
of state hearings under section 5101.35 of the Revised Code, 68707
required audit adjustments, and other related expenses. 68708

Sec. 5101.11. This section does not apply to contracts 68709

entered into under section 5111.90 or 5111.91 of the Revised Code. 68710

(A) As used in this section: 68711

(1) "Entity" includes an agency, board, commission, or 68712
department of the state or a political subdivision of the state; a 68713
private, nonprofit entity; a school district; a private school; or 68714
a public or private institution of higher education. 68715

(2) "Federal financial participation" means the federal 68716
government's share of expenditures made by an entity in 68717
implementing a program administered by the department of job and 68718
family services. 68719

(B) At the request of any public entity having authority to 68720
implement a program administered by the department of job and 68721
family services or any private entity under contract with a public 68722
entity to implement a program administered by the department, the 68723
department may seek to obtain federal financial participation for 68724
costs incurred by the entity. Federal financial participation may 68725
be sought from programs operated pursuant to Title IV-A, Title 68726
IV-E, and Title XIX of the "Social Security Act," 49 Stat. 620 68727
(1935), 42 U.S.C. 301, as amended; the "~~Food Stamp~~ and Nutrition 68728
Act of 1964," ~~78 Stat. 703,~~ 2008 (7 U.S.C. 2011, ~~as amended et~~ 68729
seq.); and any other statute or regulation under which federal 68730
financial participation may be available, except that federal 68731
financial participation may be sought only for expenditures made 68732
with funds for which federal financial participation is available 68733
under federal law. 68734

(C) All funds collected by the department of job and family 68735
services pursuant to division (B) of this section shall be 68736
distributed to the entities that incurred the costs, except for 68737
any amounts retained by the department pursuant to division (D)(3) 68738
of this section. 68739

(D) In distributing federal financial participation pursuant 68740

to this section, the department may either enter into an agreement 68741
with the entity that is to receive the funds or distribute the 68742
funds in accordance with rules adopted under division (F) of this 68743
section. If the department decides to enter into an agreement to 68744
distribute the funds, the agreement may include terms that do any 68745
of the following: 68746

(1) Provide for the whole or partial reimbursement of any 68747
cost incurred by the entity in implementing the program; 68748

(2) In the event that federal financial participation is 68749
disallowed or otherwise unavailable for any expenditure, require 68750
the department of job and family services or the entity, whichever 68751
party caused the disallowance or unavailability of federal 68752
financial participation, to assume responsibility for the 68753
expenditures; 68754

(3) Permit the department to retain not more than five per 68755
cent of the amount of the federal financial participation to be 68756
distributed to the entity; 68757

(4) Require the public entity to certify the availability of 68758
sufficient unencumbered funds to match the federal financial 68759
participation it receives under this section; 68760

(5) Establish the length of the agreement, which may be for a 68761
fixed or a continuing period of time; 68762

(6) Establish any other requirements determined by the 68763
department to be necessary for the efficient administration of the 68764
agreement. 68765

(E) An entity that receives federal financial participation 68766
pursuant to this section for a program aiding children and their 68767
families shall establish a process for collaborative planning with 68768
the department of job and family services for the use of the funds 68769
to improve and expand the program. 68770

(F) The director of job and family services shall adopt rules 68771
as necessary to implement this section, including rules for the 68772
distribution of federal financial participation pursuant to this 68773
section. The rules shall be adopted in accordance with Chapter 68774
119. of the Revised Code. The director may adopt or amend any 68775
statewide plan required by the federal government for a program 68776
administered by the department, as necessary to implement this 68777
section. 68778

(G) Federal financial participation received pursuant to this 68779
section shall not be included in any calculation made under 68780
section 5101.16 or 5101.161 of the Revised Code. 68781

Sec. 5101.16. (A) As used in this section and sections 68782
5101.161 and 5101.162 of the Revised Code: 68783

(1) "Disability financial assistance" means the financial 68784
assistance program established under Chapter 5115. of the Revised 68785
Code. 68786

(2) "Disability medical assistance" means the medical 68787
assistance program established under Chapter 5115. of the Revised 68788
Code. 68789

(3) ~~"Food stamps~~ Supplemental nutrition assistance program" 68790
means the program administered by the department of job and family 68791
services pursuant to section 5101.54 of the Revised Code. 68792

(4) "Medicaid" means the medical assistance program 68793
established by Chapter 5111. of the Revised Code, excluding 68794
transportation services provided under that chapter. 68795

(5) "Ohio works first" means the program established by 68796
Chapter 5107. of the Revised Code. 68797

(6) "Prevention, retention, and contingency" means the 68798
program established by Chapter 5108. of the Revised Code. 68799

(7) "Public assistance expenditures" means expenditures for 68800

all of the following:	68801
(a) Ohio works first;	68802
(b) County administration of Ohio works first;	68803
(c) Prevention, retention, and contingency;	68804
(d) County administration of prevention, retention, and contingency;	68805 68806
(e) Disability financial assistance;	68807
(f) Disability medical assistance;	68808
(g) County administration of disability financial assistance;	68809
(h) County administration of disability medical assistance;	68810
(i) County administration of food stamps <u>the supplemental nutrition assistance program</u> ;	68811 68812
(j) County administration of medicaid.	68813
(8) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.	68814 68815
(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:	68816 68817 68818 68819 68820 68821
(1) The amount that is twenty-five per cent of the county's total expenditures for disability financial assistance and disability medical assistance and county administration of those programs during the state fiscal year ending in the previous calendar year that the department of job and family services determines are allowable.	68822 68823 68824 68825 68826 68827
(2) The amount that is ten per cent, or other percentage determined under division (D) of this section, of the county's	68828 68829

total expenditures for county administration of ~~food stamps~~ the 68830
supplemental nutrition assistance program and medicaid during the 68831
state fiscal year ending in the previous calendar year that the 68832
department determines are allowable, less the amount of federal 68833
reimbursement credited to the county under division (E) of this 68834
section for the state fiscal year ending in the previous calendar 68835
year; 68836

(3) A percentage of the actual amount of the county share of 68837
program and administrative expenditures during federal fiscal year 68838
1994 for assistance and services, other than child care, provided 68839
under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 68840
620 (1935), 42 U.S.C. 301, as those titles existed prior to the 68841
enactment of the "Personal Responsibility and Work Opportunity 68842
Reconciliation Act of 1996," 110 Stat. 2105. The department of job 68843
and family services shall determine the actual amount of the 68844
county share from expenditure reports submitted to the United 68845
States department of health and human services. The percentage 68846
shall be the percentage established in rules adopted under 68847
division (F) of this section. 68848

(C)(1) If a county's share of public assistance expenditures 68849
determined under division (B) of this section for a state fiscal 68850
year exceeds one hundred ten per cent of the county's share for 68851
those expenditures for the immediately preceding state fiscal 68852
year, the department of job and family services shall reduce the 68853
county's share for expenditures under divisions (B)(1) and (2) of 68854
this section so that the total of the county's share for 68855
expenditures under division (B) of this section equals one hundred 68856
ten per cent of the county's share of those expenditures for the 68857
immediately preceding state fiscal year. 68858

(2) A county's share of public assistance expenditures 68859
determined under division (B) of this section may be increased 68860
pursuant to section 5101.163 of the Revised Code and a sanction 68861

under section 5101.24 of the Revised Code. An increase made 68862
pursuant to section 5101.163 of the Revised Code may cause the 68863
county's share to exceed the limit established by division (C)(1) 68864
of this section. 68865

(D)(1) If the per capita tax duplicate of a county is less 68866
than the per capita tax duplicate of the state as a whole and 68867
division (D)(2) of this section does not apply to the county, the 68868
percentage to be used for the purpose of division (B)(2) of this 68869
section is the product of ten multiplied by a fraction of which 68870
the numerator is the per capita tax duplicate of the county and 68871
the denominator is the per capita tax duplicate of the state as a 68872
whole. The department of job and family services shall compute the 68873
per capita tax duplicate for the state and for each county by 68874
dividing the tax duplicate for the most recent available year by 68875
the current estimate of population prepared by the department of 68876
development. 68877

(2) If the percentage of families in a county with an annual 68878
income of less than three thousand dollars is greater than the 68879
percentage of such families in the state and division (D)(1) of 68880
this section does not apply to the county, the percentage to be 68881
used for the purpose of division (B)(2) of this section is the 68882
product of ten multiplied by a fraction of which the numerator is 68883
the percentage of families in the state with an annual income of 68884
less than three thousand dollars a year and the denominator is the 68885
percentage of such families in the county. The department of job 68886
and family services shall compute the percentage of families with 68887
an annual income of less than three thousand dollars for the state 68888
and for each county by multiplying the most recent estimate of 68889
such families published by the department of development, by a 68890
fraction, the numerator of which is the estimate of average annual 68891
personal income published by the bureau of economic analysis of 68892
the United States department of commerce for the year on which the 68893

census estimate is based and the denominator of which is the most recent such estimate published by the bureau.

(3) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and the percentage of families in the county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state, the percentage to be used for the purpose of division (B)(2) of this section shall be determined as follows:

(a) Multiply ten by the fraction determined under division (D)(1) of this section;

(b) Multiply the product determined under division (D)(3)(a) of this section by the fraction determined under division (D)(2) of this section.

(4) The department of job and family services shall determine, for each county, the percentage to be used for the purpose of division (B)(2) of this section not later than the first day of July of the year preceding the state fiscal year for which the percentage is used.

(E) The department of job and family services shall credit to a county the amount of federal reimbursement the department receives from the United States departments of agriculture and health and human services for the county's expenditures for administration of ~~food stamps~~ the supplemental nutrition assistance program and medicaid that the department determines are allowable administrative expenditures.

(F)(1) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code to establish all of the following:

(a) The method the department is to use to change a county's share of public assistance expenditures determined under division (B) of this section as provided in division (C) of this section;

(b) The allocation methodology and formula the department will use to determine the amount of funds to credit to a county under this section; 68925
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(c) The method the department will use to change the payment of the county share of public assistance expenditures from a calendar-year basis to a state fiscal year basis; 68928
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(d) The percentage to be used for the purpose of division (B)(3) of this section, which shall, except as provided in section 5101.163 of the Revised Code, meet both of the following requirements: 68931
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(i) The percentage shall not be less than seventy-five per cent nor more than eighty-two per cent; 68935
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(ii) The percentage shall not exceed the percentage that the state's qualified state expenditures is of the state's historic state expenditures as those terms are defined in 42 U.S.C. 609(a)(7). 68937
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(e) Other procedures and requirements necessary to implement this section. 68941
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(2) The director of job and family services may amend the rule adopted under division (F)(1)(d) of this section to modify the percentage on determination that the amount the general assembly appropriates for Title IV-A programs makes the modification necessary. The rule shall be adopted and amended as if an internal management rule and in consultation with the director of budget and management. 68943
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Sec. 5101.162. Subject to available federal funds and appropriations made by the general assembly, the department of job and family services may, at its sole discretion, use available federal funds to reimburse county expenditures for county administration of ~~food stamps~~ the supplemental nutrition 68950
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assistance program or medicaid even though the county expenditures 68955
meet or exceed the maximum allowable reimbursement amount 68956
established by rules adopted under section 5101.161 of the Revised 68957
Code. The director may adopt internal management rules in 68958
accordance with section 111.15 of the Revised Code to implement 68959
this section. 68960

Sec. 5101.33. (A) As used in this section, "benefits" means 68961
any of the following: 68962

(1) Cash assistance paid under Chapter 5107. or 5115. of the 68963
Revised Code; 68964

(2) ~~Food-stamp~~ Supplemental nutrition assistance program 68965
benefits provided under section 5101.54 of the Revised Code; 68966

(3) Any other program administered by the department of job 68967
and family services under which assistance is provided or service 68968
rendered; 68969

(4) Any other program, service, or assistance administered by 68970
a person or government entity that the department determines may 68971
be delivered through the medium of electronic benefit transfer. 68972

(B) The department of job and family services may make any 68973
payment or delivery of benefits to eligible individuals through 68974
the medium of electronic benefit transfer by doing all of the 68975
following: 68976

(1) Contracting with an agent to supply debit cards to the 68977
department of job and family services for use by such individuals 68978
in accessing their benefits and to credit such cards 68979
electronically with the amounts specified by the director of job 68980
and family services pursuant to law; 68981

(2) Informing such individuals about the use of the 68982
electronic benefit transfer system and furnishing them with debit 68983
cards and information that will enable them to access their 68984

benefits through the system;	68985
(3) Arranging with specific financial institutions or	68986
vendors, county departments of job and family services, or persons	68987
or government entities for individuals to have their cards	68988
credited electronically with the proper amounts at their	68989
facilities;	68990
(4) Periodically preparing vouchers for the payment of such	68991
benefits by electronic benefit transfer;	68992
(5) Satisfying any applicable requirements of federal and	68993
state law.	68994
(C) The department may enter into a written agreement with	68995
any person or government entity to provide benefits administered	68996
by that person or entity through the medium of electronic benefit	68997
transfer. A written agreement may require the person or government	68998
entity to pay to the department either or both of the following:	68999
(1) A charge that reimburses the department for all costs the	69000
department incurs in having the benefits administered by the	69001
person or entity provided through the electronic benefit transfer	69002
system;	69003
(2) A fee for having the benefits provided through the	69004
electronic benefit transfer system.	69005
(D) The department may designate which counties will	69006
participate in the medium of electronic benefit transfer, specify	69007
the date a designated county will begin participation, and specify	69008
which benefits will be provided through the medium of electronic	69009
benefit transfer in a designated county.	69010
(E) The department may adopt rules in accordance with Chapter	69011
119. of the Revised Code for the efficient administration of this	69012
section.	69013
Sec. 5101.34. (A) There is hereby created in the department	69014

of job and family services the Ohio commission on fatherhood. The 69015
commission shall consist of the following members: 69016

(1)(a) Four members of the house of representatives appointed 69017
by the speaker of the house, not more than two of whom are members 69018
of the same political party. Two of the members must be from 69019
legislative districts that include a county or part of a county 69020
that is among the one-third of counties in this state with the 69021
highest number per capita of households headed by females. 69022

(b) Two members of the senate appointed by the president of 69023
the senate, each from a different political party. One of the 69024
members must be from a legislative district that includes a county 69025
or part of a county that is among the one-third of counties in 69026
this state with the highest number per capita of households headed 69027
by females. 69028

(2) The governor, or the governor's designee; 69029

(3) One representative of the judicial branch of government 69030
appointed by the chief justice of the supreme court; 69031

(4) The directors of health, job and family services, 69032
rehabilitation and correction, alcohol and drug addiction 69033
services, and youth services and the superintendent of public 69034
instruction, or their designees; 69035

(5) One representative of the Ohio family and children first 69036
cabinet council created under section 121.37 of the Revised Code 69037
appointed by the chairperson of the council; 69038

(6) Five representatives of the general public appointed by 69039
the governor. These members shall have extensive experience in 69040
issues related to fatherhood. 69041

(B) The appointing authorities of the Ohio commission on 69042
fatherhood shall make initial appointments to the commission 69043
within thirty days after ~~the effective date of this section~~ 69044

September 29, 1999. Of the initial appointments to the commission 69045
made pursuant to divisions (A)(3), (5), and (6) of this section, 69046
three of the members shall serve a term of one year and four shall 69047
serve a term of two years. Members so appointed subsequently shall 69048
serve two-year terms. A member appointed pursuant to division 69049
(A)(1) of this section shall serve on the commission until the end 69050
of the general assembly from which the member was appointed or 69051
until the member ceases to serve in the chamber of the general 69052
assembly in which the member serves at the time of appointment, 69053
whichever occurs first. The governor or the governor's designee 69054
shall serve on the commission until the governor ceases to be 69055
governor. The directors and superintendent or their designees 69056
shall serve on the commission until they cease, or the director or 69057
superintendent a designee represents ceases, to be director or 69058
superintendent. Each member shall serve on the commission from the 69059
date of appointment until the end of the term for which the member 69060
was appointed. Members may be reappointed. 69061

Vacancies shall be filled in the manner provided for original 69062
appointments. Any member appointed to fill a vacancy occurring 69063
prior to the expiration date of the term for which the member's 69064
predecessor was appointed shall serve on the commission for the 69065
remainder of that term. A member shall continue to serve on the 69066
commission subsequent to the expiration date of the member's term 69067
until the member's successor is appointed or until a period of 69068
sixty days has elapsed, whichever occurs first. Members shall 69069
serve without compensation but shall be reimbursed for necessary 69070
expenses. 69071

Sec. 5101.47. (A) Except as provided in division (B) of this 69072
section, the director of job and family services may accept 69073
applications, determine eligibility, redetermine eligibility, and 69074
perform related administrative activities for one or more of the 69075
following: 69076

(1) The medicaid program established by Chapter 5111. of the Revised Code; 69077
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(2) The children's health insurance program parts I, II, and III provided for under sections 5101.50, 5101.51, and 5101.52 of the Revised Code; 69079
69080
69081

(3) Publicly funded child care provided under Chapter 5104. of the Revised Code; 69082
69083

(4) The ~~food stamp~~ supplemental nutrition assistance program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code; 69084
69085
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(5) Other programs the director determines are supportive of children, adults, or families; 69087
69088

(6) Other programs regarding which the director determines administrative cost savings and efficiency may be achieved through the department accepting applications, determining eligibility, redetermining eligibility, or performing related administrative activities. 69089
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(B) If federal law requires a face-to-face interview to complete an eligibility determination for a program specified in or pursuant to division (A) of this section, the face-to-face interview shall not be conducted by the department of job and family services. 69094
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(C) Subject to division (B) of this section, if the director elects to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for a program specified in or pursuant to division (A) of this section, both of the following apply: 69099
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69103

(1) An individual seeking services under the program may apply for the program to the director or to the entity that state law governing the program authorizes to accept applications for 69104
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69106

the program. 69107

(2) The director is subject to federal statutes and 69108
regulations and state statutes and rules that require, permit, or 69109
prohibit an action regarding accepting applications, determining 69110
or redetermining eligibility, and performing related 69111
administrative activities for the program. 69112

(D) The director may adopt rules as necessary to implement 69113
this section. 69114

Sec. 5101.54. (A) The director of job and family services 69115
shall administer the ~~food stamp~~ supplemental nutrition assistance 69116
program in accordance with the "Food Stamp and Nutrition Act of 69117
1977," ~~91 Stat. 958, 2008 (7 U.S.C.A. 2011, as amended et seq).~~ 69118
The department may: 69119

(1) Prepare and submit to the secretary of the United States 69120
department of agriculture a plan for the administration of the 69121
~~food stamp~~ supplemental nutrition assistance program; 69122

(2) Prescribe forms for applications, certificates, reports, 69123
records, and accounts of county departments of job and family 69124
services, and other matters; 69125

(3) Require such reports and information from each county 69126
department of job and family services as may be necessary and 69127
advisable; 69128

(4) Administer and expend any sums appropriated by the 69129
general assembly for the purposes of ~~this section~~ the supplemental 69130
nutrition assistance program and all sums paid to the state by the 69131
United States as authorized by the Food Stamp and Nutrition Act of 69132
~~1977~~ 2008; 69133

(5) Conduct such investigations as are necessary; 69134

(6) Enter into interagency agreements and cooperate with 69135
investigations conducted by the department of public safety, 69136

including providing information for investigative purposes, 69137
exchanging property and records, passing through federal financial 69138
participation, modifying any agreements with the United States 69139
department of agriculture, providing for the supply, security, and 69140
accounting of ~~food stamp~~ supplemental nutrition assistance program 69141
benefits for investigative purposes, and meeting any other 69142
requirements necessary for the detection and deterrence of illegal 69143
activities in the ~~state food stamp~~ supplemental nutrition 69144
assistance program; 69145

(7) Adopt rules in accordance with Chapter 119. of the 69146
Revised Code governing employment and training requirements of 69147
recipients of ~~food stamp~~ supplemental nutrition assistance program 69148
benefits, including rules specifying which recipients are subject 69149
to the requirements and establishing sanctions for failure to 69150
satisfy the requirements. The rules shall be consistent with 7 69151
U.S.C.A. 2015 and, to the extent practicable, may provide for ~~food~~ 69152
~~stamp benefit~~ the recipients to participate in work activities, 69153
developmental activities, and alternative work activities 69154
established under sections 5107.40 to 5107.69 of the Revised Code 69155
that are comparable to programs authorized by 7 U.S.C.A. 69156
2015(d)(4). The rules may reference rules adopted under section 69157
5107.05 of the Revised Code governing work activities, 69158
developmental activities, and alternative work activities 69159
established under sections 5107.40 to 5107.69 of the Revised Code. 69160

(8) Adopt rules in accordance with section 111.15 of the 69161
Revised Code that are consistent with the Food ~~Stamp~~ and Nutrition 69162
Act of ~~1977~~ 2008, as amended, and regulations adopted thereunder 69163
governing the following: 69164

(a) Eligibility requirements for the ~~food stamp~~ supplemental 69165
nutrition assistance program; 69166

(b) Sanctions for failure to comply with eligibility 69167
requirements; 69168

(c) Allotment of ~~food stamp~~ supplemental nutrition assistance 69169
program benefits; 69170

(d) To the extent permitted under federal statutes and 69171
regulations, a system under which some or all recipients of ~~food~~ 69172
~~stamp~~ supplemental nutrition assistance program benefits subject 69173
to employment and training requirements established by rules 69174
adopted under division (A)(7) of this section receive ~~food stamp~~ 69175
the benefits after satisfying the requirements; 69176

(e) Administration of the program by county departments of 69177
job and family services; 69178

(f) Other requirements necessary for the efficient 69179
administration of the program. 69180

(9) Submit a plan to the United States secretary of 69181
agriculture for the department of job and family services to 69182
operate a simplified ~~food stamp~~ supplemental nutrition assistance 69183
program pursuant to 7 U.S.C.A. 2035 under which requirements 69184
governing the Ohio works first program established under Chapter 69185
5107. of the Revised Code also govern the ~~food stamp~~ supplemental 69186
nutrition assistance program in the case of households receiving 69187
~~food stamp~~ supplemental nutrition assistance program benefits and 69188
participating in Ohio works first. 69189

(B) ~~Except while in the custody of the United States postal~~ 69190
~~service, food stamps and any document necessary to obtain food~~ 69191
~~stamps are the property of the department of job and family~~ 69192
~~services from the time they are received in accordance with~~ 69193
~~federal regulations by the department from the federal agency~~ 69194
~~responsible for such delivery until they are received by a~~ 69195
~~household entitled to receive them or by the authorized~~ 69196
~~representative of the household.~~ 69197

(C) A household that is entitled to receive ~~food stamps under~~ 69198
the "~~Food Stamp Act of 1977,~~" 91 Stat. 958, 7 U.S.C.A. 2011, as 69199

~~amended,~~ supplemental nutrition assistance program benefits and 69200
that is determined to be in immediate need of ~~food~~ nutrition 69201
assistance, shall receive certification of eligibility for program 69202
benefits, pending verification, within twenty-four hours, or, if 69203
mitigating circumstances occur, within seventy-two hours, after 69204
application, if: 69205

(1) The results of the application interview indicate that 69206
the household will be eligible upon full verification; 69207

(2) Information sufficient to confirm the statements in the 69208
application has been obtained from at least one additional source, 69209
not a member of the applicant's household. Such information shall 69210
be recorded in the case file, and shall include: 69211

(a) The name of the person who provided the name of the 69212
information source; 69213

(b) The name and address of the information source; 69214

(c) A summary of the information obtained. 69215

The period of temporary eligibility shall not exceed one 69216
month from the date of certification of temporary eligibility. If 69217
eligibility is established by full verification, benefits shall 69218
continue without interruption as long as eligibility continues. 69219

At the time of application, the county department of job and 69220
family services shall provide to a household described in this 69221
division a list of community assistance programs that provide 69222
emergency food. 69223

~~(D)~~(C) All applications shall be approved or denied through 69224
full verification within thirty days from receipt of the 69225
application by the county department of job and family services. 69226

~~(E)~~(D) Nothing in this section shall be construed to prohibit 69227
the certification of households that qualify under federal 69228
regulations to receive ~~food stamps~~ supplemental nutrition 69229

assistance program benefits without charge under the "Food Stamp 69230
and Nutrition Act of 1977," 91 Stat. 958, 7 U.S.C.A. 2011, as 69231
amended 2008. 69232

~~(F)~~(E) Any person who applies for ~~food stamps~~ under this 69233
section the supplemental nutrition assistance program shall 69234
receive a voter registration application under section 3503.10 of 69235
the Revised Code. 69236

Sec. 5101.541. The ~~food stamp~~ supplemental nutrition 69237
assistance program fund is hereby created in the state treasury. 69238
The fund shall consist of federal reimbursement for ~~food stamp~~ 69239
supplemental nutrition assistance program administrative expenses 69240
and other ~~food stamp~~ supplemental nutrition assistance program 69241
expenses. The department of job and family services shall use the 69242
money credited to the fund to pay for ~~food stamp~~ supplemental 69243
nutrition assistance program administrative expenses and other 69244
~~food stamp~~ supplemental nutrition assistance program expenses. 69245

Sec. 5101.542. Immediately following a county department of 69246
job and family services' certification that a household determined 69247
under division (B) of section 5101.54 of the Revised Code to be in 69248
immediate need of nutrition assistance is eligible for the 69249
supplemental nutrition assistance program, the department of job 69250
and family services shall provide for the household to be sent by 69251
regular United States mail an electronic benefit transfer card 69252
containing the amount of benefits the household is eligible to 69253
receive under the program. The card shall be sent to the member of 69254
the household in whose name application for the supplemental 69255
nutrition assistance program was made or that member's authorized 69256
representative. 69257

Sec. 5101.544. If the benefits of a household are reduced 69258
under a federal, state, or local means-tested public assistance 69259

program for failure of a member of the household to perform an 69260
action required under the program, the household may not receive, 69261
for the duration of the reduction, an increased allotment of ~~food~~ 69262
~~stamp~~ supplemental nutrition assistance program benefits as the 69263
result of a decrease in the income of the household to the extent 69264
that the decrease is the result of the reduction. 69265

The department of job and family services shall adopt rules 69266
in accordance with Chapter 119. of the Revised Code to implement 69267
this section. The rules shall be consistent with 7 U.S.C.A. 69268
2017(d) and federal regulations. 69269

Sec. 5101.573. (A) Subject to divisions (B) and (C) of this 69270
section, a third party shall do all of the following: 69271

(1) Accept the department of job and family services' right 69272
of recovery under section 5101.58 of the Revised Code and the 69273
assignment of rights to the department that are described in 69274
section 5101.59 of the Revised Code; 69275

(2) Respond to an inquiry by the department regarding a claim 69276
for payment of a medical item or service that was submitted to the 69277
third party not later than three years after the date of the 69278
provision of such medical item or service; 69279

(3) Pay a claim described in division (A)(2) of this section; 69280

(4) Not deny a claim submitted by the department solely on 69281
the basis of the date of submission of the claim, type or format 69282
of the claim form, or a failure by the medical assistance 69283
recipient who is the subject of the claim to present proper 69284
documentation of coverage at the time of service, if both of the 69285
following are true: 69286

(a) The claim was submitted by the department not later than 69287
three years after the date of the provision of the medical item or 69288
service; 69289

(b) An action by the department to enforce its right of recovery under section 5101.58 of the Revised Code on the claim was commenced not later than six years after the department's submission of the claim.

(5) Consider the department's payment of a claim for a medical item or service to be the equivalent of the medical assistance recipient having obtained prior authorization for the item or service from the third party;

(6) Not deny a claim described in division (A)(5) of this section that is submitted by the department solely on the basis of the medical assistance recipient's failure to obtain prior authorization for the medical item or service.

(B) For purposes of the requirements in division (A) of this section, a third party shall treat a managed care organization as the department for a claim in which both of the following are true:

(1) The individual who is the subject of the claim received a medical item or service through a managed care organization that has entered into a contract with the department of job and family services under section 5111.16 of the Revised Code;

(2) The department has assigned its right of recovery for the claim to the managed care organization.

(C) The time limitations associated with the requirements in divisions (A)(2) and (A)(4) of this section apply only to submissions of claims to, and payments of claims by, a health insurer to which 42 U.S.C. 1396a(a)(25)(I) applies.

Sec. 5101.60. As used in sections 5101.60 to 5101.71 of the Revised Code:

(A) "Abuse" means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel

punishment with resulting physical harm, pain, or mental anguish. 69320

(B) "Adult" means any person sixty years of age or older 69321
within this state who is handicapped by the infirmities of aging 69322
or who has a physical or mental impairment which prevents the 69323
person from providing for the person's own care or protection, and 69324
who resides in an independent living arrangement. An "independent 69325
living arrangement" is a domicile of a person's own choosing, 69326
including, but not limited to, a private home, apartment, trailer, 69327
or rooming house. ~~Except as otherwise provided in this division,~~ 69328
An "independent living arrangement" includes a community 69329
alternative home an adult care facility licensed pursuant to 69330
~~section 3724.03 Chapter 3722.~~ of the Revised Code, but does not 69331
include other institutions or facilities licensed by the state, or 69332
facilities in which a person resides as a result of voluntary, 69333
civil, or criminal commitment. ~~"Independent living arrangement"~~ 69334
~~does include adult care facilities licensed pursuant to Chapter~~ 69335
~~3722. of the Revised Code.~~ 69336

(C) "Caretaker" means the person assuming the responsibility 69337
for the care of an adult on a voluntary basis, by contract, 69338
through receipt of payment for care, as a result of a family 69339
relationship, or by order of a court of competent jurisdiction. 69340

(D) "Court" means the probate court in the county where an 69341
adult resides. 69342

(E) "Emergency" means that the adult is living in conditions 69343
which present a substantial risk of immediate and irreparable 69344
physical harm or death to self or any other person. 69345

(F) "Emergency services" means protective services furnished 69346
to an adult in an emergency. 69347

(G) "Exploitation" means the unlawful or improper act of a 69348
caretaker using an adult or an adult's resources for monetary or 69349
personal benefit, profit, or gain. 69350

(H) "In need of protective services" means an adult known or suspected to be suffering from abuse, neglect, or exploitation to an extent that either life is endangered or physical harm, mental anguish, or mental illness results or is likely to result.

(I) "Incapacitated person" means a person who is impaired for any reason to the extent that the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person's self or resources, with or without the assistance of a caretaker. Refusal to consent to the provision of services shall not be the sole determinative that the person is incapacitated. "Reasonable decisions" are decisions made in daily living which facilitate the provision of food, shelter, clothing, and health care necessary for life support.

(J) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(K) "Neglect" means the failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

(L) "Peace officer" means a peace officer as defined in section 2935.01 of the Revised Code.

(M) "Physical harm" means bodily pain, injury, impairment, or disease suffered by an adult.

(N) "Protective services" means services provided by the county department of job and family services or its designated agency to an adult who has been determined by evaluation to require such services for the prevention, correction, or discontinuance of an act of as well as conditions resulting from abuse, neglect, or exploitation. Protective services may include,

but are not limited to, case work services, medical care, mental 69382
health services, legal services, fiscal management, home health 69383
care, homemaker services, housing-related services, guardianship 69384
services, and placement services as well as the provision of such 69385
commodities as food, clothing, and shelter. 69386

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, 69387
and Friday, except when such day is a holiday as defined in 69388
section 1.14 of the Revised Code. 69389

Sec. 5101.61. (A) As used in this section: 69390

(1) "Senior service provider" means any person who provides 69391
care or services to a person who is an adult as defined in 69392
division (B) of section 5101.60 of the Revised Code. 69393

(2) "Ambulatory health facility" means a nonprofit, public or 69394
proprietary freestanding organization or a unit of such an agency 69395
or organization that: 69396

(a) Provides preventive, diagnostic, therapeutic, 69397
rehabilitative, or palliative items or services furnished to an 69398
outpatient or ambulatory patient, by or under the direction of a 69399
physician or dentist in a facility which is not a part of a 69400
hospital, but which is organized and operated to provide medical 69401
care to outpatients; 69402

(b) Has health and medical care policies which are developed 69403
with the advice of, and with the provision of review of such 69404
policies, an advisory committee of professional personnel, 69405
including one or more physicians, one or more dentists, if dental 69406
care is provided, and one or more registered nurses; 69407

(c) Has a medical director, a dental director, if dental care 69408
is provided, and a nursing director responsible for the execution 69409
of such policies, and has physicians, dentists, nursing, and 69410
ancillary staff appropriate to the scope of services provided; 69411

(d) Requires that the health care and medical care of every patient be under the supervision of a physician, provides for medical care in a case of emergency, has in effect a written agreement with one or more hospitals and other centers or clinics, and has an established patient referral system to other resources, and a utilization review plan and program;

(e) Maintains clinical records on all patients;

(f) Provides nursing services and other therapeutic services in accordance with programs and policies, with such services supervised by a registered professional nurse, and has a registered professional nurse on duty at all times of clinical operations;

(g) Provides approved methods and procedures for the dispensing and administration of drugs and biologicals;

(h) Has established an accounting and record keeping system to determine reasonable and allowable costs;

(i) "Ambulatory health facilities" also includes an alcoholism treatment facility approved by the joint commission on accreditation of healthcare organizations as an alcoholism treatment facility or certified by the department of alcohol and drug addiction services, and such facility shall comply with other provisions of this division not inconsistent with such accreditation or certification.

(3) "Community mental health facility" means a facility which provides community mental health services and is included in the comprehensive mental health plan for the alcohol, drug addiction, and mental health service district in which it is located.

(4) "Community mental health service" means services, other than inpatient services, provided by a community mental health facility.

(5) "Home health agency" means an institution or a distinct part of an institution operated in this state which:

(a) Is primarily engaged in providing home health services;

(b) Has home health policies which are established by a group of professional personnel, including one or more duly licensed doctors of medicine or osteopathy and one or more registered professional nurses, to govern the home health services it provides and which includes a requirement that every patient must be under the care of a duly licensed doctor of medicine or osteopathy;

(c) Is under the supervision of a duly licensed doctor of medicine or doctor of osteopathy or a registered professional nurse who is responsible for the execution of such home health policies;

(d) Maintains comprehensive records on all patients;

(e) Is operated by the state, a political subdivision, or an agency of either, or is operated not for profit in this state and is licensed or registered, if required, pursuant to law by the appropriate department of the state, county, or municipality in which it furnishes services; or is operated for profit in this state, meets all the requirements specified in divisions (A)(5)(a) to (d) of this section, and is certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(6) "Home health service" means the following items and services, provided, except as provided in division (A)(6)(g) of this section, on a visiting basis in a place of residence used as the patient's home:

(a) Nursing care provided by or under the supervision of a registered professional nurse;

(b) Physical, occupational, or speech therapy ordered by the patient's attending physician;	69472 69473
(c) Medical social services performed by or under the supervision of a qualified medical or psychiatric social worker and under the direction of the patient's attending physician;	69474 69475 69476
(d) Personal health care of the patient performed by aides in accordance with the orders of a doctor of medicine or osteopathy and under the supervision of a registered professional nurse;	69477 69478 69479
(e) Medical supplies and the use of medical appliances;	69480
(f) Medical services of interns and residents-in-training under an approved teaching program of a nonprofit hospital and under the direction and supervision of the patient's attending physician;	69481 69482 69483 69484
(g) Any of the foregoing items and services which:	69485
(i) Are provided on an outpatient basis under arrangements made by the home health agency at a hospital or skilled nursing facility;	69486 69487 69488
(ii) Involve the use of equipment of such a nature that the items and services cannot readily be made available to the patient in the patient's place of residence, or which are furnished at the hospital or skilled nursing facility while the patient <u>is</u> there to receive any item or service involving the use of such equipment.	69489 69490 69491 69492 69493
Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in section 3701.01 of the Revised Code, any nurse licensed under Chapter 4723. of the Revised Code, any employee of an ambulatory health facility, any employee of a home health agency, any employee of an adult care facility as defined in section 3722.01 of the Revised Code, any employee of a community alternative home as defined in section 3724.01 of the Revised Code, any employee of	69494 69495 69496 69497 69498 69499 69500 69501

a nursing home, residential care facility, or home for the aging, 69502
as defined in section 3721.01 of the Revised Code, any senior 69503
service provider, any peace officer, coroner, clergyman, any 69504
employee of a community mental health facility, and any person 69505
engaged in social work or counseling having reasonable cause to 69506
believe that an adult is being abused, neglected, or exploited, or 69507
is in a condition which is the result of abuse, neglect, or 69508
exploitation shall immediately report such belief to the county 69509
department of job and family services. This section does not apply 69510
to employees of any hospital or public hospital as defined in 69511
section 5122.01 of the Revised Code. 69512

(B) Any person having reasonable cause to believe that an 69513
adult has suffered abuse, neglect, or exploitation may report, or 69514
cause reports to be made of such belief to the department. 69515

(C) The reports made under this section shall be made orally 69516
or in writing except that oral reports shall be followed by a 69517
written report if a written report is requested by the department. 69518
Written reports shall include: 69519

(1) The name, address, and approximate age of the adult who 69520
is the subject of the report; 69521

(2) The name and address of the individual responsible for 69522
the adult's care, if any individual is, and if the individual is 69523
known; 69524

(3) The nature and extent of the alleged abuse, neglect, or 69525
exploitation of the adult; 69526

(4) The basis of the reporter's belief that the adult has 69527
been abused, neglected, or exploited. 69528

(D) Any person with reasonable cause to believe that an adult 69529
is suffering abuse, neglect, or exploitation who makes a report 69530
pursuant to this section or who testifies in any administrative or 69531
judicial proceeding arising from such a report, or any employee of 69532

the state or any of its subdivisions who is discharging 69533
responsibilities under section 5101.62 of the Revised Code shall 69534
be immune from civil or criminal liability on account of such 69535
investigation, report, or testimony, except liability for perjury, 69536
unless the person has acted in bad faith or with malicious 69537
purpose. 69538

(E) No employer or any other person with the authority to do 69539
so shall discharge, demote, transfer, prepare a negative work 69540
performance evaluation, or reduce benefits, pay, or work 69541
privileges, or take any other action detrimental to an employee or 69542
in any way retaliate against an employee as a result of the 69543
employee's having filed a report under this section. 69544

(F) Neither the written or oral report provided for in this 69545
section nor the investigatory report provided for in section 69546
5101.62 of the Revised Code shall be considered a public record as 69547
defined in section 149.43 of the Revised Code. Information 69548
contained in the report shall upon request be made available to 69549
the adult who is the subject of the report, to agencies authorized 69550
by the department to receive information contained in the report, 69551
and to legal counsel for the adult. 69552

Sec. 5101.83. (A) As used in this section: 69553

(1) "Assistance group" has the same meaning as in section 69554
5107.02 of the Revised Code, ~~except that it also means a group~~ 69555
~~provided benefits and services under the prevention, retention,~~ 69556
~~and contingency program.~~ 69557

(2) "Fraudulent assistance" means ~~assistance and service,~~ 69558
~~including~~ cash assistance, provided under the Ohio works first 69559
program established under Chapter 5107., ~~or benefits and services~~ 69560
~~provided under the prevention, retention, and contingency program~~ 69561
~~established under Chapter 5108.~~ of the Revised Code, to or on 69562
behalf of an assistance group that is provided as a result of 69563

fraud by a member of the assistance group, including an 69564
intentional violation of the program's requirements. "Fraudulent 69565
assistance" does not include cash assistance ~~or services~~ to or on 69566
behalf of an assistance group that is provided as a result of an 69567
error that is the fault of a county department of job and family 69568
services or the state department of job and family services. 69569

(B) If a county director of job and family services 69570
determines that an assistance group has received fraudulent 69571
assistance, the assistance group is ineligible to participate in 69572
the Ohio works first program ~~or the prevention, retention, and~~ 69573
~~contingency program~~ until a member of the assistance group repays 69574
the cost of the fraudulent assistance. If a member repays the cost 69575
of the fraudulent assistance and the assistance group otherwise 69576
meets the eligibility requirements for the Ohio works first 69577
program ~~or the prevention, retention, and contingency program~~, the 69578
assistance group shall not be denied the opportunity to 69579
participate in the program. 69580

This section does not limit the ability of a county 69581
department of job and family services to recover erroneous 69582
payments under section 5107.76 of the Revised Code. 69583

The state department of job and family services shall adopt 69584
rules in accordance with Chapter 119. of the Revised Code to 69585
implement this section. 69586

Sec. 5101.84. An individual otherwise ineligible for aid 69587
under ~~Chapter 5107. or 5108. a Title IV-A program, as defined in~~ 69588
section 5101.80 of the Revised Code, or ~~food stamps~~ supplemental 69589
nutrition assistance program benefits under the "Food Stamp and 69590
Nutrition Act of 1977," ~~78 Stat. 703, 2008 (7 U.S.C. 2011, as~~ 69591
~~amended, et seq.)~~ because of paragraph (a) of ~~section 115 of the~~ 69592
~~"Personal Responsibility and Work Opportunity Reconciliation Act~~ 69593
~~of 1996,~~ ~~110 Stat. 2105, 21 U.S.C. 862a,~~ is eligible for the aid 69594

or benefits if the individual meets all other eligibility 69595
requirements for the aid or benefits. 69596

Sec. 5104.051. (A)(1) The department of commerce is 69597
responsible for the inspections of child day-care centers as 69598
required by division (A)(1) of section 5104.05 of the Revised 69599
Code. Where there is a municipal, township, or county building 69600
department certified under section 3781.10 of the Revised Code to 69601
exercise enforcement authority with respect to the category of 69602
building occupancy which includes day-care centers, all 69603
inspections required under division (A)(1) of section 5104.05 of 69604
the Revised Code shall be made by that department according to the 69605
standards established by the board of building standards. 69606
Inspections in areas of the state where there is no municipal, 69607
township, or county building department certified under section 69608
3781.10 of the Revised Code to exercise enforcement authority with 69609
respect to the category of building occupancy which includes 69610
day-care centers shall be made by personnel of the department of 69611
commerce. Inspections of centers shall be contingent upon payment 69612
of a fee by the applicant to the department having jurisdiction to 69613
inspect. 69614

(2) The department of commerce is responsible for the 69615
inspections of type A family day-care homes as required by 69616
division (B)(3) of section 5104.05 of the Revised Code. Where 69617
there is a municipal, township, or county building department 69618
certified under section 3781.10 of the Revised Code to exercise 69619
enforcement authority with respect to the category of building 69620
occupancy which includes type A homes, all inspections required 69621
under division (B)(3) of section 5104.05 of the Revised Code shall 69622
be made by that department according to the standards established 69623
by the board of building standards. Inspections in areas of the 69624
state where there is no municipal, township, or county building 69625
department certified under section 3781.10 of the Revised Code to 69626

exercise enforcement authority with respect to the category of 69627
building occupancy which includes type A homes shall be made by 69628
personnel of the department of commerce. Inspections of type A 69629
homes shall be contingent upon payment of a fee by the applicant 69630
to the department having jurisdiction to inspect. 69631

(B) The state fire marshal is responsible for the inspections 69632
required by divisions (A)(2) and (B)(1) of section 5104.05 of the 69633
Revised Code. In municipal corporations and in townships outside 69634
municipal corporations where there is a fire prevention official, 69635
the inspections shall be made by the fire chief or the fire 69636
prevention official under the supervision of and according to the 69637
standards established by the state fire marshal. In townships 69638
outside municipal corporations where there is no fire prevention 69639
official, inspections shall be made by the employees of the state 69640
fire marshal. 69641

(C) The state fire marshal shall enforce all statutes and 69642
rules pertaining to fire safety and fire prevention in child 69643
day-care centers and type A family day-care homes. In the event of 69644
a dispute between the state fire marshal and any other responsible 69645
officer under sections 5104.05 and 5104.051 of the Revised Code 69646
with respect to the interpretation or application of a specific 69647
fire safety statute or rule, the interpretation of the state fire 69648
marshal shall prevail. 69649

(D) As used in this division, "licensor" has the same meaning 69650
as in section 3717.01 of the Revised Code. 69651

The licensor for food service operations in the city or 69652
general health district in which the center is located is 69653
responsible for the inspections required under Chapter 3717. of 69654
the Revised Code. 69655

(E) Any moneys collected by the department of commerce under 69656
this section shall be paid into the state treasury to the credit 69657

of the ~~industrial compliance~~ labor operating fund created in 69658
section 121.084 of the Revised Code. 69659

Sec. 5107.05. The director of job and family services shall 69660
adopt rules to implement this chapter. The rules shall be 69661
consistent with Title IV-A, Title IV-D, federal regulations, state 69662
law, the Title IV-A state plan submitted to the United States 69663
secretary of health and human services under section 5101.80 of 69664
the Revised Code, amendments to the plan, and waivers granted by 69665
the United States secretary. Rules governing eligibility, program 69666
participation, and other applicant and participant requirements 69667
shall be adopted in accordance with Chapter 119. of the Revised 69668
Code. Rules governing financial and other administrative 69669
requirements applicable to the department of job and family 69670
services and county departments of job and family services shall 69671
be adopted in accordance with section 111.15 of the Revised Code. 69672

(A) The rules shall specify, establish, or govern all of the 69673
following: 69674

(1) A payment standard for Ohio works first based on federal 69675
and state appropriations that is increased in accordance with 69676
section 5107.04 of the Revised Code; 69677

(2) For the purpose of section 5107.04 of the Revised Code, 69678
the method of determining the amount of cash assistance an 69679
assistance group receives under Ohio works first; 69680

(3) Requirements for initial and continued eligibility for 69681
Ohio works first, including requirements regarding income, 69682
citizenship, age, residence, and assistance group composition; 69683

(4) For the purpose of section 5107.12 of the Revised Code, 69684
application and verification procedures, including the minimum 69685
information an application must contain; 69686

(5) The extent to which a participant of Ohio works first 69687

must notify, pursuant to section 5107.12 of the Revised Code, a 69688
county department of job and family services of additional income 69689
not previously reported to the county department; 69690

(6) For the purpose of section 5107.16 of the Revised Code, 69691
~~standards~~ all of the following: 69692

(a) Standards for the determination of good cause for failure 69693
or refusal to comply in full with a provision of a 69694
self-sufficiency contract; 69695

(b) The compliance form a member of an assistance group may 69696
complete to indicate willingness to come into full compliance with 69697
a provision of a self-sufficiency contract; 69698

(c) The manner by which the compliance form is to be 69699
completed and provided to a county department of job and family 69700
services. 69701

(7) The department of job and family services providing 69702
written notice of a sanction under section 5107.161 of the Revised 69703
Code; 69704

(8) For the purpose of division (A)(2) of section 5107.17 of 69705
the Revised Code, the period of time by which a county department 69706
of job and family services is to receive a compliance form 69707
established in rules adopted under division (A)(6)(b) of this 69708
section; 69709

(9) Requirements for the collection and distribution of 69710
support payments owed participants of Ohio works first pursuant to 69711
section 5107.20 of the Revised Code; 69712

~~(9)~~(10) For the purpose of section 5107.22 of the Revised 69713
Code, what constitutes cooperating in establishing a minor child's 69714
paternity or establishing, modifying, or enforcing a child support 69715
order and good cause for failure or refusal to cooperate; 69716
69717

~~(10)~~(11) The requirements governing the LEAP program, 69718
including the definitions of "equivalent of a high school diploma" 69719
and "good cause," and the incentives provided under the LEAP 69720
program; 69721

~~(11)~~(12) If the director implements section 5107.301 of the 69722
Revised Code, the requirements governing the award provided under 69723
that section, including the form that the award is to take and 69724
requirements an individual must satisfy to receive the award; 69725

~~(12)~~(13) Circumstances under which a county department of job 69726
and family services may exempt a minor head of household or adult 69727
from participating in a work activity or developmental activity 69728
for all or some of the weekly hours otherwise required by section 69729
5107.43 of the Revised Code. 69730

~~(13)~~(14) The maximum amount of time the department will 69731
subsidize positions created by state agencies and political 69732
subdivisions under division (C) of section 5107.52 of the Revised 69733
Code; 69734

~~(14)~~(15) The implementation of sections 5107.71 to 5107.717 69735
of the Revised Code by county departments of job and family 69736
services; 69737

~~(15)~~(16) A domestic violence screening process to be used for 69738
the purpose of division (A) of section 5107.71 of the Revised 69739
Code; 69740

~~(16)~~(17) The minimum frequency with which county departments 69741
of job and family services must redetermine a member of an 69742
assistance group's need for a waiver issued under section 5107.714 69743
of the Revised Code. 69744

(B) The rules adopted under division (A)(3) of this section 69745
regarding income shall specify what is countable income, gross 69746
earned income, and gross unearned income for the purpose of 69747
section 5107.10 of the Revised Code. 69748

The rules adopted under division (A)~~(9)~~(10) of this section 69749
shall be consistent with 42 U.S.C. 654(29). 69750

The rules adopted under division (A)~~(12)~~(13) of this section 69751
shall specify that the circumstances include that a school or 69752
place of work is closed due to a holiday or weather or other 69753
emergency and that an employer grants the minor head of household 69754
or adult leave for illness or earned vacation. 69755

(C) The rules may provide that a county department of job and 69756
family services is not required to take action under section 69757
5107.76 of the Revised Code to recover an erroneous payment that 69758
is below an amount the department specifies. 69759

Sec. 5107.16. (A) If a member of an assistance group fails or 69760
refuses, without good cause, to comply in full with a provision of 69761
a self-sufficiency contract entered into under section 5107.14 of 69762
the Revised Code, a county department of job and family services 69763
shall sanction the assistance group as follows: 69764

(1) For a first failure or refusal, the county department 69765
shall deny or terminate the assistance group's eligibility to 69766
participate in Ohio works first for one payment month or until the 69767
failure or refusal ceases, whichever is longer; 69768

(2) For a second failure or refusal, the county department 69769
shall deny or terminate the assistance group's eligibility to 69770
participate in Ohio works first for three payment months or until 69771
the failure or refusal ceases, whichever is longer; 69772

(3) For a third or subsequent failure or refusal, the county 69773
department shall deny or terminate the assistance group's 69774
eligibility to participate in Ohio works first for six payment 69775
months or until the failure or refusal ceases, whichever is 69776
longer. 69777

(B) The director of job and family services shall establish 69778

standards for the determination of good cause for failure or 69779
refusal to comply in full with a provision of a self-sufficiency 69780
contract in rules adopted under section 5107.05 of the Revised 69781
Code. 69782

(C) The director of job and family services shall provide a 69783
compliance form established in rules adopted under section 5107.05 69784
of the Revised Code to an assistance group member who fails or 69785
refuses, without good cause, to comply in full with a provision of 69786
a self-sufficiency contract. The member's failure or refusal to 69787
comply in full with the provision shall be deemed to have ceased 69788
on the date a county department of job and family services 69789
receives the compliance form from the member if the compliance 69790
form is completed and provided to the county department in the 69791
manner specified in rules adopted under section 5107.05 of the 69792
Revised Code. 69793

(D) After sanctioning an assistance group under division (A) 69794
of this section, a county department of job and family services 69795
shall continue to work with the assistance group. 69796

~~(D)~~(E) An adult eligible for medicaid pursuant to division 69797
(A)(1)(a) of section 5111.01 of the Revised Code who is sanctioned 69798
under division (A)(3) of this section for a failure or refusal, 69799
without good cause, to comply in full with a provision of a 69800
self-sufficiency contract related to work responsibilities under 69801
sections 5107.40 to 5107.69 of the Revised Code loses eligibility 69802
for medicaid unless the adult is otherwise eligible for medicaid 69803
pursuant to another division of section 5111.01 of the Revised 69804
Code. 69805

An assistance group that would be participating in Ohio works 69806
first if not for a sanction under this section shall continue to 69807
be eligible for all of the following: 69808

(1) Publicly funded child care in accordance with division 69809

(A)(3) of section 5104.30 of the Revised Code; 69810

(2) Support services in accordance with section 5107.66 of 69811
the Revised Code; 69812

(3) To the extent permitted by the "Fair Labor Standards Act 69813
of 1938," 52 Stat. 1060, 29 U.S.C. 201, as amended, to participate 69814
in work activities, developmental activities, and alternative work 69815
activities in accordance with sections 5107.40 to 5107.69 of the 69816
Revised Code. 69817

Sec. 5107.17. An assistance group that resumes participation 69818
in Ohio works first following a sanction under section 5107.16 of 69819
the Revised Code is not required to do either of the following: 69820

(A) Reapply under section 5107.12 of the Revised Code, unless 69821
~~it~~ either of the following applies: 69822

(1) It is the assistance group's regularly scheduled time for 69823
an eligibility redetermination; 69824

(2) The county department of job and family services does not 69825
receive the completed compliance form established in rules adopted 69826
under section 5107.05 of the Revised Code within the period of 69827
time specified in rules adopted under that section. 69828

(B) Enter into a new self-sufficiency contract under section 69829
5107.14 of the Revised Code, unless the county department of job 69830
and family services determines it is time for a new appraisal 69831
under section 5107.41 of the Revised Code or the assistance 69832
group's circumstances have changed in a manner necessitating an 69833
amendment to the self-sufficiency contract as determined using 69834
procedures included in the contract under division (B)(9) of 69835
section 5107.14 of the Revised Code. 69836

Sec. 5107.58. In accordance with a federal waiver granted by 69837
the United States secretary of health and human services pursuant 69838

to a request made under former section 5101.09 of the Revised 69839
Code, county departments of job and family services may establish 69840
and administer as a work activity for minor heads of households 69841
and adults participating in Ohio works first an education program 69842
under which the participant is enrolled full-time in 69843
post-secondary education leading to vocation at a state 69844
institution of higher education, as defined in section 3345.031 of 69845
the Revised Code; a private nonprofit college or university that 69846
possesses a certificate of authorization issued by the Ohio board 69847
of regents pursuant to Chapter 1713. of the Revised Code, or is 69848
exempted by division (E) of section 1713.02 of the Revised Code 69849
from the requirement of a certificate; a school that holds a 69850
certificate of registration and program authorization issued by 69851
the state board of career colleges and schools under Chapter 3332. 69852
of the Revised Code; a private institution exempt from regulation 69853
under Chapter 3332. of the Revised Code as prescribed in section 69854
3333.046 of the Revised Code; or a school that has entered into a 69855
contract with the county department of job and family services. 69856
The participant shall make reasonable efforts, as determined by 69857
the county department, to obtain ~~a~~ an applicable loan, 69858
scholarship, grant, or other assistance to pay for the tuition, 69859
including a federal Pell grant under 20 U.S.C.A. 1070a, an Ohio 69860
instructional grant under section 3333.12 of the Revised Code, and 69861
an Ohio college opportunity grant, a private higher education 69862
need-based financial aid block grant program grant, and a 69863
career-college needs-based financial aid block grant program grant 69864
under section 3333.122 of the Revised Code. If the participant has 69865
made reasonable efforts but is unable to obtain sufficient 69866
assistance to pay the tuition the program may pay the tuition. On 69867
or after October 1, 1998, the county department may enter into a 69868
loan agreement with the participant to pay the tuition. The total 69869
period for which tuition is paid and loans made shall not exceed 69870
two years. If the participant, pursuant to division (B)(3) of 69871

section 5107.43 of the Revised Code, volunteers to participate in 69872
the education program for more hours each week than the 69873
participant is assigned to the program, the program may pay or the 69874
county department may loan the cost of the tuition for the 69875
additional voluntary hours as well as the cost of the tuition for 69876
the assigned number of hours. The participant may receive, for not 69877
more than three years, support services, including publicly funded 69878
child care under Chapter 5104. of the Revised Code and 69879
transportation, that the participant needs to participate in the 69880
program. To receive support services in the third year, the 69881
participant must be, as determined by the educational institution 69882
in which the participant is enrolled, in good standing with the 69883
institution. 69884

A county department that provides loans under this section 69885
shall establish procedures governing loan application for and 69886
approval and administration of loans granted pursuant to this 69887
section. 69888

Sec. 5111.01. As used in this chapter, "medical assistance 69889
program" or "medicaid" means the program that is authorized by 69890
this chapter and provided by the department of job and family 69891
services under this chapter, Title XIX of the "Social Security 69892
Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, and the 69893
waivers of Title XIX requirements granted to the department by the 69894
centers for medicare and medicaid services of the United States 69895
department of health and human services. 69896

The department of job and family services shall act as the 69897
single state agency to supervise the administration of the 69898
medicaid program. As the single state agency, the department shall 69899
comply with 42 C.F.R. 431.10(e). The department's rules governing 69900
medicaid are binding on other agencies that administer components 69901
of the medicaid program. No agency may establish, by rule or 69902

otherwise, a policy governing medicaid that is inconsistent with a 69903
medicaid policy established, in rule or otherwise, by the director 69904
of job and family services. 69905

(A) The department of job and family services may provide 69906
medical assistance under the medicaid program as long as federal 69907
funds are provided for such assistance, to the following: 69908

(1) Families with children that meet either of the following 69909
conditions: 69910

(a) The family meets the income, resource, and family 69911
composition requirements in effect on July 16, 1996, for the 69912
former aid to dependent children program as those requirements 69913
were established by Chapter 5107. of the Revised Code, federal 69914
waivers granted pursuant to requests made under former section 69915
5101.09 of the Revised Code, and rules adopted by the department 69916
or any changes the department makes to those requirements in 69917
accordance with paragraph (a)(2) of section 114 of the "Personal 69918
Responsibility and Work Opportunity Reconciliation Act of 1996," 69919
110 Stat. 2177, 42 U.S.C.A. 1396u-1, for the purpose of 69920
implementing section 5111.019 of the Revised Code. An adult loses 69921
eligibility for medicaid under division (A)(1)(a) of this section 69922
pursuant to division ~~(D)~~(E) of section 5107.16 of the Revised 69923
Code. 69924

(b) The family does not meet the requirements specified in 69925
division (A)(1)(a) of this section but is eligible for medicaid 69926
pursuant to section 5101.18 of the Revised Code. 69927

(2) Aged, blind, and disabled persons who meet the following 69928
conditions: 69929

(a) Receive federal aid under Title XVI of the "Social 69930
Security Act," or are eligible for but are not receiving such aid, 69931
provided that the income from all other sources for individuals 69932
with independent living arrangements shall not exceed one hundred 69933

seventy-five dollars per month. The income standards hereby 69934
established shall be adjusted annually at the rate that is used by 69935
the United States department of health and human services to 69936
adjust the amounts payable under Title XVI. 69937

(b) Do not receive aid under Title XVI, but meet any of the 69938
following criteria: 69939

(i) Would be eligible to receive such aid, except that their 69940
income, other than that excluded from consideration as income 69941
under Title XVI, exceeds the maximum under division (A)(2)(a) of 69942
this section, and incurred expenses for medical care, as 69943
determined under federal regulations applicable to section 209(b) 69944
of the "Social Security Amendments of 1972," 86 Stat. 1381, 42 69945
U.S.C.A. 1396a(f), as amended, equal or exceed the amount by which 69946
their income exceeds the maximum under division (A)(2)(a) of this 69947
section; 69948

(ii) Received aid for the aged, aid to the blind, or aid for 69949
the permanently and totally disabled prior to January 1, 1974, and 69950
continue to meet all the same eligibility requirements; 69951

(iii) Are eligible for medicaid pursuant to section 5101.18 69952
of the Revised Code. 69953

(3) Persons to whom federal law requires, as a condition of 69954
state participation in the medicaid program, that medicaid be 69955
provided; 69956

(4) Persons under age twenty-one who meet the income 69957
requirements for the Ohio works first program established under 69958
Chapter 5107. of the Revised Code but do not meet other 69959
eligibility requirements for the program. The director shall adopt 69960
rules in accordance with Chapter 119. of the Revised Code 69961
specifying which Ohio works first requirements shall be waived for 69962
the purpose of providing medicaid eligibility under division 69963
(A)(4) of this section. 69964

(B) If sufficient funds are appropriated for the medicaid 69965
program, the department may provide medical assistance under the 69966
medicaid program to persons in groups designated by federal law as 69967
groups to which a state, at its option, may provide medical 69968
assistance under the medicaid program. 69969

(C) The department may expand eligibility for the medicaid 69970
program to include individuals under age nineteen with family 69971
incomes at or below one hundred fifty per cent of the federal 69972
poverty guidelines, except that the eligibility expansion shall 69973
not occur unless the department receives the approval of the 69974
federal government. The department may implement the eligibility 69975
expansion authorized under this division on any date selected by 69976
the department, but not sooner than January 1, 1998. 69977

(D) In addition to any other authority or requirement to 69978
adopt rules under this chapter, the director may adopt rules in 69979
accordance with section 111.15 of the Revised Code as the director 69980
considers necessary to establish standards, procedures, and other 69981
requirements regarding the provision of medical assistance under 69982
the medicaid program. The rules may establish requirements to be 69983
followed in applying for medicaid, making determinations of 69984
eligibility for medicaid, and verifying eligibility for medicaid. 69985
The rules may include special conditions as the department 69986
determines appropriate for making applications, determining 69987
eligibility, and verifying eligibility for any medical assistance 69988
that the department may provide under the medicaid program 69989
pursuant to division (C) of this section and section 5111.014 or 69990
5111.019 of the Revised Code. 69991

Sec. 5111.015. (A) If the United States secretary of health 69992
and human services grants a waiver of any contrary federal 69993
requirements governing the medical assistance program or the 69994
director of job and family services determines that there are no 69995

contrary federal requirements, divisions (A)(1) and (2) of this 69996
section apply to determinations of eligibility under this chapter: 69997

(1) In determining the eligibility of an assistance group for 69998
assistance under this chapter, the department of job and family 69999
services shall exclude from the income and resources applicable to 70000
the assistance group the value of any tuition payment contract 70001
entered into under section 3334.09 of the Revised Code or any 70002
scholarship awarded under section 3334.18 of the Revised Code and 70003
the amount of payments made ~~by the Ohio tuition trust authority~~ 70004
under section 3334.09 of the Revised Code pursuant to the contract 70005
or scholarship. 70006

(2) The department shall not require any person to terminate 70007
a tuition payment contract entered into under Chapter 3334. of the 70008
Revised Code as a condition of an assistance group's eligibility 70009
for assistance under this chapter. 70010

(B) To the extent required by federal law, the department 70011
shall include as income any refund paid under section 3334.10 of 70012
the Revised Code to a member of the assistance group. 70013

(C) Not later than sixty days after July 1, 1994, the 70014
department shall apply to the United States department of health 70015
and human services for a waiver of any federal requirements that 70016
otherwise would be violated by implementation of division (A) of 70017
this section. 70018

Sec. 5111.032. (A) As used in this section: 70019

(1) "Criminal records check" has the same meaning as in 70020
section 109.572 of the Revised Code. 70021

(2) "Department" includes a designee of the department of job 70022
and family services. 70023

(3) "Owner" means a person who has an ownership interest in a 70024
provider in an amount designated by the department of job and 70025

family services in rules adopted under this section. 70026

(4) "Provider" means a person, institution, or entity that 70027
has a provider agreement with the department of job and family 70028
services pursuant to Title XIX of the "Social Security Act," 49 70029
State. 620 (1965), 42 U.S.C. 1396, as amended. 70030

(B)(1) Except as provided in division (B)(2) of this section, 70031
the department of job and family services may require that any 70032
provider, applicant to be a provider, employee or prospective 70033
employee of a provider, owner or prospective owner of a provider, 70034
officer or prospective officer of a provider, or board member or 70035
prospective board member of a provider submit to a criminal 70036
records check as a condition of obtaining a provider agreement, 70037
continuing to hold a provider agreement, being employed by a 70038
provider, having an ownership interest in a provider, or being an 70039
officer or board member of a provider. The department may 70040
designate the categories of persons who are subject to the 70041
criminal records check requirement. The department shall designate 70042
the times at which the criminal records checks must be conducted. 70043

(2) The section does not apply to providers, applicants to be 70044
providers, employees of a provider, or prospective employees of a 70045
provider who are subject to criminal records checks under section 70046
5111.033 or 5111.034 of the Revised Code. 70047

(C)(1) The department shall inform each provider or applicant 70048
to be a provider whether the provider or applicant is subject to a 70049
criminal records check requirement under division (B) of this 70050
section. For providers, the information shall be given at times 70051
designated in rules adopted under this section. For applicants to 70052
be providers, the information shall be given at the time of 70053
initial application. When the information is given, the department 70054
shall specify which of the provider's or applicant's employees or 70055
prospective employees, owners or prospective owners, officers or 70056
prospective officers, or board members or prospective board 70057

members are subject to the criminal records check requirement. 70058

(2) At times designated in rules adopted under this section, 70059
a provider that is subject to the criminal records check 70060
requirement shall inform each person specified by the department 70061
under division (C)(1) of this section that the person is required, 70062
as applicable, to submit to a criminal records check for final 70063
consideration for employment in a full-time, part-time, or 70064
temporary position; as a condition of continued employment; or as 70065
a condition of becoming or continuing to be an officer, board 70066
member or owner of a provider. 70067

(D)(1) If a provider or applicant to be a provider is subject 70068
to a criminal records check under this section, the department 70069
shall require the conduct of a criminal records check by the 70070
superintendent of the bureau of criminal identification and 70071
investigation. If a provider or applicant to be a provider for 70072
whom a criminal records check is required does not present proof 70073
of having been a resident of this state for the five-year period 70074
immediately prior to the date the criminal records check is 70075
requested or provide evidence that within that five-year period 70076
the superintendent has requested information about the individual 70077
from the federal bureau of investigation in a criminal records 70078
check, the department shall require the provider or applicant to 70079
request that the superintendent obtain information from the 70080
federal bureau of investigation as part of the criminal records 70081
check of the provider or applicant. Even if a provider or 70082
applicant for whom a criminal records check request is required 70083
presents proof of having been a resident of this state for the 70084
five-year period, the department may require that the provider or 70085
applicant request that the superintendent obtain information from 70086
the federal bureau of investigation and include it in the criminal 70087
records check of the provider or applicant. 70088

(2) A provider shall require the conduct of a criminal 70089

records check by the superintendent with respect to each of the 70090
persons specified by the department under division (C)(1) of this 70091
section. If the person for whom a criminal records check is 70092
required does not present proof of having been a resident of this 70093
state for the five-year period immediately prior to the date the 70094
criminal records check is requested or provide evidence that 70095
within that five-year period the superintendent of the bureau of 70096
criminal identification and investigation has requested 70097
information about the individual from the federal bureau of 70098
investigation in a criminal records check, the individual shall 70099
request that the superintendent obtain information from the 70100
federal bureau of investigation as part of the criminal records 70101
check of the individual. Even if an individual for whom a criminal 70102
records check request is required presents proof of having been a 70103
resident of this state for the five-year period, the department 70104
may require the provider to request that the superintendent obtain 70105
information from the federal bureau of investigation and include 70106
it in the criminal records check of the person. 70107

(E)(1) Criminal records checks required under this section 70108
for providers or applicants to be providers shall be obtained as 70109
follows: 70110

(a) The department shall provide each provider or applicant 70111
information about accessing and completing the form prescribed 70112
pursuant to division (C)(1) of section 109.572 of the Revised Code 70113
and the standard fingerprint impression sheet prescribed pursuant 70114
to division (C)(2) of that section. 70115

(b) The provider or applicant shall submit the required form 70116
and one complete set of fingerprint impressions directly to the 70117
superintendent for purposes of conducting the criminal records 70118
check using the applicable methods prescribed by division (C) of 70119
section 109.572 of the Revised Code. The applicant or provider 70120
shall pay all fees associated with obtaining the criminal records 70121

check. 70122

(c) The superintendent shall conduct the criminal records 70123
check in accordance with section 109.572 of the Revised Code. The 70124
provider or applicant shall instruct the superintendent to submit 70125
the report of the criminal records check directly to the director 70126
of job and family services. 70127

(2) Criminal records checks required under this section for 70128
persons specified by the department under division (C)(1) of this 70129
section shall be obtained as follows: 70130

(a) The provider shall give to each person subject to 70131
criminal records check requirement information about accessing and 70132
completing the form prescribed pursuant to division (C)(1) of 70133
section 109.572 of the Revised Code and the standard fingerprint 70134
impression sheet prescribed pursuant to division (C)(2) of that 70135
section. 70136

(b) The person shall submit the required form and one 70137
complete set of fingerprint impressions directly to the 70138
superintendent for purposes of conducting the criminal records 70139
check using the applicable methods prescribed by division (C) of 70140
section 109.572 of the Revised Code. The person shall pay all fees 70141
associated with obtaining the criminal records check. 70142

(c) The superintendent shall conduct the criminal records 70143
check in accordance with section 109.572 of the Revised Code. The 70144
person subject to the criminal records check shall instruct the 70145
superintendent to submit the report of the criminal records check 70146
directly to the provider. The department may require the provider 70147
to submit the report to the department. 70148

(F) If a provider or applicant to be a provider is given the 70149
information specified in division (E)(1)(a) of this section but 70150
fails to obtain a criminal records check, the department shall, as 70151
applicable, terminate the provider agreement or deny the 70152

application to be a provider. 70153

If a person is given the information specified in division 70154
(E)(2)(a) of this section but fails to obtain a criminal records 70155
check, the provider shall not, as applicable, permit the person to 70156
be an employee, owner, officer, or board member of the provider. 70157

(G) Except as provided in rules adopted under division (J) of 70158
this section, the department shall terminate the provider 70159
agreement of a provider or the department shall not issue a 70160
provider agreement to an applicant if the provider or applicant is 70161
subject to a criminal records check under this section and the 70162
provider or applicant has been convicted of, has pleaded guilty 70163
to, or has been found eligible for intervention in lieu of 70164
conviction for any of the following: 70165

(1) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 70166
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 70167
2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 70168
2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 70169
2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 70170
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 70171
2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 70172
2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 70173
2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 70174
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 70175
2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 70176
2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 70177
2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 70178
2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 70179
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 70180
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 70181
penetration in violation of former section 2907.12 of the Revised 70182
Code, a violation of section 2905.04 of the Revised Code as it 70183
existed prior to July 1, 1996, a violation of section 2919.23 of 70184

the Revised Code that would have been a violation of section 70185
2905.04 of the Revised Code as it existed prior to July 1, 1996, 70186
had the violation been committed prior to that date; 70187

(2) ~~An~~ A violation of an existing or former municipal 70188
ordinance or law of this state, any other state, or the United 70189
States that is substantially equivalent to any of the offenses 70190
listed in division (G)(1) of this section. 70191

(H)(1)(a) Except as provided in rules adopted under division 70192
(J) of this section and subject to division (H)(2) of this 70193
section, no provider shall permit a person to be an employee, 70194
owner, officer, or board member of the provider if the person is 70195
subject to a criminal records check under this section and the 70196
person has been convicted of, has pleaded guilty to, or has been 70197
found eligible for intervention in lieu of conviction for any of 70198
the offenses specified in division (G)(1) or (2) of this section. 70199

(b) No provider shall employ a person who has been excluded 70200
from participating in the medicaid program, the medicare program 70201
operated pursuant to Title XVIII of the "Social Security Act," or 70202
any other federal health care program. 70203

(2)(a) A provider may employ conditionally a person for whom 70204
a criminal records check is required under this section prior to 70205
obtaining the results of a criminal records check regarding the 70206
person, but only if the person submits a request for a criminal 70207
records check not later than five business days after the 70208
individual begins conditional employment. 70209

(b) A provider that employs a person conditionally under 70210
authority of division (H)(2)(a) of this section shall terminate 70211
the person's employment if the results of the criminal records 70212
check request are not obtained within the period ending sixty days 70213
after the date the request is made. Regardless of when the results 70214
of the criminal records check are obtained, if the results 70215

indicate that the individual has been convicted of, has pleaded 70216
guilty to, or has been found eligible for intervention in lieu of 70217
conviction for any of the offenses specified in division (G)(1) or 70218
(2) of this section, the provider shall terminate the person's 70219
employment unless the provider chooses to employ the individual 70220
pursuant to division (J) of this section. 70221

(I) The report of a criminal records check conducted pursuant 70222
to this section is not a public record for the purposes of section 70223
149.43 of the Revised Code and shall not be made available to any 70224
person other than the following: 70225

(1) The person who is the subject of the criminal records 70226
check or the person's representative; 70227

(2) The director of job and family services and the staff of 70228
the department in the administration of the medicaid program; 70229

(3) A court, hearing officer, or other necessary individual 70230
involved in a case dealing with the denial or termination of a 70231
provider agreement; 70232

(4) A court, hearing officer, or other necessary individual 70233
involved in a case dealing with a person's denial of employment, 70234
termination of employment, or employment or unemployment benefits. 70235

(J) The department may adopt rules in accordance with Chapter 70236
119. of the Revised Code to implement this section. The rules may 70237
specify circumstances under which the department may continue a 70238
provider agreement or issue a provider agreement to an applicant 70239
when the provider or applicant has been convicted of, has pleaded 70240
guilty to, or has been found eligible for intervention in lieu of 70241
conviction for any of the offenses specified in division (G)(1) or 70242
(2) of this section. The rules may also specify circumstances 70243
under which a provider may permit a person to be an employee, 70244
owner, officer, or board member of the provider, when the person 70245
has been convicted of, has pleaded guilty to, or has been found 70246

eligible for intervention in lieu of conviction for any of the 70247
offenses specified in division (G)(1) or (2) of this section. 70248

Sec. 5111.033. (A) As used in this section: 70249

(1) "Applicant" means a person who is under final 70250
consideration for employment or, after September 26, 2003, an 70251
existing employee with a waiver agency in a full-time, part-time, 70252
or temporary position that involves providing home and 70253
community-based waiver services to a person with disabilities. 70254
"Applicant" also means an existing employee with a waiver agency 70255
in a full-time, part-time, or temporary position that involves 70256
providing home and community-based waiver services to a person 70257
with disabilities after September 26, 2003. 70258

(2) "Criminal records check" has the same meaning as in 70259
section 109.572 of the Revised Code. 70260

(3) "Waiver agency" means a person or government entity that 70261
is not certified under the medicare program and is accredited by 70262
the community health accreditation program or the joint commission 70263
on accreditation of health care organizations or a company that 70264
provides home and community-based waiver services to persons with 70265
disabilities through department of job and family services 70266
administered home and community-based waiver programs. 70267

(4) "Home and community-based waiver services" means services 70268
furnished under the provision of 42 C.F.R. 441, subpart G, that 70269
permit individuals to live in a home setting rather than a nursing 70270
facility or hospital. Home and community-based waiver services are 70271
approved by the centers for medicare and medicaid for specific 70272
populations and are not otherwise available under the medicaid 70273
state plan. 70274

(B)(1) The chief administrator of a waiver agency shall 70275
require each applicant to request that the superintendent of the 70276

bureau of criminal identification and investigation conduct a 70277
criminal records check with respect to the applicant. If an 70278
applicant for whom a criminal records check request is required 70279
under this division does not present proof of having been a 70280
resident of this state for the five-year period immediately prior 70281
to the date the criminal records check is requested or provide 70282
evidence that within that five-year period the superintendent has 70283
requested information about the applicant from the federal bureau 70284
of investigation in a criminal records check, the chief 70285
administrator shall require the applicant to request that the 70286
superintendent obtain information from the federal bureau of 70287
investigation as part of the criminal records check of the 70288
applicant. Even if an applicant for whom a criminal records check 70289
request is required under this division presents proof of having 70290
been a resident of this state for the five-year period, the chief 70291
administrator may require the applicant to request that the 70292
superintendent include information from the federal bureau of 70293
investigation in the criminal records check. 70294

(2) The chief administrator shall provide the following to 70295
each applicant for whom a criminal records check request is 70296
required under division (B)(1) of this section: 70297

(a) Information about accessing, completing, and forwarding 70298
to the superintendent of the bureau of criminal identification and 70299
investigation the form prescribed pursuant to division (C)(1) of 70300
section 109.572 of the Revised Code and the standard fingerprint 70301
impression sheet prescribed pursuant to division (C)(2) of that 70302
section; 70303

(b) Written notification that the applicant is to instruct 70304
the superintendent to submit the completed report of the criminal 70305
records check directly to the chief administrator. 70306

(3) An applicant given information and notification under 70307
divisions (B)(2)(a) and (b) of this section who fails to access, 70308

complete, and forward to the superintendent the form or the 70309
standard fingerprint impression sheet, or who fails to instruct 70310
the superintendent to submit the completed report of the criminal 70311
records check directly to the chief administrator, shall not be 70312
employed in any position in a waiver agency for which a criminal 70313
records check is required by this section. 70314

(C)(1) Except as provided in rules adopted by the department 70315
of job and family services in accordance with division (F) of this 70316
section and subject to division (C)(2) of this section, no waiver 70317
agency shall employ a person in a position that involves providing 70318
home and community-based waiver services to persons with 70319
disabilities if the person has been convicted of, has pleaded 70320
guilty to, or has been found eligible for intervention in lieu of 70321
conviction for any of the following: 70322

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 70323
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 70324
2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 70325
2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 70326
2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 70327
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 70328
2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 70329
2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 70330
2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 70331
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 70332
2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 70333
2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 70334
2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 70335
2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 70336
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 70337
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 70338
penetration in violation of former section 2907.12 of the Revised 70339
Code, a violation of section 2905.04 of the Revised Code as it 70340

existed prior to July 1, 1996, a violation of section 2919.23 of 70341
the Revised Code that would have been a violation of section 70342
2905.04 of the Revised Code as it existed prior to July 1, 1996, 70343
had the violation been committed prior to that date; 70344

(b) ~~An~~ A violation of an existing or former municipal 70345
ordinance or law of this state, any other state, or the United 70346
States that is substantially equivalent to any of the offenses 70347
listed in division (C)(1)(a) of this section. 70348

(2)(a) A waiver agency may employ conditionally an applicant 70349
for whom a criminal records check request is required under 70350
division (B) of this section prior to obtaining the results of a 70351
criminal records check regarding the individual, provided that the 70352
agency shall require the individual to request a criminal records 70353
check regarding the individual in accordance with division (B)(1) 70354
of this section not later than five business days after the 70355
individual begins conditional employment. 70356

(b) A waiver agency that employs an individual conditionally 70357
under authority of division (C)(2)(a) of this section shall 70358
terminate the individual's employment if the results of the 70359
criminal records check request under division (B) of this section, 70360
other than the results of any request for information from the 70361
federal bureau of investigation, are not obtained within the 70362
period ending sixty days after the date the request is made. 70363
Regardless of when the results of the criminal records check are 70364
obtained, if the results indicate that the individual has been 70365
convicted of, has pleaded guilty to, or has been found eligible 70366
for intervention in lieu of conviction for any of the offenses 70367
listed or described in division (C)(1) of this section, the agency 70368
shall terminate the individual's employment unless the agency 70369
chooses to employ the individual pursuant to division (F) of this 70370
section. 70371

(D)(1) The fee prescribed pursuant to division (C)(3) of 70372

section 109.572 of the Revised Code for each criminal records 70373
check conducted pursuant to a request made under division (B) of 70374
this section shall be paid to the bureau of criminal 70375
identification and investigation by the applicant or the waiver 70376
agency. 70377

(2) If a waiver agency pays the fee, it may charge the 70378
applicant a fee not exceeding the amount the agency pays under 70379
division (D)(1) of this section. An agency may collect a fee only 70380
if the agency notifies the person at the time of initial 70381
application for employment of the amount of the fee and that, 70382
unless the fee is paid, the person will not be considered for 70383
employment. 70384

(E) The report of any criminal records check conducted 70385
pursuant to a request made under this section is not a public 70386
record for the purposes of section 149.43 of the Revised Code and 70387
shall not be made available to any person other than the 70388
following: 70389

(1) The individual who is the subject of the criminal records 70390
check or the individual's representative; 70391

(2) The chief administrator of the agency requesting the 70392
criminal records check or the administrator's representative; 70393

(3) An administrator at the department; 70394

(4) A court, hearing officer, or other necessary individual 70395
involved in a case dealing with a denial of employment of the 70396
applicant or dealing with employment or unemployment benefits of 70397
the applicant. 70398

(F) The department shall adopt rules in accordance with 70399
Chapter 119. of the Revised Code to implement this section. The 70400
rules shall specify circumstances under which a waiver agency may 70401
employ a person who has been convicted of, has pleaded guilty to, 70402
or has been found eligible for intervention in lieu of conviction 70403

for an offense listed or described in division (C)(1) of this section. 70404
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(G) The chief administrator of a waiver agency shall inform each person, at the time of initial application for a position that involves providing home and community-based waiver services to a person with a disability, that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the person comes under final consideration for employment. 70406
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(H)(1) A person who, on September 26, 2003, is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities shall comply with this section within sixty days after September 26, 2003, unless division (H)(2) of this section applies. 70413
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(2) This section shall not apply to a person to whom all of the following apply: 70419
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(a) On September 26, 2003, the person is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities. 70421
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(b) The person previously had been the subject of a criminal background check relating to that position; 70425
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(c) The person has been continuously employed in that position since that criminal background check had been conducted. 70427
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Sec. 5111.034. (A) As used in this section: 70429

(1) "Anniversary date" means the later of the effective date of the provider agreement relating to the independent provider or sixty days after September 26, 2003. 70430
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(2) "Criminal records check" has the same meaning as in 70433

section 109.572 of the Revised Code. 70434

(3) "Department" includes a designee of the department of job and family services. 70435
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(4) "Independent provider" means a person who is submitting an application for a provider agreement or who has a provider agreement as an independent provider in a department of job and family services administered home and community-based services program providing home and community-based waiver services to consumers with disabilities. 70437
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(5) "Home and community-based waiver services" has the same meaning as in section 5111.033 of the Revised Code. 70443
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(B)(1) The department of job and family services shall inform each independent provider, at the time of initial application for a provider agreement that involves providing home and community-based waiver services to consumers with disabilities, that the independent provider is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the person is to become an independent provider in a department administered home and community-based waiver program. 70445
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(2) Beginning on September 26, 2003, the department shall inform each enrolled medicaid independent provider on or before time of the anniversary date of the provider agreement that involves providing home and community-based waiver services to consumers with disabilities that the independent provider is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted. 70454
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(C)(1) The department shall require the independent provider to complete a criminal records check prior to entering into a provider agreement with the independent provider and at least annually thereafter. If an independent provider for whom a 70461
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criminal records check is required under this division does not 70465
present proof of having been a resident of this state for the 70466
five-year period immediately prior to the date the criminal 70467
records check is requested or provide evidence that within that 70468
five-year period the superintendent of the bureau of criminal 70469
identification and investigation has requested information about 70470
the independent provider from the federal bureau of investigation 70471
in a criminal records check, the department shall request that the 70472
independent provider obtain through the superintendent a criminal 70473
records request from the federal bureau of investigation as part 70474
of the criminal records check of the independent provider. Even if 70475
an independent provider for whom a criminal records check request 70476
is required under this division presents proof of having been a 70477
resident of this state for the five-year period, the department 70478
may request that the independent provider obtain information 70479
through the superintendent from the federal bureau of 70480
investigation in the criminal records check. 70481

(2) The department shall provide the following to each 70482
independent provider for whom a criminal records check request is 70483
required under division (C)(1) of this section: 70484

(a) Information about accessing, completing, and forwarding 70485
to the superintendent of the bureau of criminal identification and 70486
investigation the form prescribed pursuant to division (C)(1) of 70487
section 109.572 of the Revised Code and the standard fingerprint 70488
impression sheet prescribed pursuant to division (C)(2) of that 70489
section; 70490

(b) Written notification that the independent provider is to 70491
instruct the superintendent to submit the completed report of the 70492
criminal records check directly to the department. 70493

(3) An independent provider given information and 70494
notification under divisions (C)(2)(a) and (b) of this section who 70495
fails to access, complete, and forward to the superintendent the 70496

form or the standard fingerprint impression sheet, or who fails to 70497
instruct the superintendent to submit the completed report of the 70498
criminal records check directly to the department, shall not be 70499
approved as an independent provider. 70500

(D) Except as provided in rules adopted by the department in 70501
accordance with division (G) of this section, the department shall 70502
not issue a new provider agreement to, and shall terminate an 70503
existing provider agreement of, an independent provider if the 70504
person has been convicted of, has pleaded guilty to, or has been 70505
found eligible for intervention in lieu of conviction for any of 70506
the following: 70507

(1) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 70508
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 70509
2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 70510
2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 70511
2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 70512
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 70513
2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 70514
2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 70515
2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 70516
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 70517
2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 70518
2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 70519
2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 70520
2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 70521
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 70522
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 70523
penetration in violation of former section 2907.12 of the Revised 70524
Code, a violation of section 2905.04 of the Revised Code as it 70525
existed prior to July 1, 1996, a violation of section 2919.23 of 70526
the Revised Code that would have been a violation of section 70527
2905.04 of the Revised Code as it existed prior to July 1, 1996, 70528

had the violation been committed prior to that date; 70529

(2) ~~An~~ A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (D)(1) of this section. 70530
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(E) Each independent provider shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (C) of this section. 70534
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(F) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (C) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following: 70539
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(1) The person who is the subject of the criminal records check or the person's representative; 70545
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(2) An administrator at the department or the administrator's representative; 70547
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(3) A court, hearing officer, or other necessary individual involved in a case dealing with a denial or termination of a provider agreement related to the criminal records check. 70549
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(G) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which the department may either issue a provider agreement to an independent provider or allow an independent provider to maintain an existing provider agreement when the independent provider has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for an offense listed or described in division 70552
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~~(C)(1)~~(D)(1) or (D)(2) of this section. 70560

Sec. 5111.06. (A)(1) As used in this section and in sections 70561
5111.061 and 5111.062 of the Revised Code: 70562

(a) "Provider" means any person, institution, or entity that 70563
furnishes medicaid services under a provider agreement with the 70564
department of job and family services pursuant to Title XIX of the 70565
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 70566
amended. 70567

(b) "Party" has the same meaning as in division (G) of 70568
section 119.01 of the Revised Code. 70569

(c) "Adjudication" has the same meaning as in division (D) of 70570
section 119.01 of the Revised Code. 70571

(2) This section does not apply to any action taken by the 70572
department of job and family services under sections 5111.35 to 70573
5111.62 of the Revised Code. 70574

(B) Except as provided in division (D) of this section and 70575
section 5111.914 of the Revised Code, the department shall do 70576
either of the following by issuing an order pursuant to an 70577
adjudication conducted in accordance with Chapter 119. of the 70578
Revised Code: 70579

(1) Enter into or refuse to enter into a provider agreement 70580
with a provider, or suspend, terminate, renew, or refuse to renew 70581
an existing provider agreement with a provider; 70582

(2) Take any action based upon a final fiscal audit of a 70583
provider. 70584

(C) Any party who is adversely affected by the issuance of an 70585
adjudication order under division (B) of this section may appeal 70586
to the court of common pleas of Franklin county in accordance with 70587
section 119.12 of the Revised Code. 70588

(D) The department is not required to comply with division 70589
(B)(1) of this section whenever any of the following occur: 70590

(1) The terms of a provider agreement require the provider to 70591
hold a license, permit, or certificate or maintain a certification 70592
issued by an official, board, commission, department, division, 70593
bureau, or other agency of state or federal government other than 70594
the department of job and family services, and the license, 70595
permit, certificate, or certification has been denied, revoked, 70596
not renewed, suspended, or otherwise limited. 70597

(2) The terms of a provider agreement require the provider to 70598
hold a license, permit, or certificate or maintain certification 70599
issued by an official, board, commission, department, division, 70600
bureau, or other agency of state or federal government other than 70601
the department of job and family services, and the provider has 70602
not obtained the license, permit, certificate, or certification. 70603

(3) The provider agreement is denied, terminated, or not 70604
renewed due to the termination, refusal to renew, or denial of a 70605
license, permit, certificate, or certification by an official, 70606
board, commission, department, division, bureau, or other agency 70607
of this state other than the department of job and family 70608
services, notwithstanding the fact that the provider may hold a 70609
license, permit, certificate, or certification from an official, 70610
board, commission, department, division, bureau, or other agency 70611
of another state. 70612

(4) The provider agreement is denied, terminated, or not 70613
renewed pursuant to division (C) or (F) of section 5111.03 of the 70614
Revised Code+. 70615

(5) The provider agreement is denied, terminated, or not 70616
renewed due to the provider's termination, suspension, or 70617
exclusion from the medicare program established under Title XVIII 70618
of the "Social Security Act," and the termination, suspension, or 70619

exclusion is binding on the provider's participation in the 70620
medicaid program~~+~~. 70621

(6) The provider agreement is denied, terminated, or not 70622
renewed due to the provider's pleading guilty to or being 70623
convicted of a criminal activity materially related to either the 70624
medicare or medicaid program~~+~~. 70625

(7) The provider agreement is denied, terminated, or 70626
suspended as a result of action by the United States department of 70627
health and human services and that action is binding on the 70628
provider's participation in the medicaid program~~+~~. 70629

(8) The provider agreement is suspended pursuant to section 70630
5111.031 of the Revised Code pending indictment of the provider. 70631

(9) The provider agreement is denied, terminated, or not 70632
renewed because the provider or its owner, officer, authorized 70633
agent, associate, manager, or employee has been convicted of one 70634
of the offenses that caused the provider agreement to be suspended 70635
pursuant to section 5111.031 of the Revised Code. 70636

(10) The provider agreement is converted under section 70637
5111.028 of the Revised Code from a provider agreement that is not 70638
time-limited to a provider agreement that is time-limited. 70639

(11) The provider agreement is terminated or an application 70640
for re-enrollment is denied because the provider has failed to 70641
apply for re-enrollment within the time or in the manner specified 70642
for re-enrollment pursuant to section 5111.028 of the Revised 70643
Code. 70644

(12) The provider agreement is terminated or not renewed 70645
because the provider has not billed or otherwise submitted a 70646
medicaid claim to the department for two years or longer, ~~and the~~ 70647
~~department has determined that the provider has moved from the~~ 70648
~~address on record with the department without leaving an active~~ 70649
~~forwarding address with the department.~~ 70650

(13) The provider agreement is denied, terminated, or not renewed because the provider fails to provide to the department the national provider identifier assigned the provider by the national provider system pursuant to 45 C.F.R. 162. 408. 70651
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In the case of a provider described in division (D)(12) or (13) of this section, the department may ~~terminate or not renew the~~ take its proposed action against a provider agreement by sending a notice explaining the ~~department's~~ proposed action to the provider. The notice shall be sent to the provider's address on record with the department. The notice may be sent by regular mail. 70655
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(E) The department may withhold payments for services rendered by a medicaid provider under the ~~medical assistance~~ medicaid program during the pendency of proceedings initiated under division (B)(1) of this section. If the proceedings are initiated under division (B)(2) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and intermediate care facilities for the mentally retarded as defined in section 5111.20 of the Revised Code. 70662
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Sec. 5111.162. (A) As used in this section: 70675

(1) "Emergency services" has the same meaning as in section 1932(b)(2) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396u-2(b)(2), as amended. 70676
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(2) "Medicaid managed care organization" means a managed care organization that has entered into a contract with the department of job and family services pursuant to section 5111.17 of the 70679
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Revised Code. 70682

(3) "Hospital" has the same meaning as in section 3727.01 of the Revised Code. 70683
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(4) "Hospital system" means one or more hospitals owned or controlled by the same organization for the purposes of coordinating and delivering health services within a geographic area selected by the organization. 70685
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(5) "Hospital system provider" means a health care provider that is employed, owned, leased, managed, or otherwise controlled by a hospital system, including a physician, a business entity under which one or more physicians practice, a provider of ancillary health services, and any other type of provider specified in rules adopted under this section. 70689
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~~(B) Except as provided in division (C) of this section, when a participant in the care management system established under section 5111.16 of the Revised Code is enrolled in a medicaid managed care organization and the organization refers the participant to receive services, other than emergency services provided on or after January 1, 2007, at a hospital that participates in the medicaid program but is not under contract with the organization, the hospital shall provide the service for which the referral was made and shall accept from the organization, as payment in full, the amount derived from the reimbursement rate used by the department to reimburse other hospitals of the same type for providing the same service to a medicaid recipient who is not enrolled in a medicaid managed care organization.~~ 70695
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~~(C) A hospital is not subject to division (B) of this section if all of the following are the case:~~ 70709
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~~(1) The hospital is located in a county in which participants in the care management system are required before January 1, 2006,~~ 70711
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~~to be enrolled in a medicaid managed care organization that is a health insuring corporation;~~ 70713
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~~(2) The hospital has entered into a contract before January 1, 2006, with at least one health insuring corporation serving the participants specified in division (C)(1) of this section;~~ 70715
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~~(3) The hospital remains under contract with at least one health insuring corporation serving participants in the care management system who are required to be enrolled in a health insuring corporation.~~ 70718
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~~(D) The director of job and family services shall adopt rules specifying the circumstances under which a medicaid managed care organization is permitted to refer a participant in the care management system to a hospital that is not under contract with the organization. If a hospital or hospital system provider participates in the medicaid program but is not under contract with a particular medicaid managed care organization, all of the following apply with respect to that managed care organization and that hospital or hospital system provider:~~ 70722
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~~(1) When the organization authorizes a service or services to be provided to an individual who is enrolled in the organization as a participant in the care management system established under section 5111.16 of the Revised Code, the hospital or hospital system provider shall provide to the individual the service or services authorized by the organization, including inpatient and outpatient services, as long as the service or services are medically necessary and covered by medicaid.~~ 70731
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~~(2) Except as provided in division (B)(3) of this section, the hospital or hospital system provider shall accept from the organization, as payment in full for providing the authorized service or services, the same amount that the department of job and family services would reimburse the hospital or hospital~~ 70739
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system provider for providing the authorized service or services 70744
to a medicaid recipient who is not enrolled in a medicaid managed 70745
care organization. 70746

(3) Emergency services provided to the individual are subject 70747
to reimbursement under section 5111.163 of the Revised Code. 70748

(C) The director of job and family services may adopt any 70749
other rules as necessary to implement this section. All rules 70750
adopted under this section shall be adopted in accordance with 70751
Chapter 119. of the Revised Code. 70752

Sec. 5111.176. (A) As used in this section: 70753

(1) "Medicaid health insuring corporation" means a health 70754
insuring corporation that holds a certificate of authority under 70755
Chapter 1751. of the Revised Code and has entered into a contract 70756
with the department of job and family services pursuant to section 70757
5111.17 of the Revised Code. 70758

(2) "Managed care premium" means any premium payment, 70759
capitation payment, or other payment a medicaid health insuring 70760
corporation receives for providing, or arranging for the provision 70761
of, health care services to its members or enrollees residing in 70762
this state. 70763

(B) Except as provided in division (C) of this section, all 70764
of the following apply: 70765

(1) Each medicaid health insuring corporation shall pay to 70766
the department of job and family services a franchise permit fee 70767
for the period December 1, 2005, through December 31, 2005, and 70768
each calendar quarter occurring ~~thereafter~~ between January 1, 70769
2006, and September 30, 2009. 70770

(2) The fee to be paid is an amount that is equal to a 70771
percentage of the managed care premiums the medicaid health 70772
insuring corporation received in the period December 1, 2005, 70773

through December 31, 2005, and in the subsequent quarter to which 70774
the fee applies, excluding the amount of any managed care premiums 70775
the corporation returned or refunded to enrollees, members, or 70776
premium payers during the period December 1, 2005, through 70777
December 31, 2005, or the subsequent quarter to which the fee 70778
applies. 70779

(3) The percentage to be used in calculating the fee shall be 70780
four and one-half per cent, unless the department adopts rules 70781
under division (L) of this section decreasing the percentage below 70782
four and one-half per cent or increasing the percentage to not 70783
more than six per cent. 70784

(C) The department shall reduce the franchise permit fee 70785
imposed under this section or terminate its collection of the fee 70786
if the department determines either of the following: 70787

(1) That the reduction or termination is required to comply 70788
with federal statutes or regulations; 70789

(2) That the fee does not qualify as a state share of 70790
medicaid expenditures eligible for federal financial 70791
participation. 70792

(D) The franchise permit fee shall be paid on or before the 70793
thirtieth day following the end of the period December 1, 2005, 70794
through December 31, 2005, or the calendar quarter to which the 70795
fee applies. At the time the fee is submitted, the medicaid health 70796
insuring corporation shall file with the department a report on a 70797
form prescribed by the department. The corporation shall provide 70798
on the form all information required by the department and shall 70799
include with the form any necessary supporting documentation. 70800

(E) The department may audit the records of any medicaid 70801
health insuring corporation to determine whether the corporation 70802
is in compliance with this section. The department may audit the 70803
records that pertain to the period December 1, 2005, through 70804

December 31, 2005, or a particular calendar quarter, at any time 70805
during the five years following the date the franchise permit fee 70806
payment for that period or quarter was due. 70807

(F)(1) A medicaid health insuring corporation that does not 70808
pay the franchise permit fee in full by the date the payment is 70809
due is subject to any or all of the following: 70810

(a) A monetary penalty in the amount of five hundred dollars 70811
for each day any part of the fee remains unpaid, except that the 70812
penalty shall not exceed an amount equal to five per cent of the 70813
total fee that was due; 70814

(b) Withholdings from future managed care premiums pursuant 70815
to division (G) of this section; 70816

(c) Termination of the corporation's medicaid provider 70817
agreement pursuant to division (H) of this section. 70818

(2) Penalties imposed under division (F)(1)(a) of this 70819
section are in addition to and not in lieu of the franchise permit 70820
fee. 70821

(G) If a medicaid health insuring corporation fails to pay 70822
the full amount of its franchise permit fee when due, or the full 70823
amount of a penalty imposed under division (F)(1)(a) of this 70824
section, the department may withhold an amount equal to the 70825
remaining amount due from any future managed care premiums to be 70826
paid to the corporation under the medicaid program. The department 70827
may withhold amounts under this division without providing notice 70828
to the corporation. The amounts may be withheld until the amount 70829
due has been paid. 70830

(H) The department may commence actions to terminate a 70831
medicaid health insuring corporation's medicaid provider 70832
agreement, and may terminate the agreement subject to division (I) 70833
of this section, if the corporation does any of the following: 70834

(1) Fails to pay its franchise permit fee or fails to pay the fee promptly; 70835
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(2) Fails to pay a penalty imposed under division (F)(1)(a) of this section or fails to pay the penalty promptly; 70837
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(3) Fails to cooperate with an audit conducted under division (E) of this section. 70839
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(I) At the request of a medicaid health insuring corporation, the department shall grant the corporation a hearing in accordance with Chapter 119. of the Revised Code, if either of the following is the case: 70841
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(1) The department has determined that the corporation owes an additional franchise permit fee or penalty as the result of an audit conducted under division (E) of this section. 70845
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(2) The department is proposing to terminate the corporation's medicaid provider agreement and the provisions of section 5111.06 of the Revised Code requiring an adjudication in accordance with Chapter 119. of the Revised Code are applicable. 70848
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(J)(1) At the request of a medicaid corporation, the department shall grant the corporation a reconsideration of any issue that arises out of the provisions of this section and is not subject to division (I) of this section. The department's decision at the conclusion of the reconsideration is not subject to appeal under Chapter 119. of the Revised Code or any other provision of the Revised Code. 70852
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(2) In conducting a reconsideration, the department shall do at least the following: 70859
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(a) Specify the time frames within which a corporation must act in order to exercise its opportunity for a reconsideration; 70861
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(b) Permit the corporation to present written arguments or other materials that support the corporation's position. 70863
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(K) There is hereby created in the state treasury the managed care assessment fund. Money collected from the franchise permit fees and penalties imposed under this section shall be credited to the fund. The department shall use the money in the fund to pay for medicaid services, the department's administrative costs, and contracts with medicaid health insuring corporations.

(L) The director of job and family services may adopt rules to implement and administer this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5111.23. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facilities for the mentally retarded a per resident per day rate for direct care costs established prospectively for each facility. The department shall establish each facility's rate for direct care costs quarterly.

(B) Each facility's rate for direct care costs shall be based on the facility's cost per case-mix unit, subject to the maximum costs per case-mix unit established under division (B)(2) of this section, from the calendar year preceding the fiscal year in which the rate is paid. To determine the rate, the department shall do all of the following:

(1) Determine each facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid by dividing the facility's desk-reviewed, actual, allowable, per diem direct care costs for that year by its average case-mix score determined under section 5111.232 of the Revised Code for the same calendar year.

(2)(a) Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with more than eight beds specified in rules ~~adopted under~~ authorized by division (E) of this section at a percentage above

the cost per case-mix unit of the facility in the group that has 70896
the group's median medicaid inpatient day for the calendar year 70897
preceding the fiscal year in which the rate will be paid, as 70898
calculated under division (B)(1) of this section, that is no less 70899
than the percentage calculated under division (D)(2) of this 70900
section. 70901

(b) Set the maximum cost per case-mix unit for each peer 70902
group of intermediate care facilities for the mentally retarded 70903
with eight or fewer beds specified in rules ~~adopted under~~ 70904
authorized by division (E) of this section at a percentage above 70905
the cost per case-mix unit of the facility in the group that has 70906
the group's median medicaid inpatient day for the calendar year 70907
preceding the fiscal year in which the rate will be paid, as 70908
calculated under division (B)(1) of this section, that is no less 70909
than the percentage calculated under division (D)(3) of this 70910
section. 70911

(c) In calculating the maximum cost per case-mix unit under 70912
divisions (B)(2)(a) ~~to~~ and (b) of this section for each peer 70913
group, the department shall exclude from its calculations the cost 70914
per case-mix unit of any facility in the group that participated 70915
in the medicaid program under the same operator for less than 70916
twelve months during the calendar year preceding the fiscal year 70917
in which the rate will be paid. 70918

(3) Estimate the rate of inflation for the eighteen-month 70919
period beginning on the first day of July of the calendar year 70920
preceding the fiscal year in which the rate will be paid and 70921
ending on the thirty-first day of December of the fiscal year in 70922
which the rate will be paid, using the ~~employment cost index for~~ 70923
~~total compensation, health services component, published by the~~ 70924
~~United States bureau of labor statistics~~ inflation measuring 70925
system or inflation factor specified in rules authorized by 70926
division (E) of this section. ~~If the estimated inflation rate for~~ 70927

~~the eighteen month period is different from the actual inflation rate for that period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated under division (B)(3) of this section for the following fiscal year.~~

(4) The department shall not recalculate a maximum cost per case-mix unit under division (B)(2) of this section or a percentage under division (D) of this section based on additional information that it receives after the maximum costs per case-mix unit or percentages are set. The department shall recalculate a maximum cost per case-mix units or percentage only if it made an error in computing the maximum cost per case-mix unit or percentage based on information available at the time of the original calculation.

(C) Each facility's rate for direct care costs shall be determined as follows for each calendar quarter within a fiscal year:

(1) Multiply the lesser of the following by the facility's average case-mix score determined under section 5111.232 of the Revised Code for the calendar quarter that preceded the immediately preceding calendar quarter:

(a) The facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid, as determined under division (B)(1) of this section;

(b) The maximum cost per case-mix unit established for the fiscal year in which the rate will be paid for the facility's peer group under division (B)(2) of this section;

(2) Adjust the product determined under division (C)(1) of this section by the inflation rate estimated under division (B)(3) of this section.

(D)(1) The department shall calculate the percentage above

the median cost per case-mix unit determined under division (B)(1) 70959
of this section for the facility that has the median medicaid 70960
inpatient day for calendar year 1992 for all intermediate care 70961
facilities for the mentally retarded with more than eight beds 70962
that would result in payment of all desk-reviewed, actual, 70963
allowable direct care costs for eighty and one-half per cent of 70964
the medicaid inpatient days for such facilities for calendar year 70965
1992. 70966

(2) The department shall calculate the percentage above the 70967
median cost per case-mix unit determined under division (B)(1) of 70968
this section for the facility that has the median medicaid 70969
inpatient day for calendar year 1992 for all intermediate care 70970
facilities for the mentally retarded with eight or fewer beds that 70971
would result in payment of all desk-reviewed, actual, allowable 70972
direct care costs for eighty and one-half per cent of the medicaid 70973
inpatient days for such facilities for calendar year 1992. 70974

(E) The director of job and family services shall adopt rules 70975
under section 5111.02 of the Revised Code that specify ~~peer~~ both 70976
of the following: 70977

(1) Peer groups of intermediate care facilities for the 70978
mentally retarded with more than eight beds and intermediate care 70979
facilities for the mentally retarded with eight or fewer beds, 70980
based on findings of significant per diem direct care cost 70981
differences due to geography and facility bed-size. The rules also 70982
may specify peer groups based on findings of significant per diem 70983
direct care cost differences due to other factors which may 70984
include case-mix. 70985

(2) The inflation measuring system or inflation factor to be 70986
used for the purpose of division (B)(3) of this section. 70987

(F) The department, in accordance with division (D) of 70988
section 5111.232 of the Revised Code and rules ~~adopted under~~ 70989

authorized by division (E) of that section, may assign case-mix scores or costs per case-mix unit if a provider fails to submit assessment data necessary to calculate an intermediate care facility for the mentally retarded's case-mix score in accordance with that section.

Sec. 5111.231. (A) As used in this section, "applicable calendar year" means the following:

(1) For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's cost per case-mix unit, calendar year 2003;

(2) For the purpose of the department's subsequent determinations under division (D) of this section of each peer group's cost per case-mix unit, the calendar year the department selects.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for direct care costs determined semiannually by multiplying the cost per case-mix unit determined under division (D) of this section for the facility's peer group by the facility's semiannual case-mix score determined under section 5111.232 of the Revised Code.

(C) For the purpose of determining nursing facilities' rate for direct care costs, the department shall establish three peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one: Brown, Butler, Clermont, Clinton, Hamilton, and Warren.

Each nursing facility located in any of the following counties shall be placed in peer group two: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin,

Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, 71020
Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, 71021
Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, 71022
and Wood. 71023

Each nursing facility located in any of the following 71024
counties shall be placed in peer group three: Adams, Allen, 71025
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 71026
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 71027
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 71028
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 71029
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 71030
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 71031
Washington, Wayne, Williams, and Wyandot. 71032

(D)(1) At least once every ten years, the department shall 71033
determine a cost per case-mix unit for each peer group established 71034
under division (C) of this section. A cost per case-mix unit 71035
determined under this division for a peer group shall be used for 71036
subsequent years until the department redetermines it. To 71037
determine a peer group's cost per case-mix unit, the department 71038
shall do all of the following: 71039

(a) Determine the cost per case-mix unit for each nursing 71040
facility in the peer group for the applicable calendar year by 71041
dividing each facility's desk-reviewed, actual, allowable, per 71042
diem direct care costs for the applicable calendar year by the 71043
facility's annual average case-mix score determined under section 71044
5111.232 of the Revised Code for the applicable calendar year. 71045

(b) Subject to division (D)(2) of this section, identify 71046
which nursing facility in the peer group is at the twenty-fifth 71047
percentile of the cost per case-mix units determined under 71048
division (D)(1)(a) of this section. 71049

(c) Calculate the amount that is seven per cent above the 71050

cost per case-mix unit determined under division (D)(1)(a) of this 71051
section for the nursing facility identified under division 71052
(D)(1)(b) of this section. 71053

(d) Multiply the amount calculated under division (D)(1)(c) 71054
of this section by the rate of inflation for the eighteen-month 71055
period beginning on the first day of July of the applicable 71056
calendar year and ending the last day of December of the calendar 71057
year immediately following the applicable calendar year using the 71058
~~employment cost index for total compensation, health services~~ 71059
~~component, published by the United States bureau of labor~~ 71060
~~statistics~~ inflation measuring system or inflation factor the 71061
director of job and family services shall specify in rules adopted 71062
under section 5111.02 of the Revised Code. 71063

(2) In making the identification under division (D)(1)(b) of 71064
this section, the department shall exclude both of the following: 71065

(a) Nursing facilities that participated in the medicaid 71066
program under the same provider for less than twelve months in the 71067
applicable calendar year; 71068

(b) Nursing facilities whose cost per case-mix unit is more 71069
than one standard deviation from the mean cost per case-mix unit 71070
for all nursing facilities in the nursing facility's peer group 71071
for the applicable calendar year. 71072

(3) The department shall not redetermine a peer group's cost 71073
per case-mix unit under this division based on additional 71074
information that it receives after the peer group's per case-mix 71075
unit is determined. The department shall redetermine a peer 71076
group's cost per case-mix unit only if it made an error in 71077
determining the peer group's cost per case-mix unit based on 71078
information available to the department at the time of the 71079
original determination. 71080

Sec. 5111.232. (A)(1) The department of job and family services shall determine semiannual and annual average case-mix scores for nursing facilities by using all of the following:

(a) Data from a resident assessment instrument specified in rules adopted under section 5111.02 of the Revised Code pursuant to section 1919(e)(5) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r(e)(5), as amended, for the following residents:

(i) When determining ~~semi-annual~~ semiannual case-mix scores, each resident who is a medicaid recipient;

(ii) When determining annual average case-mix scores, each resident regardless of payment source.

(b) Except as provided in rules authorized by ~~division~~ divisions (A)(2)(a) and (b) of this section, the case-mix values established by the United States department of health and human services;

(c) Except as modified in rules authorized by division (A)(2)(c) of this section, the grouper methodology used on June 30, 1999, by the United States department of health and human services for prospective payment of skilled nursing facilities under the medicare program established by Title XVIII.

(2) The director of job and family services may adopt rules under section 5111.02 of the Revised Code that do any of the following:

(a) Adjust the case-mix values specified in division (A)(1)(b) of this section to reflect changes in relative wage differentials that are specific to this state;

(b) Express all of those case-mix values in numeric terms that are different from the terms specified by the United States department of health and human services but that do not alter the

relationship of the case-mix values to one another; 71111

(c) Modify the grouper methodology specified in division 71112
(A)(1)(c) of this section as follows: 71113

(i) Establish a different hierarchy for assigning residents 71114
to case-mix categories under the methodology; 71115

(ii) Prohibit the use of the index maximizer element of the 71116
methodology; 71117

(iii) Incorporate changes to the methodology the United 71118
States department of health and human services makes after June 71119
30, 1999; 71120

(iv) Make other changes the department determines are 71121
necessary. 71122

(B) The department shall determine case-mix scores for 71123
intermediate care facilities for the mentally retarded using data 71124
for each resident, regardless of payment source, from a resident 71125
assessment instrument and grouper methodology prescribed in rules 71126
adopted under section 5111.02 of the Revised Code and expressed in 71127
case-mix values established by the department in those rules. 71128

(C) Each calendar quarter, each provider shall compile 71129
complete assessment data, from the resident assessment instrument 71130
specified in rules authorized by division (A) or (B) of this 71131
section, for each resident of each of the provider's facilities, 71132
regardless of payment source, who was in the facility or on 71133
hospital or therapeutic leave from the facility on the last day of 71134
the quarter. Providers of a nursing facility shall submit the data 71135
to the department of health and, if required by rules, the 71136
department of job and family services. Providers of an 71137
intermediate care facility for the mentally retarded shall submit 71138
the data to the department of job and family services. The data 71139
shall be submitted not later than fifteen days after the end of 71140
the calendar quarter for which the data is compiled. 71141

Except as provided in division (D) of this section, the department, every six months and after the end of each calendar year, shall calculate a semiannual and annual average case-mix score for each nursing facility using the facility's quarterly case-mix scores for that six-month period or calendar year. Also except as provided in division (D) of this section, the department, after the end of each calendar year, shall calculate an annual average case-mix score for each intermediate care facility for the mentally retarded using the facility's quarterly case-mix scores for that calendar year. The department shall make the calculations pursuant to procedures specified in rules adopted under section 5111.02 of the Revised Code.

(D)(1) If a provider does not timely submit information for a calendar quarter necessary to calculate a facility's case-mix score, or submits incomplete or inaccurate information for a calendar quarter, the department may assign the facility a quarterly average case-mix score that is five per cent less than the facility's quarterly average case-mix score for the preceding calendar quarter. If the facility was subject to an exception review under division (C) of section 5111.27 of the Revised Code for the preceding calendar quarter, the department may assign a quarterly average case-mix score that is five per cent less than the score determined by the exception review. If the facility was assigned a quarterly average case-mix score for the preceding quarter, the department may assign a quarterly average case-mix score that is five per cent less than that score assigned for the preceding quarter.

The department may use a quarterly average case-mix score assigned under division (D)(1) of this section, instead of a quarterly average case-mix score calculated based on the provider's submitted information, to calculate the facility's rate for direct care costs being established under section 5111.23 or

5111.231 of the Revised Code for one or more months, as specified 71174
in rules authorized by division (E) of this section, of the 71175
quarter for which the rate established under section 5111.23 or 71176
5111.231 of the Revised Code will be paid. 71177

Before taking action under division (D)(1) of this section, 71178
the department shall permit the provider a reasonable period of 71179
time, specified in rules authorized by division (E) of this 71180
section, to correct the information. In the case of an 71181
intermediate care facility for the mentally retarded, the 71182
department shall not assign a quarterly average case-mix score due 71183
to late submission of corrections to assessment information unless 71184
the provider fails to submit corrected information prior to the 71185
eighty-first day after the end of the calendar quarter to which 71186
the information pertains. In the case of a nursing facility, the 71187
department shall not assign a quarterly average case-mix score due 71188
to late submission of corrections to assessment information unless 71189
the provider fails to submit corrected information prior to the 71190
earlier of the ~~eighty-first~~ forty-sixth day after the end of the 71191
calendar quarter to which the information pertains or the deadline 71192
for submission of such corrections established by regulations 71193
adopted by the United States department of health and human 71194
services under Titles XVIII and XIX. 71195

(2) If a provider is paid a rate for a facility calculated 71196
using a quarterly average case-mix score assigned under division 71197
(D)(1) of this section for more than six months in a calendar 71198
year, the department may assign the facility a cost per case-mix 71199
unit that is five per cent less than the facility's actual or 71200
assigned cost per case-mix unit for the preceding calendar year. 71201
The department may use the assigned cost per case-mix unit, 71202
instead of calculating the facility's actual cost per case-mix 71203
unit in accordance with section 5111.23 or 5111.231 of the Revised 71204
Code, to establish the facility's rate for direct care costs for 71205

the following fiscal year. 71206

(3) The department shall take action under division (D)(1) or 71207
(2) of this section only in accordance with rules authorized by 71208
division (E) of this section. The department shall not take an 71209
action that affects rates for prior payment periods except in 71210
accordance with sections 5111.27 and 5111.28 of the Revised Code. 71211

(E) The director shall adopt rules under section 5111.02 of 71212
the Revised Code that do all of the following: 71213

(1) Specify whether providers of a nursing facility must 71214
submit the assessment data to the department of job and family 71215
services; 71216

(2) Specify the medium or media through which the completed 71217
assessment data shall be submitted; 71218

(3) Establish procedures under which the assessment data 71219
shall be reviewed for accuracy and providers shall be notified of 71220
any data that requires correction; 71221

(4) Establish procedures for providers to correct assessment 71222
data and specify a reasonable period of time by which providers 71223
shall submit the corrections. The procedures may limit the content 71224
of corrections by providers of nursing facilities in the manner 71225
required by regulations adopted by the United States department of 71226
health and human services under Titles XVIII and XIX. 71227

(5) Specify when and how the department will assign case-mix 71228
scores or costs per case-mix unit under division (D) of this 71229
section if information necessary to calculate the facility's 71230
case-mix score is not provided or corrected in accordance with the 71231
procedures established by the rules. Notwithstanding any other 71232
provision of sections 5111.20 to 5111.33 of the Revised Code, the 71233
rules also may provide for the following: 71234

(a) Exclusion of case-mix scores assigned under division (D) 71235

of this section from calculation of an intermediate care facility 71236
for the mentally retarded's annual average case-mix score and the 71237
maximum cost per case-mix unit for the facility's peer group; 71238

(b) Exclusion of case-mix scores assigned under division (D) 71239
of this section from calculation of a nursing facility's 71240
semiannual or annual average case-mix score and the cost per 71241
case-mix unit for the facility's peer group. 71242

Sec. 5111.235. The department of job and family services 71243
shall pay a provider for each of the provider's eligible 71244
intermediate care facilities for the mentally retarded a per 71245
resident per day rate for other protected costs established 71246
prospectively each fiscal year for each facility. The rate for 71247
each facility shall be the facility's desk-reviewed, actual, 71248
allowable, per diem other protected costs from the calendar year 71249
preceding the fiscal year in which the rate will be paid, all 71250
adjusted for the estimated inflation rate for the eighteen-month 71251
period beginning on the first day of July of the calendar year 71252
preceding the fiscal year in which the rate will be paid and 71253
ending on the thirty-first day of December of that fiscal year. 71254
The department shall estimate inflation using the ~~consumer price~~ 71255
~~index for all urban consumers for nonprescription drugs and~~ 71256
~~medical supplies, as published by the United States bureau of~~ 71257
~~labor statistics~~ inflation measuring system or inflation factor 71258
the director of job and family services shall specify in rules 71259
adopted under section 5111.02 of the Revised Code. ~~If the~~ 71260
~~estimated inflation rate for the eighteen month period is~~ 71261
~~different from the actual inflation rate for that period, the~~ 71262
~~difference shall be added to or subtracted from the inflation rate~~ 71263
~~estimated for the following year.~~ 71264

Sec. 5111.24. (A) As used in this section, "applicable 71265
calendar year" means the following: 71266

(1) For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's rate for ancillary and support costs, calendar year 2003;

(2) For the purpose of the department's subsequent determinations under division (D) of this section of each peer group's rate for ancillary and support costs, the calendar year the department selects.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for ancillary and support costs determined for the nursing facility's peer group under division (D) of this section.

(C) For the purpose of determining nursing facilities' rate for ancillary and support costs, the department shall establish six peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in

peer group three. Each nursing facility located in any of those 71298
counties that has one hundred or more beds shall be placed in peer 71299
group four. 71300

Each nursing facility located in any of the following 71301
counties shall be placed in peer group five or six: Adams, Allen, 71302
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 71303
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 71304
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 71305
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 71306
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 71307
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 71308
Washington, Wayne, Williams, and Wyandot. Each nursing facility 71309
located in any of those counties that has fewer than one hundred 71310
beds shall be placed in peer group five. Each nursing facility 71311
located in any of those counties that has one hundred or more beds 71312
shall be placed in peer group six. 71313

(D)(1) At least once every ten years, the department shall 71314
determine the rate for ancillary and support costs for each peer 71315
group established under division (C) of this section. The rate for 71316
ancillary and support costs determined under this division for a 71317
peer group shall be used for subsequent years until the department 71318
redetermines it. To determine a peer group's rate for ancillary 71319
and support costs, the department shall do all of the following: 71320

(a) Determine the rate for ancillary and support costs for 71321
each nursing facility in the peer group for the applicable 71322
calendar year by using the greater of the nursing facility's 71323
actual inpatient days for the applicable calendar year or the 71324
inpatient days the nursing facility would have had for the 71325
applicable calendar year if its occupancy rate had been ninety per 71326
cent. For the purpose of determining a nursing facility's 71327
occupancy rate under division (D)(1)(a) of this section, the 71328
department shall include any beds that the nursing facility 71329

removes from its medicaid-certified capacity unless the nursing facility also removes the beds from its licensed bed capacity. 71330
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(b) Subject to division (D)(2) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the rate for ancillary and support costs for the applicable calendar year determined under division (D)(1)(a) of this section. 71332
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(c) Calculate the amount that is three per cent above the rate for ancillary and support costs determined under division (D)(1)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section. 71337
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(d) Multiply the amount calculated under division (D)(1)(c) of this section by the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year using the ~~consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics~~ inflation measuring system or inflation factor the director of job and family services shall specify in rules adopted under section 5111.02 of the Revised Code. 71341
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(2) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following: 71351
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(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year; 71353
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(b) Nursing facilities whose ancillary and support costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem ancillary and support cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year. 71356
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(3) The department shall not redetermine a peer group's rate for ancillary and support costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for ancillary and support costs only if it made an error in determining the rate based on information available to the department at the time of the original determination.

Sec. 5111.241. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facilities for the mentally retarded a per resident per day rate for indirect care costs established prospectively each fiscal year for each facility. The rate for each intermediate care facility for the mentally retarded shall be the sum of the following, but shall not exceed the maximum rate established for the facility's peer group under division (B) of this section:

(1) The facility's desk-reviewed, actual, allowable, per diem indirect care costs from the calendar year preceding the fiscal year in which the rate will be paid, adjusted for the inflation rate estimated under division (C)(1) of this section;

(2) An efficiency incentive in the following amount:

(a) For fiscal years ending in even-numbered calendar years:

(i) In the case of intermediate care facilities for the mentally retarded with more than eight beds, seven and one-tenth per cent of the maximum rate established for the facility's peer group under division (B) of this section;

(ii) In the case of intermediate care facilities for the mentally retarded with eight or fewer beds, seven per cent of the maximum rate established for the facility's peer group under division (B) of this section;

(b) For fiscal years ending in odd-numbered calendar years, 71391
the amount calculated for the preceding fiscal year under division 71392
(A)(2)(a) of this section. 71393

(B)(1) The maximum rate for indirect care costs for each peer 71394
group of intermediate care facilities for the mentally retarded 71395
with more than eight beds specified in rules ~~adopted under~~ 71396
authorized by division (D) of this section shall be determined as 71397
follows: 71398

(a) For fiscal years ending in even-numbered calendar years, 71399
the maximum rate for each peer group shall be the rate that is no 71400
less than twelve and four-tenths per cent above the median 71401
desk-reviewed, actual, allowable, per diem indirect care cost for 71402
all intermediate care facilities for the mentally retarded with 71403
more than eight beds in the group, excluding facilities in the 71404
group whose indirect care costs for that period are more than 71405
three standard deviations from the mean desk-reviewed, actual, 71406
allowable, per diem indirect care cost for all intermediate care 71407
facilities for the mentally retarded with more than eight beds, 71408
for the calendar year preceding the fiscal year in which the rate 71409
will be paid, adjusted by the inflation rate estimated under 71410
division (C)(1) of this section. 71411

(b) For fiscal years ending in odd-numbered calendar years, 71412
the maximum rate for each peer group is the group's maximum rate 71413
for the previous fiscal year, adjusted for the inflation rate 71414
estimated under division (C)(2) of this section. 71415

(2) The maximum rate for indirect care costs for each peer 71416
group of intermediate care facilities for the mentally retarded 71417
with eight or fewer beds specified in rules ~~adopted under~~ 71418
authorized by division (D) of this section shall be determined as 71419
follows: 71420

(a) For fiscal years ending in even-numbered calendar years, 71421

the maximum rate for each peer group shall be the rate that is no less than ten and three-tenths per cent above the median desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with eight or fewer beds in the group, excluding facilities in the group whose indirect care costs are more than three standard deviations from the mean desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with eight or fewer beds, for the calendar year preceding the fiscal year in which the rate will be paid, adjusted by the inflation rate estimated under division (C)(1) of this section.

(b) For fiscal years that end in odd-numbered calendar years, the maximum rate for each peer group is the group's maximum rate for the previous fiscal year, adjusted for the inflation rate estimated under division (C)(2) of this section.

(3) The department shall not recalculate a maximum rate for indirect care costs under division (B)(1) or (2) of this section based on additional information that it receives after the maximum rate is set. The department shall recalculate the maximum rate for indirect care costs only if it made an error in computing the maximum rate based on the information available at the time of the original calculation.

(C)(1) When adjusting rates for inflation under divisions (A)(1), (B)(1)(a), and (B)(2)(a) of this section, the department shall estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the ~~consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics~~ inflation measuring

system or inflation factor specified in rules authorized by 71454
division (D) of this section. 71455

(2) When adjusting rates for inflation under divisions 71456
(B)(1)(b) and (B)(2)(b) of this section, the department shall 71457
estimate the rate of inflation for the twelve-month period 71458
beginning on the first day of January of the fiscal year preceding 71459
the fiscal year in which the rate will be paid and ending on the 71460
thirty-first day of December of the fiscal year in which the rate 71461
will be paid, using the ~~consumer price index for all items for all~~ 71462
~~urban consumers for the north central region, published by the~~ 71463
~~United States bureau of labor statistics~~ inflation measuring 71464
system or inflation factor specified in rules authorized by 71465
division (D) of this section. 71466

~~(3) If an inflation rate estimated under division (C)(1) or~~ 71467
~~(2) of this section is different from the actual inflation rate~~ 71468
~~for the relevant time period, as measured using the same index,~~ 71469
~~the difference shall be added to or subtracted from the inflation~~ 71470
~~rate estimated pursuant to this division for the following fiscal~~ 71471
~~year.~~ 71472

(D) The director of job and family services shall adopt rules 71473
under section 5111.02 of the Revised Code that specify ~~peer~~ both 71474
of the following: 71475

(1) Peer groups of intermediate care facilities for the 71476
mentally retarded with more than eight beds, and peer groups of 71477
intermediate care facilities for the mentally retarded with eight 71478
or fewer beds, based on findings of significant per diem indirect 71479
care cost differences due to geography and facility bed-size. The 71480
rules also may specify peer groups based on findings of 71481
significant per diem indirect care cost differences due to other 71482
factors, including case-mix. 71483

(2) The inflation measuring system or inflation factor to be 71484

used for the purpose of divisions (C)(1) and (2) of this section. 71485

Sec. 5111.251. (A) The department of job and family services 71486
shall pay a provider for each of the provider's eligible 71487
intermediate care facilities for the mentally retarded for its 71488
reasonable capital costs, a per resident per day rate established 71489
prospectively each fiscal year for each intermediate care facility 71490
for the mentally retarded. Except as otherwise provided in 71491
sections 5111.20 to 5111.33 of the Revised Code, the rate shall be 71492
based on the facility's capital costs for the calendar year 71493
preceding the fiscal year in which the rate will be paid. The rate 71494
shall equal the sum of the following: 71495

(1) The facility's desk-reviewed, actual, allowable, per diem 71496
cost of ownership for the preceding cost reporting period, limited 71497
as provided in divisions (C) and (F) of this section; 71498

(2) Any efficiency incentive determined under division (B) of 71499
this section; 71500

(3) Any amounts for renovations determined under division (D) 71501
of this section; 71502

(4) Any amounts for return on equity determined under 71503
division (I) of this section. 71504

Buildings shall be depreciated using the straight line method 71505
over forty years or over a different period approved by the 71506
department. Components and equipment shall be depreciated using 71507
the straight line method over a period designated by the director 71508
of job and family services in rules adopted under section 5111.02 71509
of the Revised Code, consistent with the guidelines of the 71510
American hospital association, or over a different period approved 71511
by the department of job and family services. Any rules authorized 71512
by this division that specify useful lives of buildings, 71513
components, or equipment apply only to assets acquired on or after 71514

July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in costs of ownership or renovation unless that part of the payment under sections 5111.20 to 5111.33 of the Revised Code is used to reimburse the government agency.

(B) The department of job and family services shall pay to a provider for each of the provider's eligible intermediate care facilities for the mentally retarded an efficiency incentive equal to fifty per cent of the difference between any desk-reviewed, actual, allowable cost of ownership and the applicable limit on cost of ownership payments under division (C) of this section. For purposes of computing the efficiency incentive, depreciation for costs paid or reimbursed by any government agency shall be considered as a cost of ownership, and the applicable limit under division (C) of this section shall apply both to facilities with more than eight beds and facilities with eight or fewer beds. The efficiency incentive paid to a provider for a facility with eight or fewer beds shall not exceed three dollars per patient day, adjusted annually for the inflation rate for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which the efficiency incentive is determined and ending on the thirtieth day of the following June, using the ~~consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics~~ inflation measuring system or inflation factor the director of job and family services shall specify in rules adopted under section 5111.02 of the Revised Code.

(C) Cost of ownership payments for intermediate care facilities for the mentally retarded with more than eight beds shall not exceed the following limits:

(1) For facilities with dates of licensure prior to January

1, 1958, not exceeding two dollars and fifty cents per patient day;	71547
	71548
(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968, not exceeding:	71549
	71550
(a) Three dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;	71551
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	71553
(b) Two dollars and fifty cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.	71554
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	71556
(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976, not exceeding:	71557
	71558
(a) Four dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed;	71559
	71560
	71561
(b) Three dollars and fifty cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeds three thousand five hundred dollars per bed;	71562
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	71565
(c) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	71566
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(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979, not exceeding:	71569
	71570
(a) Five dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;	71571
	71572
	71573
(b) Four dollars and fifty cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per	71574
	71575
	71576

bed; 71577

(c) Three dollars and fifty cents per patient day if the cost 71578
of construction was five thousand one hundred fifty dollars or 71579
less per bed, but exceeds three thousand five hundred dollars per 71580
bed; 71581

(d) Two dollars and fifty cents per patient day if the cost 71582
of construction was three thousand five hundred dollars or less 71583
per bed. 71584

(5) For facilities with dates of licensure after December 31, 71585
1978, but prior to January 1, 1980, not exceeding: 71586

(a) Six dollars per patient day if the cost of construction 71587
was seven thousand six hundred twenty-five dollars or more per 71588
bed; 71589

(b) Five dollars and fifty cents per patient day if the cost 71590
of construction was less than seven thousand six hundred 71591
twenty-five dollars per bed but exceeds six thousand eight hundred 71592
dollars per bed; 71593

(c) Four dollars and fifty cents per patient day if the cost 71594
of construction was six thousand eight hundred dollars or less per 71595
bed but exceeds five thousand one hundred fifty dollars per bed; 71596

(d) Three dollars and fifty cents per patient day if the cost 71597
of construction was five thousand one hundred fifty dollars or 71598
less but exceeds three thousand five hundred dollars per bed; 71599

(e) Two dollars and fifty cents per patient day if the cost 71600
of construction was three thousand five hundred dollars or less 71601
per bed. 71602

(6) For facilities with dates of licensure after December 31, 71603
1979, but prior to January 1, 1981, not exceeding: 71604

(a) Twelve dollars per patient day if the beds were 71605
originally licensed as residential facility beds by the department 71606

of mental retardation and developmental disabilities; 71607

(b) Six dollars per patient day if the beds were originally 71608
licensed as nursing home beds by the department of health. 71609

(7) For facilities with dates of licensure after December 31, 71610
1980, but prior to January 1, 1982, not exceeding: 71611

(a) Twelve dollars per patient day if the beds were 71612
originally licensed as residential facility beds by the department 71613
of mental retardation and developmental disabilities; 71614

(b) Six dollars and forty-five cents per patient day if the 71615
beds were originally licensed as nursing home beds by the 71616
department of health. 71617

(8) For facilities with dates of licensure after December 31, 71618
1981, but prior to January 1, 1983, not exceeding: 71619

(a) Twelve dollars per patient day if the beds were 71620
originally licensed as residential facility beds by the department 71621
of mental retardation and developmental disabilities; 71622

(b) Six dollars and seventy-nine cents per patient day if the 71623
beds were originally licensed as nursing home beds by the 71624
department of health. 71625

(9) For facilities with dates of licensure after December 31, 71626
1982, but prior to January 1, 1984, not exceeding: 71627

(a) Twelve dollars per patient day if the beds were 71628
originally licensed as residential facility beds by the department 71629
of mental retardation and developmental disabilities; 71630

(b) Seven dollars and nine cents per patient day if the beds 71631
were originally licensed as nursing home beds by the department of 71632
health. 71633

(10) For facilities with dates of licensure after December 71634
31, 1983, but prior to January 1, 1985, not exceeding: 71635

(a) Twelve dollars and twenty-four cents per patient day if 71636
the beds were originally licensed as residential facility beds by 71637
the department of mental retardation and developmental 71638
disabilities; 71639

(b) Seven dollars and twenty-three cents per patient day if 71640
the beds were originally licensed as nursing home beds by the 71641
department of health. 71642

(11) For facilities with dates of licensure after December 71643
31, 1984, but prior to January 1, 1986, not exceeding: 71644

(a) Twelve dollars and fifty-three cents per patient day if 71645
the beds were originally licensed as residential facility beds by 71646
the department of mental retardation and developmental 71647
disabilities; 71648

(b) Seven dollars and forty cents per patient day if the beds 71649
were originally licensed as nursing home beds by the department of 71650
health. 71651

(12) For facilities with dates of licensure after December 71652
31, 1985, but prior to January 1, 1987, not exceeding: 71653

(a) Twelve dollars and seventy cents per patient day if the 71654
beds were originally licensed as residential facility beds by the 71655
department of mental retardation and developmental disabilities; 71656

(b) Seven dollars and fifty cents per patient day if the beds 71657
were originally licensed as nursing home beds by the department of 71658
health. 71659

(13) For facilities with dates of licensure after December 71660
31, 1986, but prior to January 1, 1988, not exceeding: 71661

(a) Twelve dollars and ninety-nine cents per patient day if 71662
the beds were originally licensed as residential facility beds by 71663
the department of mental retardation and developmental 71664
disabilities; 71665

(b) Seven dollars and sixty-seven cents per patient day if 71666
the beds were originally licensed as nursing home beds by the 71667
department of health. 71668

(14) For facilities with dates of licensure after December 71669
31, 1987, but prior to January 1, 1989, not exceeding thirteen 71670
dollars and twenty-six cents per patient day; 71671

(15) For facilities with dates of licensure after December 71672
31, 1988, but prior to January 1, 1990, not exceeding thirteen 71673
dollars and forty-six cents per patient day; 71674

(16) For facilities with dates of licensure after December 71675
31, 1989, but prior to January 1, 1991, not exceeding thirteen 71676
dollars and sixty cents per patient day; 71677

(17) For facilities with dates of licensure after December 71678
31, 1990, but prior to January 1, 1992, not exceeding thirteen 71679
dollars and forty-nine cents per patient day; 71680

(18) For facilities with dates of licensure after December 71681
31, 1991, but prior to January 1, 1993, not exceeding thirteen 71682
dollars and sixty-seven cents per patient day; 71683

(19) For facilities with dates of licensure after December 71684
31, 1992, not exceeding fourteen dollars and twenty-eight cents 71685
per patient day. 71686

(D) Beginning January 1, 1981, regardless of the original 71687
date of licensure, the department of job and family services shall 71688
pay a rate for the per diem capitalized costs of renovations to 71689
intermediate care facilities for the mentally retarded made after 71690
January 1, 1981, not exceeding six dollars per patient day using 71691
1980 as the base year and adjusting the amount annually until June 71692
30, 1993, for fluctuations in construction costs calculated by the 71693
department using the "Dodge building cost indexes, northeastern 71694
and north central states," published by Marshall and Swift. The 71695
payment provided for in this division is the only payment that 71696

shall be made for the capitalized costs of a nonextensive 71697
renovation of an intermediate care facility for the mentally 71698
retarded. Nonextensive renovation costs shall not be included in 71699
cost of ownership, and a nonextensive renovation shall not affect 71700
the date of licensure for purposes of division (C) of this 71701
section. This division applies to nonextensive renovations 71702
regardless of whether they are made by an owner or a lessee. If 71703
the tenancy of a lessee that has made renovations ends before the 71704
depreciation expense for the renovation costs has been fully 71705
reported, the former lessee shall not report the undepreciated 71706
balance as an expense. 71707

For a nonextensive renovation to qualify for payment under 71708
this division, both of the following conditions must be met: 71709

(1) At least five years have elapsed since the date of 71710
licensure or date of an extensive renovation of the portion of the 71711
facility that is proposed to be renovated, except that this 71712
condition does not apply if the renovation is necessary to meet 71713
the requirements of federal, state, or local statutes, ordinances, 71714
rules, or policies. 71715

(2) The provider has obtained prior approval from the 71716
department of job and family services. The provider shall submit a 71717
plan that describes in detail the changes in capital assets to be 71718
accomplished by means of the renovation and the timetable for 71719
completing the project. The time for completion of the project 71720
shall be no more than eighteen months after the renovation begins. 71721
The director of job and family services shall adopt rules under 71722
section 5111.02 of the Revised Code that specify criteria and 71723
procedures for prior approval of renovation projects. No provider 71724
shall separate a project with the intent to evade the 71725
characterization of the project as a renovation or as an extensive 71726
renovation. No provider shall increase the scope of a project 71727
after it is approved by the department of job and family services 71728

unless the increase in scope is approved by the department. 71729

(E) The amounts specified in divisions (C) and (D) of this 71730
section shall be adjusted beginning July 1, 1993, for the 71731
estimated inflation for the twelve-month period beginning on the 71732
first day of July of the calendar year preceding the calendar year 71733
that precedes the fiscal year for which rate will be paid and 71734
ending on the thirtieth day of the following June, using the 71735
~~consumer price index for shelter costs for all urban consumers for~~ 71736
~~the north central region, as published by the United States bureau~~ 71737
~~of labor statistics~~ inflation measuring system or inflation factor 71738
the director of job and family services shall specify in rules 71739
adopted under section 5111.02 of the Revised Code. 71740

(F)(1) For facilities of eight or fewer beds that have dates 71741
of licensure or have been granted project authorization by the 71742
department of mental retardation and developmental disabilities 71743
before July 1, 1993, and for facilities of eight or fewer beds 71744
that have dates of licensure or have been granted project 71745
authorization after that date if the providers of the facilities 71746
demonstrate that they made substantial commitments of funds on or 71747
before that date, cost of ownership shall not exceed ~~eighteen~~ 71748
~~twenty-eight~~ dollars and thirty cents per resident per day. The 71749
~~eighteen-dollar and thirty-cent~~ twenty-eight-dollar amount shall 71750
be ~~increased by the change in the "Dodge building cost indexes,~~ 71751
~~northeastern and north central states," published by Marshall and~~ 71752
~~Swift, during the period beginning June 30, 1990, and ending July~~ 71753
~~1, 1993, and by the change in the consumer price index for shelter~~ 71754
~~costs for all urban consumers for the north central region, as~~ 71755
~~published by the United States bureau of labor statistics,~~ 71756
adjusted beginning July 1, 2009, and annually thereafter using the 71757
inflation measuring system or inflation factor the director of job 71758
and family services shall specify in rules adopted under section 71759
5111.02 of the Revised Code. 71760

(2) For facilities with eight or fewer beds that have dates of licensure or have been granted project authorization by the department of mental retardation and developmental disabilities on or after July 1, 1993, for which substantial commitments of funds were not made before that date, cost of ownership payments shall not exceed the applicable amount calculated under division (F)(1) of this section, if the department of job and family services gives prior approval for construction of the facility. If the department does not give prior approval, cost of ownership payments shall not exceed the amount specified in division (C) of this section.

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this section, the total payment for cost of ownership, cost of ownership efficiency incentive, and capitalized costs of renovations for an intermediate care facility for the mentally retarded with eight or fewer beds shall not exceed the sum of the limitations specified in divisions (C) and (D) of this section.

(G) Notwithstanding any provision of this section or section 5111.241 of the Revised Code, the director of job and family services may adopt rules under section 5111.02 of the Revised Code that provide for a calculation of a combined maximum payment limit for indirect care costs and cost of ownership for intermediate care facilities for the mentally retarded with eight or fewer beds.

(H) After the date on which a transaction of sale is closed, the provider shall refund to the department the amount of excess depreciation paid to the provider for the facility by the department for each year the provider has operated the facility under a provider agreement and prorated according to the number of medicaid patient days for which the provider has received payment for the facility. For the purposes of this division, "depreciation paid to the provider for the facility" means the amount paid to

the provider for the intermediate care facility for the mentally 71793
retarded for cost of ownership pursuant to this section less any 71794
amount paid for interest costs. For the purposes of this division, 71795
"excess depreciation" is the intermediate care facility for the 71796
mentally retarded's depreciated basis, which is the provider's 71797
cost less accumulated depreciation, subtracted from the purchase 71798
price but not exceeding the amount of depreciation paid to the 71799
provider for the facility. 71800

(I) The department of job and family services shall pay a 71801
provider for each of the provider's eligible proprietary 71802
intermediate care facilities for the mentally retarded a return on 71803
the facility's net equity computed at the rate of one and one-half 71804
times the average of interest rates on special issues of public 71805
debt obligations issued to the federal hospital insurance trust 71806
fund for the cost reporting period. No facility's return on net 71807
equity paid under this division shall exceed one dollar per 71808
patient day. 71809

In calculating the rate for return on net equity, the 71810
department shall use the greater of the facility's inpatient days 71811
during the applicable cost reporting period or the number of 71812
inpatient days the facility would have had during that period if 71813
its occupancy rate had been ninety-five per cent. 71814

(J)(1) Except as provided in division (J)(2) of this section, 71815
if a provider leases or transfers an interest in a facility to 71816
another provider who is a related party, the related party's 71817
allowable cost of ownership shall include the lesser of the 71818
following: 71819

(a) The annual lease expense or actual cost of ownership, 71820
whichever is applicable; 71821

(b) The reasonable cost to the lessor or provider making the 71822
transfer. 71823

(2) If a provider leases or transfers an interest in a facility to another provider who is a related party, regardless of the date of the lease or transfer, the related party's allowable cost of ownership shall include the annual lease expense or actual cost of ownership, whichever is applicable, subject to the limitations specified in divisions (B) to (I) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) In the case of a lease, if the lessor retains any ownership interest, it is, except as provided in division (J)(2)(d)(ii) of this section, in only the real property and any improvements on the real property;

(c) In the case of a transfer, the provider making the transfer retains, except as provided in division (J)(2)(d)(iv) of this section, no ownership interest in the facility;

(d) The department of job and family services determines that the lease or transfer is an arm's length transaction pursuant to rules adopted under section 5111.02 of the Revised Code. The rules shall provide that a lease or transfer is an arm's length transaction if all of the following, as applicable, apply:

(i) In the case of a lease, once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division (J)(2)(b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(ii) In the case of a lease, the lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the

department calculates its reimbursement rates for capital costs. 71855

(iii) In the case of a transfer, once the transfer goes into 71856
effect, the provider that made the transfer has no direct or 71857
indirect interest in the provider that acquires the facility or 71858
the facility itself, including interest as an owner, officer, 71859
director, employee, independent contractor, or consultant, but 71860
excluding interest as a creditor. 71861

(iv) In the case of a transfer, the provider that made the 71862
transfer does not reacquire an interest in the facility except 71863
through the exercise of a creditor's rights in the event of a 71864
default. If the provider reacquires an interest in the facility in 71865
this manner, the department shall treat the facility as if the 71866
transfer never occurred when the department calculates its 71867
reimbursement rates for capital costs. 71868

(v) The lease or transfer satisfies any other criteria 71869
specified in the rules. 71870

(e) Except in the case of hardship caused by a catastrophic 71871
event, as determined by the department, or in the case of a lessor 71872
or provider making the transfer who is at least sixty-five years 71873
of age, not less than twenty years have elapsed since, for the 71874
same facility, allowable cost of ownership was determined most 71875
recently under this division. 71876

Sec. 5111.261. Except as otherwise provided in section 71877
5111.264 of the Revised Code, the department of job and family 71878
services, in determining whether an intermediate care facility for 71879
the mentally retarded's direct care costs and indirect care costs 71880
are allowable, shall place no limit on specific categories of 71881
reasonable costs other than compensation of owners, compensation 71882
of relatives of owners, and compensation of administrators ~~and~~ 71883
~~costs for resident meals that are prepared and consumed outside~~ 71884
~~the facility.~~ 71885

Compensation cost limits for owners and relatives of owners 71886
shall be based on compensation costs for individuals who hold 71887
comparable positions but who are not owners or relatives of 71888
owners, as reported on facility cost reports. As used in this 71889
section, "comparable position" means the position that is held by 71890
the owner or the owner's relative, if that position is listed 71891
separately on the cost report form, or if the position is not 71892
listed separately, the group of positions that is listed on the 71893
cost report form and that includes the position held by the owner 71894
or the owner's relative. In the case of an owner or owner's 71895
relative who serves the facility in a capacity such as corporate 71896
officer, proprietor, or partner for which no comparable position 71897
or group of positions is listed on the cost report form, the 71898
compensation cost limit shall be based on civil service 71899
equivalents and shall be specified in rules adopted under section 71900
5111.02 of the Revised Code. 71901

Compensation cost limits for administrators shall be based on 71902
compensation costs for administrators who are not owners or 71903
relatives of owners, as reported on facility cost reports. 71904
Compensation cost limits for administrators of four or more 71905
intermediate care facilities for the mentally retarded shall be 71906
the same as the limits for administrators of intermediate care 71907
facilities for the mentally retarded with one hundred fifty or 71908
more beds. 71909

Sec. 5111.65. As used in sections 5111.65 to ~~5111.688~~ 71910
5111.689 of the Revised Code: 71911

(A) "Change of operator" means an entering operator becoming 71912
the operator of a nursing facility or intermediate care facility 71913
for the mentally retarded in the place of the exiting operator. 71914

(1) Actions that constitute a change of operator include the 71915
following: 71916

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;	71917 71918 71919
(b) A transfer of all the exiting operator's ownership interest in the operation of the facility to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the facility is also transferred;	71920 71921 71922 71923 71924
(c) A lease of the facility to the entering operator or the exiting operator's termination of the exiting operator's lease;	71925 71926
(d) If the exiting operator is a partnership, dissolution of the partnership;	71927 71928
(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:	71929 71930
(i) The change in composition does not cause the partnership's dissolution under state law.	71931 71932
(ii) The partners agree that the change in composition does not constitute a change in operator.	71933 71934
(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.	71935 71936 71937 71938
(2) The following, alone, do not constitute a change of operator:	71939 71940
(a) A contract for an entity to manage a nursing facility or intermediate care facility for the mentally retarded as the operator's agent, subject to the operator's approval of daily operating and management decisions;	71941 71942 71943 71944
(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing	71945 71946

facility or intermediate care facility for the mentally retarded 71947
if an entering operator does not become the operator in place of 71948
an exiting operator; 71949

(c) If the operator is a corporation, a change of one or more 71950
members of the corporation's governing body or transfer of 71951
ownership of one or more shares of the corporation's stock, if the 71952
same corporation continues to be the operator. 71953

(B) "Effective date of a change of operator" means the day 71954
the entering operator becomes the operator of the nursing facility 71955
or intermediate care facility for the mentally retarded. 71956

(C) "Effective date of a facility closure" means the last day 71957
that the last of the residents of the nursing facility or 71958
intermediate care facility for the mentally retarded resides in 71959
the facility. 71960

(D) "Effective date of a voluntary termination" means the day 71961
the intermediate care facility for the mentally retarded ceases to 71962
accept medicaid patients. 71963

(E) "Effective date of a voluntary withdrawal of 71964
participation" means the day the nursing facility ceases to accept 71965
new medicaid patients other than the individuals who reside in the 71966
nursing facility on the day before the effective date of the 71967
voluntary withdrawal of participation. 71968

(F) "Entering operator" means the person or government entity 71969
that will become the operator of a nursing facility or 71970
intermediate care facility for the mentally retarded when a change 71971
of operator occurs. 71972

(G) "Exiting operator" means any of the following: 71973

(1) An operator that will cease to be the operator of a 71974
nursing facility or intermediate care facility for the mentally 71975
retarded on the effective date of a change of operator; 71976

- (2) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a facility closure; 71977
71978
71979
- (3) An operator of an intermediate care facility for the mentally retarded that is undergoing or has undergone a voluntary termination; 71980
71981
71982
- (4) An operator of a nursing facility that is undergoing or has undergone a voluntary withdrawal of participation. 71983
71984
- (H)(1) "Facility closure" means discontinuance of the use of the building, or part of the building, that houses the facility as a nursing facility or intermediate care facility for the mentally retarded that results in the relocation of all of the facility's residents. A facility closure occurs regardless of any of the following: 71985
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71988
71989
71990
- (a) The operator completely or partially replacing the facility by constructing a new facility or transferring the facility's license to another facility; 71991
71992
71993
- (b) The facility's residents relocating to another of the operator's facilities; 71994
71995
- (c) Any action the department of health takes regarding the facility's certification under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, that may result in the transfer of part of the facility's survey findings to another of the operator's facilities; 71996
71997
71998
71999
72000
- (d) Any action the department of health takes regarding the facility's license under Chapter 3721. of the Revised Code; 72001
72002
- (e) Any action the department of mental retardation and developmental disabilities takes regarding the facility's license under section 5123.19 of the Revised Code. 72003
72004
72005
- (2) A facility closure does not occur if all of the 72006

facility's residents are relocated due to an emergency evacuation 72007
and one or more of the residents return to a medicaid-certified 72008
bed in the facility not later than thirty days after the 72009
evacuation occurs. 72010

(I) "Fiscal year," "intermediate care facility for the 72011
mentally retarded," "nursing facility," "operator," "owner," and 72012
"provider agreement" have the same meanings as in section 5111.20 72013
of the Revised Code. 72014

(J) "Voluntary termination" means an operator's voluntary 72015
election to terminate the participation of an intermediate care 72016
facility for the mentally retarded in the medicaid program but to 72017
continue to provide service of the type provided by a residential 72018
facility as defined in section 5123.19 of the Revised Code. 72019

(K) "Voluntary withdrawal of participation" means an 72020
operator's voluntary election to terminate the participation of a 72021
nursing facility in the medicaid program but to continue to 72022
provide service of the type provided by a nursing facility. 72023

Sec. 5111.651. Sections 5111.65 to ~~5111.688~~ 5111.689 of the 72024
Revised Code do not apply to a nursing facility or intermediate 72025
care facility for the mentally retarded that undergoes a facility 72026
closure, voluntary termination, voluntary withdrawal of 72027
participation, or change of operator on or before September 30, 72028
2005, if the exiting operator provided written notice of the 72029
facility closure, voluntary termination, voluntary withdrawal of 72030
participation, or change of operator to the department of job and 72031
family services on or before June 30, 2005. 72032

Sec. 5111.688. (A) There is hereby created in the state 72033
treasury the exiting operator fund. All amounts withheld under 72034
section 5111.681 of the Revised Code from payment due an exiting 72035
operator under the medicaid program shall be deposited into the 72036

fund. Money in the fund shall be used as follows: 72037

(1) To pay an exiting operator when a withholding is released 72038
to the exiting operator under section 5111.686 or 5111.687 of the 72039
Revised Code; 72040

(2) To pay the department of job and family services and 72041
United States centers for medicare and medicaid services the 72042
amount an exiting operator owes the department and United States 72043
centers under the medicaid program. 72044

(B) Amounts paid from the exiting operator fund pursuant to 72045
division (A)(2) of this section shall be deposited into the 72046
appropriate department fund. 72047

Sec. ~~5111.688~~ 5111.689. The director of job and family 72048
services may adopt rules under section 5111.02 of the Revised Code 72049
to implement sections 5111.65 to ~~5111.688~~ 5111.689 of the Revised 72050
Code, including rules applicable to an exiting operator that 72051
provides written notification under section 5111.66 of the Revised 72052
Code of a voluntary withdrawal of participation. Rules adopted 72053
under this section shall comply with section 1919(c)(2)(F) of the 72054
"Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 72055
1396r(c)(2)(F), regarding restrictions on transfers or discharges 72056
of nursing facility residents in the case of a voluntary 72057
withdrawal of participation. The rules may prescribe a medicaid 72058
reimbursement methodology and other procedures that are applicable 72059
after the effective date of a voluntary withdrawal of 72060
participation that differ from the reimbursement methodology and 72061
other procedures that would otherwise apply. 72062

Sec. 5111.705. No individual shall be denied eligibility for 72063
the medicaid buy-in for workers with disabilities program on the 72064
basis that the individual receives services under a home and 72065
community-based services medicaid waiver component as defined in 72066

section ~~5111.851~~ 5111.85 of the Revised Code. 72067

Sec. 5111.85. (A) As used in this section and sections 72068
5111.851 to 5111.856 of the Revised Code, ~~"medicaid:~~ 72069

"Home and community-based services medicaid waiver component" 72070
means a medicaid waiver component under which home and 72071
community-based services are provided as an alternative to 72072
hospital, nursing facility, or intermediate care facility for the 72073
mentally retarded services. 72074

"Hospital" has the same meaning as in section 3727.01 of the 72075
Revised Code. 72076

"Intermediate care facility for the mentally retarded" has 72077
the same meaning as in section 5111.20 of the Revised Code. 72078

"Medicaid waiver component" means a component of the medicaid 72079
program authorized by a waiver granted by the United States 72080
department of health and human services under section 1115 or 1915 72081
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 72082
1315 or 1396n. "Medicaid waiver component" does not include a care 72083
management system established under section 5111.16 of the Revised 72084
Code. 72085

"Nursing facility" has the same meaning as in section 5111.20 72086
of the Revised Code. 72087

(B) The director of job and family services may adopt rules 72088
under Chapter 119. of the Revised Code governing medicaid waiver 72089
components that establish all of the following: 72090

(1) Eligibility requirements for the medicaid waiver 72091
components; 72092

(2) The type, amount, duration, and scope of services the 72093
medicaid waiver components provide; 72094

(3) The conditions under which the medicaid waiver components 72095

cover services;	72096
(4) The amount the medicaid waiver components pay for services or the method by which the amount is determined;	72097 72098
(5) The manner in which the medicaid waiver components pay for services;	72099 72100
(6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component;	72101 72102
(7) <u>Procedures for both of the following:</u>	72103
(a) <u>Identifying individuals who meet all of the following requirements:</u>	72104 72105
(i) <u>Are eligible for a home and community-based services medicaid waiver component and on a waiting list for the component;</u>	72106 72107
(ii) <u>Are receiving inpatient hospital services or residing in an intermediate care facility for the mentally retarded or nursing facility (as appropriate for the component);</u>	72108 72109 72110
(iii) <u>Choose to be enrolled in the component.</u>	72111
(b) <u>Approving the enrollment of individuals identified under the procedures established under division (B)(7)(a) of this section into the home and community-based services medicaid waiver component.</u>	72112 72113 72114 72115
(8) <u>Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating medicaid provider agreements. The procedures shall include due process protections.</u>	72116 72117 72118 72119 72120 72121
(8) (9) <u>Other policies necessary for the efficient administration of the medicaid waiver components.</u>	72122 72123
(C) The director of job and family services may adopt	72124

different rules for the different medicaid waiver components. The 72125
rules shall be consistent with the terms of the waiver authorizing 72126
the medicaid waiver component. 72127

(D) Any procedures established under division (B)(7) of this 72128
section for the PASSPORT program shall be consistent with section 72129
173.401 of the Revised Code. Any procedures established under 72130
division (B)(7) of this section for the assisted living program 72131
shall be consistent with section 5111.894 of the Revised Code. 72132

Sec. 5111.851. (A) As used in sections 5111.851 to 5111.855 72133
of the Revised Code: 72134

"Administrative agency" means, with respect to a home and 72135
community-based services medicaid waiver component, the department 72136
of job and family services or, if a state agency or political 72137
subdivision contracts with the department under section 5111.91 of 72138
the Revised Code to administer the component, that state agency or 72139
political subdivision. 72140

~~"Home and community based services medicaid waiver component" 72141~~
~~means a medicaid waiver component under which home and 72142~~
~~community based services are provided as an alternative to 72143~~
~~hospital, nursing facility, or intermediate care facility for the 72144~~
~~mentally retarded services. 72145~~

~~"Hospital" has the same meaning as in section 3727.01 of the 72146~~
~~Revised Code. 72147~~

~~"Intermediate care facility for the mentally retarded" has 72148~~
~~the same meaning as in section 5111.20 of the Revised Code. 72149~~

"Level of care determination" means a determination of 72150
whether an individual needs the level of care provided by a 72151
hospital, nursing facility, or intermediate care facility for the 72152
mentally retarded and whether the individual, if determined to 72153
need that level of care, would receive hospital, nursing facility, 72154

or intermediate care facility for the mentally retarded services 72155
if not for a home and community-based services medicaid waiver 72156
component. 72157

"Medicaid buy-in for workers with disabilities program" means 72158
the component of the medicaid program established under sections 72159
5111.70 to 5111.7011 of the Revised Code. 72160

~~"Nursing facility" has the same meaning as in section 5111.20 72161
of the Revised Code. 72162~~

"Skilled nursing facility" means a facility certified as a 72163
skilled nursing facility under Title XVIII of the "Social Security 72164
Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 72165

(B) The following requirements apply to each home and 72166
community-based services medicaid waiver component: 72167

(1) Only an individual who qualifies for a component shall 72168
receive that component's services. 72169

(2) A level of care determination shall be made as part of 72170
the process of determining whether an individual qualifies for a 72171
component and shall be made each year after the initial 72172
determination if, during such a subsequent year, the 72173
administrative agency determines there is a reasonable indication 72174
that the individual's needs have changed. 72175

(3) A written plan of care or individual service plan based 72176
on an individual assessment of the services that an individual 72177
needs to avoid needing admission to a hospital, nursing facility, 72178
or intermediate care facility for the mentally retarded shall be 72179
created for each individual determined eligible for a component. 72180

(4) Each individual determined eligible for a component shall 72181
receive that component's services in accordance with the 72182
individual's level of care determination and written plan of care 72183
or individual service plan. 72184

(5) No individual may receive services under a component 72185
while the individual is a hospital inpatient or resident of a 72186
skilled nursing facility, nursing facility, or intermediate care 72187
facility for the mentally retarded. 72188

(6) No individual may receive prevocational, educational, or 72189
supported employment services under a component if the individual 72190
is eligible for such services that are funded with federal funds 72191
provided under 29 U.S.C. 730 or the "Individuals with Disabilities 72192
Education Act," 111 Stat. 37 (1997), 20 U.S.C. 1400, as amended. 72193

(7) Safeguards shall be taken to protect the health and 72194
welfare of individuals receiving services under a component, 72195
including safeguards established in rules adopted under section 72196
5111.85 of the Revised Code and safeguards established by 72197
licensing and certification requirements that are applicable to 72198
the providers of that component's services. 72199

(8) No services may be provided under a component by a 72200
provider that is subject to standards that 42 U.S.C. 1382e(e)(1) 72201
requires be established if the provider fails to comply with the 72202
standards applicable to the provider. 72203

(9) Individuals determined to be eligible for a component, or 72204
such individuals' representatives, shall be informed of that 72205
component's services, including any choices that the individual or 72206
representative may make regarding the component's services, and 72207
given the choice of either receiving services under that component 72208
or, as appropriate, hospital, nursing facility, or intermediate 72209
care facility for the mentally retarded services. 72210

(10) No individual shall lose eligibility for services under 72211
a component, or have the services reduced or otherwise disrupted, 72212
on the basis that the individual also receives services under the 72213
medicaid buy-in for workers with disabilities program. 72214

(11) No individual shall lose eligibility for services under 72215

a component, or have the services reduced or otherwise disrupted, 72216
on the basis that the individual's income or resources increase to 72217
an amount above the eligibility limit for the component if the 72218
individual is participating in the medicaid buy-in for workers 72219
with disabilities program and the amount of the individual's 72220
income or resources does not exceed the eligibility limit for the 72221
medicaid buy-in for workers with disabilities program. 72222

(12) No individual receiving services under a component shall 72223
be required to pay any cost sharing expenses for the services for 72224
any period during which the individual also participates in the 72225
medicaid buy-in for workers with disabilities program. 72226

Sec. 5111.874. (A) As used in sections 5111.874 to 5111.8710 72227
of the Revised Code: 72228

"Home and community-based services" has the same meaning as 72229
in section 5123.01 of the Revised Code. 72230

"ICF/MR services" means intermediate care facility for the 72231
mentally retarded services covered by the medicaid program that an 72232
intermediate care facility for the mentally retarded provides to a 72233
resident of the facility who is a medicaid recipient eligible for 72234
medicaid-covered intermediate care facility for the mentally 72235
retarded services. 72236

"Intermediate care facility for the mentally retarded" means 72237
an intermediate care facility for the mentally retarded that is 72238
certified as in compliance with applicable standards for the 72239
medicaid program by the director of health in accordance with 72240
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 72241
U.S.C. 1396, as amended, and licensed as a residential facility 72242
under section 5123.19 of the Revised Code. 72243

"Residential facility" has the same meaning as in section 72244
5123.19 of the Revised Code. 72245

(B) For the purpose of increasing the number of slots available for home and community-based services and subject to sections 5111.877 and 5111.878 of the Revised Code, the operator of an intermediate care facility for the mentally retarded may convert all of the beds in the facility from providing ICF/MR services to providing home and community-based services if all of the following requirements are met:

(1) The operator provides the directors of health, job and family services, and mental retardation and developmental disabilities at least ninety days' notice of the operator's intent to relinquish the facility's certification as an intermediate care facility for the mentally retarded and to begin providing home and community-based services.

(2) The operator complies with the requirements of sections 5111.65 to ~~5111.688~~ 5111.689 of the Revised Code regarding a voluntary termination as defined in section 5111.65 of the Revised Code if those requirements are applicable.

(3) The operator notifies each of the facility's residents that the facility is to cease providing ICF/MR services and inform each resident that the resident may do either of the following:

(a) Continue to receive ICF/MR services by transferring to another facility that is an intermediate care facility for the mentally retarded willing and able to accept the resident if the resident continues to qualify for ICF/MR services;

(b) Begin to receive home and community-based services instead of ICF/MR services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(4) The operator meets the requirements for providing home and community-based services, including the following:

(a) Such requirements applicable to a residential facility if the operator maintains the facility's license as a residential facility;

(b) Such requirements applicable to a facility that is not licensed as a residential facility if the operator surrenders the facility's residential facility license under section 5123.19 of the Revised Code.

(5) The director of mental retardation and developmental disabilities approves the conversion.

(C) The notice to the director of mental retardation and developmental disabilities under division (B)(1) of this section shall specify whether the operator wishes to surrender the facility's license as a residential facility under section 5123.19 of the Revised Code.

(D) If the director of mental retardation and developmental disabilities approves a conversion under division (B) of this section, the director of health shall terminate the certification of the intermediate care facility for the mentally retarded to be converted. The director of health shall notify the director of job and family services of the termination. On receipt of the director of health's notice, the director of job and family services shall terminate the operator's medicaid provider agreement that authorizes the operator to provide ICF/MR services at the facility. The operator is not entitled to notice or a hearing under Chapter 119. of the Revised Code before the director of job and family services terminates the medicaid provider agreement.

Sec. 5111.875. (A) For the purpose of increasing the number of slots available for home and community-based services and subject to sections 5111.877 and 5111.878 of the Revised Code, a person who acquires, through a request for proposals issued by the

director of mental retardation and developmental disabilities, a 72308
residential facility that is an intermediate care facility for the 72309
mentally retarded and for which the license as a residential 72310
facility was previously surrendered or revoked may convert some or 72311
all of the facility's beds from providing ICF/MR services to 72312
providing home and community-based services if all of the 72313
following requirements are met: 72314

(1) The person provides the directors of health, job and 72315
family services, and mental retardation and developmental 72316
disabilities at least ninety days' notice of the person's intent 72317
to make the conversion. 72318

(2) The person complies with the requirements of sections 72319
5111.65 to ~~5111.688~~ 5111.689 of the Revised Code regarding a 72320
voluntary termination as defined in section 5111.65 of the Revised 72321
Code if those requirements are applicable. 72322

(3) If the person intends to convert all of the facility's 72323
beds, the person notifies each of the facility's residents that 72324
the facility is to cease providing ICF/MR services and informs 72325
each resident that the resident may do either of the following: 72326

(a) Continue to receive ICF/MR services by transferring to 72327
another facility that is an intermediate care facility for the 72328
mentally retarded willing and able to accept the resident if the 72329
resident continues to qualify for ICF/MR services; 72330

(b) Begin to receive home and community-based services 72331
instead of ICF/MR services from any provider of home and 72332
community-based services that is willing and able to provide the 72333
services to the resident if the resident is eligible for the 72334
services and a slot for the services is available to the resident. 72335

(4) If the person intends to convert some but not all of the 72336
facility's beds, the person notifies each of the facility's 72337

residents that the facility is to convert some of its beds from 72338
providing ICF/MR services to providing home and community-based 72339
services and inform each resident that the resident may do either 72340
of the following: 72341

(a) Continue to receive ICF/MR services from any provider of 72342
ICF/MR services that is willing and able to provide the services 72343
to the resident if the resident continues to qualify for ICF/MR 72344
services; 72345

(b) Begin to receive home and community-based services 72346
instead of ICF/MR services from any provider of home and 72347
community-based services that is willing and able to provide the 72348
services to the resident if the resident is eligible for the 72349
services and a slot for the services is available to the resident. 72350

(5) The person meets the requirements for providing home and 72351
community-based services at a residential facility. 72352

(B) The notice provided to the directors under division 72353
(A)(1) of this section shall specify whether some or all of the 72354
facility's beds are to be converted. If some but not all of the 72355
beds are to be converted, the notice shall specify how many of the 72356
facility's beds are to be converted and how many of the beds are 72357
to continue to provide ICF/MR services. 72358

(C) On receipt of a notice under division (A)(1) of this 72359
section, the director of health shall do the following: 72360

(1) Terminate the certification of the intermediate care 72361
facility for the mentally retarded if the notice specifies that 72362
all of the facility's beds are to be converted; 72363

(2) Reduce the facility's certified capacity by the number of 72364
beds being converted if the notice specifies that some but not all 72365
of the beds are to be converted. 72366

(D) The director of health shall notify the director of job 72367

and family services of the termination or reduction under division 72368
(C) of this section. On receipt of the director of health's 72369
notice, the director of job and family services shall do the 72370
following: 72371

(1) Terminate the person's medicaid provider agreement that 72372
authorizes the person to provide ICF/MR services at the facility 72373
if the facility's certification was terminated; 72374

(2) Amend the person's medicaid provider agreement to reflect 72375
the facility's reduced certified capacity if the facility's 72376
certified capacity is reduced. 72377

The person is not entitled to notice or a hearing under 72378
Chapter 119. of the Revised Code before the director of job and 72379
family services terminates or amends the medicaid provider 72380
agreement. 72381

Sec. 5111.88. (A) As used in sections 5111.88 to 5111.8811 of 72382
the Revised Code: 72383

(1) "Adult" means an individual at least eighteen years of 72384
age. 72385

(2) "Authorized representative" means the following: 72386

(a) In the case of a consumer who is a minor, the consumer's 72387
parent, custodian, or guardian; 72388

(b) In the case of a consumer who is an adult, an individual 72389
selected by the consumer pursuant to section 5111.8810 of the 72390
Revised Code to act on the consumer's behalf for purposes 72391
regarding home care attendant services. 72392

(3) "Authorizing health care professional" means a health 72393
care professional who, pursuant to section 5111.887 of the Revised 72394
Code, authorizes a home care attendant to assist a consumer with 72395
self-administration of medication, nursing tasks, or both. 72396

<u>(4) "Consumer" means an individual to whom all of the</u>	72397
<u>following apply:</u>	72398
<u>(a) The individual is enrolled in a participating medicaid</u>	72399
<u>waiver component.</u>	72400
<u>(b) The individual has a medically determinable physical</u>	72401
<u>impairment to which both of the following apply:</u>	72402
<u>(i) It is expected to last for a continuous period of not</u>	72403
<u>less than twelve months.</u>	72404
<u>(ii) It causes the individual to require assistance with</u>	72405
<u>activities of daily living, self-care, and mobility, including</u>	72406
<u>either assistance with self-administration of medication or the</u>	72407
<u>performance of nursing tasks, or both.</u>	72408
<u>(c) In the case of an individual who is an adult, the</u>	72409
<u>individual is mentally alert and is, or has an authorized</u>	72410
<u>representative who is, capable of selecting, directing the actions</u>	72411
<u>of, and dismissing a home care attendant.</u>	72412
<u>(d) In the case of an individual who is a minor, the</u>	72413
<u>individual has an authorized representative who is capable of</u>	72414
<u>selecting, directing the actions of, and dismissing a home care</u>	72415
<u>attendant.</u>	72416
<u>(5) "Controlled substance" has the same meaning as in section</u>	72417
<u>3719.01 of the Revised Code.</u>	72418
<u>(6) "Custodian" has the same meaning as in section 2151.011</u>	72419
<u>of the Revised Code.</u>	72420
<u>(7) "Gastrostomy tube" means a percutaneously inserted</u>	72421
<u>catheter that terminates in the stomach.</u>	72422
<u>(8) "Guardian" has the same meaning as in section 2111.01 of</u>	72423
<u>the Revised Code.</u>	72424
<u>(9) "Health care professional" means a physician or</u>	72425
<u>registered nurse.</u>	72426

(10) "Home care attendant" means an individual holding a valid medicaid provider agreement in accordance with section 5111.881 of the Revised Code that authorizes the individual to provide home care attendant services to consumers. 72427
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(11) "Home care attendant services" means all of the following as provided by a home care attendant: 72431
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(a) Personal care aide services; 72433

(b) Assistance with the self-administration of medication; 72434

(c) Assistance with nursing tasks. 72435

(12) "Jejunostomy tube" means a percutaneously inserted catheter that terminates in the jejunum. 72436
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(13) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code. 72438
72439

(14) "Medication" means a drug as defined in section 4729.01 of the Revised Code. 72440
72441

(15) "Minor" means an individual under eighteen years of age. 72442

(16) "Participating medicaid waiver component" means both of the following: 72443
72444

(a) The medicaid waiver component known as Ohio home care that the department of job and family services administers; 72445
72446

(b) The medicaid waiver component known as Ohio transitions II aging carve-out that the department of job and family services administers. 72447
72448
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(17) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 72450
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(18) "Practice of nursing as a registered nurse," "practice of nursing as a licensed practical nurse," and "registered nurse" have the same meanings as in section 4723.01 of the Revised Code. 72453
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"Registered nurse" includes an advanced practice nurse, as defined in section 4723.01 of the Revised Code. 72456
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(19) "Schedule II," "schedule III," "schedule IV," and "schedule V" have the same meanings as in section 3719.01 of the Revised Code. 72458
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(B) The director of job and family services may submit requests to the United States secretary of health and human services to amend the federal medicaid waivers authorizing the participating medicaid waiver components to have those components cover home care attendant services in accordance with sections 5111.88 to 5111.8810 and rules adopted under section 5111.8811 of the Revised Code. Notwithstanding sections 5111.881 to 5111.8811 of the Revised Code, those sections shall be implemented regarding a participating medicaid waiver component only if the secretary approves a waiver amendment for the component. 72461
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Sec. 5111.881. The director of job and family services shall enter into a medicaid provider agreement with an individual to authorize the individual to provide home care attendant services to consumers if the individual does both of the following: 72471
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(A) Agrees to comply with the requirements of sections 5111.88 to 5111.8810 and rules adopted under section 5111.8811 of the Revised Code; 72475
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72477

(B) Provides the director evidence satisfactory to the director of all of the following: 72478
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(1) That the individual either meets the personnel qualifications specified in 42 C.F.R. 484.4 for home health aides or has successfully completed at least one of the following: 72480
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72482

(a) A competency evaluation program or training and competency evaluation program approved or conducted by the director of health under section 3721.31 of the Revised Code; 72483
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(b) A training program approved by the department of job and family services that includes training in at least all of the following and provides training equivalent to a training and competency evaluation program specified in division (B)(1)(a) of this section or meets the requirements of 42 C.F.R. 484.36(a): 72486
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(i) Basic home safety; 72491

(ii) Universal precautions for the prevention of disease transmission, including hand-washing and proper disposal of bodily waste and medical instruments that are sharp or may produce sharp pieces if broken; 72492
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(iii) Personal care aide services; 72496

(iv) The labeling, counting, and storage requirements for schedule II, III, IV, and V medications. 72497
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(2) That the individual has obtained a certificate of completion of a course in first aid from a first aid course to which all of the following apply: 72499
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72501

(a) It is not provided solely through the internet. 72502

(b) It includes hands-on training provided by a first aid instructor who is qualified to provide such training according to standards set in rules adopted under section 5111.8811 of the Revised Code. 72503
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(c) It requires the individual to demonstrate successfully that the individual has learned the first aid taught in the course. 72507
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(3) That the individual meets any other requirements for the medicaid provider agreement specified in rules adopted under section 5111.8811 of the Revised Code. 72510
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Sec. 5111.882. A home care attendant shall complete not less than twelve hours of in-service continuing education regarding 72513
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health care attendant services each year and provide the director 72515
of job and family services evidence satisfactory to the director 72516
that the attendant satisfied this requirement. The evidence shall 72517
be submitted to the director not later than the annual anniversary 72518
of the issuance of the home care attendant's initial medicaid 72519
provider agreement. 72520

Sec. 5111.883. A home care attendant shall do all of the 72521
following: 72522

(A) Maintain a clinical record for each consumer to whom the 72523
attendant provides home care attendant services in a manner that 72524
protects the consumer's privacy; 72525

(B) Participate in a face-to-face visit every ninety days 72526
with all of the following to monitor the health and welfare of 72527
each of the consumers to whom the attendant provides home care 72528
attendant services: 72529

(1) The consumer; 72530

(2) The consumer's authorized representative, if any; 72531

(3) A registered nurse who agrees to answer any questions 72532
that the attendant, consumer, or authorized representative has 72533
about consumer care needs, medications, and other issues. 72534

(C) Document the activities of each visit required by 72535
division (B) of this section in the consumer's clinical record 72536
with the assistance of the registered nurse. 72537

Sec. 5111.884. (A) A home care attendant may assist a 72538
consumer with nursing tasks or self-administration of medication 72539
only after the attendant does both of the following: 72540

(1) Subject to division (B) of this section, completes 72541
consumer-specific training in how to provide the assistance that 72542

the authorizing health care professional authorizes the attendant to provide to the consumer; 72543
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(2) At the request of the consumer, consumer's authorized representative, or authorizing health care professional, successfully demonstrates that the attendant has learned how to provide the authorized assistance to the consumer. 72545
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(B) The training required by division (A)(1) of this section shall be provided by either of the following: 72549
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(1) The authorizing health care professional; 72551

(2) The consumer or consumer's authorized representative in cooperation with the authorizing health care professional. 72552
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Sec. 5111.885. A home care attendant shall comply with both of the following when assisting a consumer with nursing tasks or self-administration of medication: 72554
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(A) The written consent of the consumer or consumer's authorized representative provided to the director of job and family services under section 5111.886 of the Revised Code; 72557
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(B) The authorizing health care professional's written authorization provided to the director under section 5111.887 of the Revised Code. 72560
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Sec. 5111.886. To consent to a home care attendant assisting a consumer with nursing tasks or self-administration of medication, the consumer or consumer's authorized representative shall provide the director of job and family services a written statement signed by the consumer or authorized representative under which the consumer or authorized representative consents to both of the following: 72563
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(A) Having the attendant assist the consumer with nursing tasks or self-administration of medication; 72570
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(B) Assuming responsibility for directing the attendant when the attendant assists the consumer with nursing tasks or self-administration of medication. 72572
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Sec. 5111.887. To authorize a home care attendant to assist a consumer with nursing tasks or self-administration of medication, a health care professional shall provide the director of job and family services a written statement signed by the health care professional that includes all of the following: 72575
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(A) The consumer's name and address; 72580

(B) A description of the nursing tasks or self-administration of medication with which the attendant is to assist the consumer, including, in the case of assistance with self-administration of medication, the name and dosage of the medication; 72581
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(C) The times or intervals when the attendant is to assist the consumer with the self-administration of each dosage of the medication or nursing tasks; 72585
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(D) The dates the attendant is to begin and cease providing the assistance; 72588
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(E) A list of severe adverse reactions the attendant must report to the health care professional should the consumer experience one or more of the reactions; 72590
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72592

(F) At least one telephone number at which the attendant can reach the health care professional in an emergency; 72593
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(G) Instructions the attendant is to follow when assisting the consumer with nursing tasks or self-administration of medication, including instructions for maintaining sterile conditions and for storage of task-related equipment and supplies; 72595
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72598

(H) The health care professional's attestation of both of the following: 72599
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(1) That the consumer or consumer's authorized representative 72601
has demonstrated to the health care professional the ability to 72602
direct the attendant; 72603

(2) That the attendant has demonstrated to the health care 72604
professional the ability to provide the consumer assistance with 72605
nursing tasks or self-administration of medication that the health 72606
care professional has specifically authorized the attendant to 72607
provide and that the consumer or consumer's authorized 72608
representative has indicated to the health care professional that 72609
the consumer or authorized representative is satisfied with the 72610
attendant's demonstration. 72611

Sec. 5111.888. When authorizing a home care attendant to 72612
assist a consumer with nursing tasks or self-administration of 72613
medication a health care professional may not authorize a home 72614
care attendant to do any of the following: 72615

(A) Perform a task that is outside of the health care 72616
professional's scope of practice; 72617

(B) Assist the consumer with the self-administration of a 72618
medication unless the medication is in its original container and 72619
the label attached to the container displays all of the following: 72620

(1) The consumer's full name in print; 72621

(2) The medication's dispensing date, which must not be more 72622
than twelve months before the date the attendant assists the 72623
consumer with self-administration of the medication; 72624

(3) The exact dosage and means of administration that match 72625
the health care professional's authorization to the attendant. 72626

(C) Assist the consumer with the self-administration of a 72627
schedule II, schedule III, schedule IV, or schedule V medication 72628
unless all of the following apply: 72629

(1) The medication is administered orally, topically, or via 72630

<u>a gastrostomy tube or jejunostomy tube, including through any of</u>	72631
<u>the following:</u>	72632
<u>(a) In the case of an oral medication, a metered dose</u>	72633
<u>inhaler;</u>	72634
<u>(b) In the case of a topical medication, including a</u>	72635
<u>transdermal medication, either of the following:</u>	72636
<u>(i) An eye, ear, or nose drop or spray;</u>	72637
<u>(ii) A vaginal or rectal suppository.</u>	72638
<u>(c) In the case of a gastrostomy tube or jejunostomy tube,</u>	72639
<u>only through a pre-programmed pump.</u>	72640
<u>(2) The medication has a warning label on its container.</u>	72641
<u>(3) The attendant counts the medication in the consumer's</u>	72642
<u>presence when the medication is administered to the consumer and</u>	72643
<u>records the count on a form used for the count as specified in</u>	72644
<u>rules adopted under section 5111.8811 of the Revised Code.</u>	72645
<u>(4) The attendant recounts the medication in the consumer's</u>	72646
<u>presence at least monthly and reconciles the recount on a log</u>	72647
<u>located in the consumer's clinical record.</u>	72648
<u>(5) The medication is stored separately from all other</u>	72649
<u>medications and is secured and locked at all times when not being</u>	72650
<u>administered to the consumer to prevent unauthorized access.</u>	72651
<u>(D) Perform an intramuscular injection;</u>	72652
<u>(E) Perform a subcutaneous injection unless it is for a</u>	72653
<u>routine dose of insulin;</u>	72654
<u>(F) Program a pump used to deliver a medication unless the</u>	72655
<u>pump is used to deliver a routine dose of insulin;</u>	72656
<u>(G) Insert, remove, or discontinue an intravenous access</u>	72657
<u>device;</u>	72658
<u>(H) Engage in intravenous medication administration;</u>	72659

(I) Insert or initiate an infusion therapy; 72660

(J) Perform a central line dressing change. 72661

Sec. 5111.889. A home care attendant who provides home care attendant services to a consumer in accordance with the authorizing health care professional's authorization does not engage in the practice of nursing as a registered nurse or in the practice of nursing as a licensed practical nurse in violation of section 4723.03 of the Revised Code. 72662
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A consumer or the consumer's authorized representative shall report to the director of job and family services if a home care attendant engages in the practice of nursing as a registered nurse or the practice of nursing as a licensed practical nurse beyond the authorizing health care professional's authorization. The director shall forward a copy of each report to the board of nursing. 72668
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Sec. 5111.8810. A consumer who is an adult may select an individual to act on the consumer's behalf for purposes regarding home care attendant services by submitting a written notice of the consumer's selection of authorized representative to the director of job and family services. The notice shall specifically identify the individual the consumer selects as authorized representative and may limit what the authorized representative may do on the consumer's behalf regarding home care attendant services. A consumer may not select the consumer's home care attendant to be the consumer's authorized representative. 72675
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Sec. 5111.8811. The director of job and family services shall adopt rules under section 5111.85 of the Revised Code as necessary for the implementation of sections 5111.88 to 5111.8810 of the Revised Code. The rules shall be consistent with federal and state law. 72685
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Sec. 5112.30. As used in sections 5112.30 to 5112.39 of the Revised Code:

(A) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code, ~~except that it does not include any such facility operated by the department of mental retardation and developmental disabilities.~~

(B) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

Sec. 5112.31. The department of job and family services shall do all of the following:

(A) For the purposes specified in sections 5112.37 ~~and~~, 5112.371, and 5112.372 of the Revised Code, annually assess each intermediate care facility for the mentally retarded a franchise permit fee equal to ~~eleven~~ fourteen dollars and ~~ninety-eight~~ twenty-five cents multiplied by the product of the following:

(1) The number of beds certified under Title XIX of the "Social Security Act" on the first day of May of the calendar year in which the assessment is determined pursuant to division (A) of section 5112.33 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the same calendar year.

(B) Beginning July 1, ~~2009~~ 2011, and the first day of each July thereafter, adjust fees determined under division (A) of this section in accordance with the composite inflation factor established in rules adopted under section 5112.39 of the Revised Code.

(C) If the United States secretary of health and human services determines that the franchise permit fee established by sections 5112.30 to 5112.39 of the Revised Code would be an

impermissible health care-related tax under section 1903(w) of the "Social Security Act," 42 U.S.C.A. 1396b(w), as amended, take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 5112.39 of the Revised Code.

Sec. 5112.37. There is hereby created in the state treasury the home and community-based services for the mentally retarded and developmentally disabled fund. ~~Ninety-four~~ Seventy-four and ~~twenty-eight~~ eighty-nine hundredths per cent of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code for state fiscal year 2010 shall be deposited into the fund. Seventy and sixty-seven hundredths per cent of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code for state fiscal year 2011 and thereafter shall be deposited into the fund. The department of job and family services shall distribute the money in the fund in accordance with rules adopted under section 5112.39 of the Revised Code. The departments of job and family services and mental retardation and developmental disabilities shall use the money for the medicaid program established under Chapter 5111. of the Revised Code and home and community-based services to mentally retarded and developmentally disabled persons.

Sec. 5112.371. There is hereby created in the state treasury the children with intensive behavioral needs programs fund. ~~Five~~ Three and ~~seventy-two~~ seventy-eight hundredths per cent of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code for state fiscal year 2010 shall be deposited in the fund. Three and fifty-seven hundredths per cent

of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code for state fiscal year 2011 and thereafter shall be deposited into the fund. The money in the fund shall be used for the programs the director of mental retardation and developmental disabilities establishes under section 5123.0417 of the Revised Code. 72750
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Sec. 5112.372. There is hereby created in the state treasury the ODMR/DD operating and services fund. Twenty-one and thirty-three hundredths per cent of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code for state fiscal year 2010 shall be deposited into the fund. Twenty-five and seventy-six hundredths per cent of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code for state fiscal year 2011 and thereafter shall be deposited into the fund. The money in the fund shall be used for the expenses of the programs that the department of mental retardation and developmental disabilities administers and the department's administrative expenses. 72757
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Sec. 5112.40. As used in sections 5112.40 to 5112.48 of the Revised Code: 72771
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(A) "Assessment program year" means the twelve-month period beginning the first day of October of a calendar year and ending the last day of September of the following calendar year. 72773
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(B) "Cost reporting period" means the period of time used by a hospital in reporting costs for purposes of the medicare program. 72776
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(C) "Federal fiscal year" means the twelve-month period 72779

beginning the first day of October of a calendar year and ending 72780
the last day of September of the following calendar year. 72781

(D) "Hospital" means a nonfederal hospital to which any of 72782
the following applies: 72783

(1) The hospital is registered under section 3701.07 of the 72784
Revised Code as a general medical and surgical hospital or a 72785
pediatric general hospital and provides inpatient hospital 72786
services, as defined in 42 C.F.R. 440.10. 72787

(2) The hospital is recognized under the medicare program as 72788
a cancer hospital and is exempt from the medicare prospective 72789
payment system. 72790

(3) The hospital is a psychiatric hospital licensed under 72791
section 5119.20 of the Revised Code. 72792

(E) "Hospital care assurance program" means the program 72793
established under sections 5112.01 to 5112.21 of the Revised Code. 72794

(F) "Medicaid" has the same meaning as in section 5111.01 of 72795
the Revised Code. 72796

(G) "Medicare" means the program established under Title 72797
XVIII of the Social Security Act. 72798

(H) "State fiscal year" means the twelve-month period 72799
beginning the first day of July of a calendar year and ending the 72800
last day of June of the following calendar year. 72801

(I)(1) Except as provided in divisions (I)(2) and (3) of this 72802
section, "total facility costs" means the total costs to a 72803
hospital for all care provided to all patients, including the 72804
direct, indirect, and overhead costs to the hospital of all 72805
services, supplies, equipment, and capital related to the care of 72806
patients, regardless of whether patients are enrolled in a health 72807
insuring corporation. 72808

(2) "Total facility costs" excludes all of the following of a 72809

hospital's costs as shown on the cost-reporting data used for 72810
purposes of determining the hospital's assessment under section 72811
5112.41 of the Revised Code: 72812

(a) Skilled nursing services provided in distinct-part 72813
nursing facility units; 72814

(b) Home health services; 72815

(c) Hospice services; 72816

(d) Ambulance services; 72817

(e) Renting durable medical equipment; 72818

(f) Buying durable medical equipment. 72819

(3) "Total facility costs" excludes any costs excluded from a 72820
hospital's total facility costs pursuant to rules, if any, adopted 72821
under division (B) of section 5112.46 of the Revised Code. 72822

Sec. 5112.41. (A) For the purposes specified in section 72823
5112.45 of the Revised Code and subject to section 5112.48 of the 72824
Revised Code, there is hereby imposed an assessment on all 72825
hospitals each assessment program year. The amount of a hospital's 72826
assessment for an assessment program year shall equal the 72827
percentage specified in division (B) of this section of the 72828
hospital's total facility costs for the period of time specified 72829
in division (C) of this section. The amount of a hospital's total 72830
facility costs shall be derived from cost-reporting data for the 72831
hospital submitted to the department of job and family services 72832
for purposes of the hospital care assurance program. The 72833
cost-reporting data used to determine a hospital's assessment is 72834
subject to the same type of adjustments made to the data under the 72835
hospital care assurance program. 72836

(B) The percentage specified in this division is the 72837
following: 72838

(1) For the first assessment program year beginning after the effective date of this section, one and twenty-seven hundredths per cent; 72839
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(2) For the second assessment program year after the effective date of this section and each successive assessment program year, one and thirty-seven hundredths per cent. 72842
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(C) The period of time specified in this division is the hospital's cost reporting period that ends in the state fiscal year that ends in the federal fiscal year that precedes the federal fiscal year that precedes the assessment program year for which the assessment is imposed. 72845
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(D) The assessment imposed by this section on a hospital is in addition to the assessment imposed by section 5112.06 of the Revised Code. 72850
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Sec. 5112.42. (A) Before or during each assessment program year, the department of job and family services shall mail to each hospital by certified mail, return receipt requested, the preliminary determination of the amount that the hospital is assessed under section 5112.41 of the Revised Code for the assessment program year. Except as provided in division (B) of this section, the preliminary determination becomes the final determination for the assessment program year fifteen days after the preliminary determination is mailed to the hospital. 72853
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(B) A hospital may request that the department reconsider the preliminary determination mailed to the hospital under division (A) of this section by submitting to the department a written request for a reconsideration not later than fourteen days after the hospital's preliminary determination is mailed to the hospital. The request must be accompanied by written materials setting forth the basis for the reconsideration. On receipt of the timely request, the department shall reconsider the preliminary 72862
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determination and may adjust the preliminary determination on the 72870
basis of the written materials accompanying the request. The 72871
result of the reconsideration is the final determination of the 72872
hospital's assessment under section 5112.41 of the Revised Code 72873
for the assessment program year. 72874

(C) The department shall mail to each hospital a written 72875
notice of the final determination of its assessment for the 72876
assessment program year. A hospital may appeal the final 72877
determination to the court of common pleas of Franklin county. 72878
While a judicial appeal is pending, the hospital shall pay, in 72879
accordance with section 5112.43 of the Revised Code, any amount of 72880
its assessment that is not in dispute. 72881

Sec. 5112.43. Each hospital shall pay the amount it is 72882
assessed under section 5112.41 of the Revised Code in three equal 72883
installments due on the fifteenth day of December, the fifteenth 72884
day of March, and the fifteenth day of June of each assessment 72885
program year unless rules adopted under section 5112.46 of the 72886
Revised Code establish a different payment schedule. 72887

Sec. 5112.44. The department of job and family services may 72888
audit a hospital to ensure that the hospital properly pays the 72889
amount it is assessed under section 5112.41 of the Revised Code. 72890
The department shall take action to recover from a hospital any 72891
amount the audit reveals that the hospital should have paid but 72892
did not pay. 72893

Sec. 5112.45. There is hereby created in the state treasury 72894
the hospital assessment fund. All installment payments made by 72895
hospitals under section 5112.43 of the Revised Code and all 72896
recoveries the department of job and family services makes under 72897
section 5112.44 of the Revised Code shall be deposited into the 72898
fund. All investment earnings of the fund shall be credited to the 72899

fund. The department shall use money in the fund to pay for the 72900
costs of the medicaid program, including the program's 72901
administrative costs. 72902

Sec. 5112.46. (A) The director of job and family services may 72903
adopt, amend, and rescind rules in accordance with Chapter 119. of 72904
the Revised Code as necessary to implement sections 5112.40 to 72905
5112.48 of the Revised Code. 72906

(B) The rules adopted under this section may provide that a 72907
hospital's total facility costs for the purpose of the assessment 72908
under section 5112.41 of the Revised Code exclude any of the 72909
following: 72910

(1) A hospital's costs associated with providing care to 72911
recipients of any of the following: 72912

(a) The medicaid program; 72913

(b) The medicare program; 72914

(c) The disability financial assistance program established 72915
under Chapter 5115. of the Revised Code; 72916

(d) The disability medical assistance program established 72917
under Chapter 5115. of the Revised Code; 72918

(e) The program for medically handicapped children 72919
established under section 3701.023 of the Revised Code; 72920

(f) Services provided under the maternal and child health 72921
services block grant established under Title V of the Social 72922
Security Act. 72923

(2) Any other category of hospital costs the director deems 72924
appropriate under federal law and regulations governing the 72925
medicaid program. 72926

Sec. 5112.47. The director of job and family services shall 72927

implement the assessment imposed by section 5112.41 of the Revised Code in a manner that does not cause a reduction in federal financial participation for the medicaid program under 42 U.S.C. 1396b(w). 72928
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Sec. 5112.48. If the United States secretary of health and human services determines that the assessment imposed by section 5112.41 of the Revised Code is an impermissible health care-related tax under 42 U.S.C. 1396b(w), the director of job and family services shall take all necessary actions to cease implementation of sections 5112.40 to 5112.47 of the Revised Code and shall promptly refund to each hospital the amount of money in the hospital assessment fund at the time the refund is to be made that the hospital paid under section 5112.43 of the Revised Code, plus any corresponding investment earnings on that amount. 72932
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Sec. 5115.03. (A) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code governing the disability financial assistance program. The rules may establish or specify any or all of the following: 72942
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(1) Maximum payment amounts under the disability financial assistance program, based on state appropriations for the program; 72946
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(2) Limits on the length of time an individual may receive disability financial assistance; 72948
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(3) Limits on the total number of individuals in the state who may receive disability financial assistance; 72950
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(4) Income, resource, citizenship, age, residence, living arrangement, and other eligibility requirements for disability financial assistance; 72952
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(5) Procedures for disregarding amounts of earned and unearned income for the purpose of determining eligibility for 72955
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disability financial assistance and the amount of assistance to be 72957
provided; 72958

(6) Procedures for including the income and resources, or a 72959
certain amount of the income and resources, of a member of an 72960
individual's family when determining eligibility for disability 72961
financial assistance and the amount of assistance to be provided. 72962

(B) In establishing or specifying eligibility requirements 72963
for disability financial assistance, the director shall exclude 72964
the value of any tuition payment contract entered into under 72965
section 3334.09 of the Revised Code or any scholarship awarded 72966
under section 3334.18 of the Revised Code and the amount of 72967
payments made ~~by the Ohio tuition trust authority~~ under section 72968
3334.09 of the Revised Code pursuant to the contract or 72969
scholarship. The director shall not require any individual to 72970
terminate a tuition payment contract entered into under Chapter 72971
3334. of the Revised Code as a condition of eligibility for 72972
disability financial assistance. The director shall consider as 72973
income any refund paid under section 3334.10 of the Revised Code. 72974

(C) Notwithstanding section 3109.01 of the Revised Code, when 72975
a disability financial assistance applicant or recipient who is at 72976
least eighteen but under twenty-two years of age resides with the 72977
applicant's or recipient's parents, the income of the parents 72978
shall be taken into account in determining the applicant's or 72979
recipient's financial eligibility. In the rules adopted under this 72980
section, the director shall specify procedures for determining the 72981
amount of income to be attributed to applicants and recipients in 72982
this age category. 72983

(D) For purposes of limiting the cost of the disability 72984
financial assistance program, the director may do either or both 72985
of the following: 72986

(1) Adopt rules in accordance with section 111.15 of the 72987

Revised Code that revise the program's eligibility requirements, 72988
the maximum payment amounts, or any other requirement or standard 72989
established or specified in the rules adopted by the director; 72990

(2) Suspend acceptance of applications for disability 72991
financial assistance. While a suspension is in effect, no person 72992
shall receive a determination or redetermination of eligibility 72993
for disability financial assistance unless the person was 72994
receiving the assistance during the month immediately preceding 72995
the suspension's effective date or the person submitted an 72996
application prior to the suspension's effective date and receives 72997
a determination of eligibility based on that application. The 72998
director may adopt rules in accordance with section 111.15 of the 72999
Revised Code establishing requirements and specifying procedures 73000
applicable to the suspension of acceptance of applications. 73001

Sec. 5119.16. As used in this section, "free clinic" has the 73002
same meaning as in section 2305.2341 of the Revised Code. 73003

(A) The department of mental health ~~is hereby designated to~~ 73004
may provide certain goods and services for the department of 73005
mental health, the department of mental retardation and 73006
developmental disabilities, the department of rehabilitation and 73007
correction, the department of youth services, and other state, 73008
county, or municipal agencies requesting such goods and services 73009
when the department of mental health determines that it is in the 73010
public interest, and considers it advisable, to provide these 73011
goods and services. The department of mental health also may 73012
provide goods and services to agencies operated by the United 73013
States government and to public or private nonprofit agencies, 73014
other than free clinics, that are funded in whole or in part by 73015
the state if the public or private nonprofit agencies are 73016
designated for participation in this program by the director of 73017
mental health for community mental health agencies, the director 73018

of mental retardation and developmental disabilities for community 73019
mental retardation and developmental disabilities agencies, the 73020
director of rehabilitation and correction for community 73021
rehabilitation and correction agencies, or the director of youth 73022
services for community youth services agencies. 73023

Designated community agencies shall receive goods and 73024
services through the department of mental health only in those 73025
cases where the designating state agency certifies that providing 73026
such goods and services to the agency will conserve public 73027
resources to the benefit of the public and where the provision of 73028
such goods and services is considered feasible by the department 73029
of mental health. 73030

(B) The department of mental health may permit free clinics 73031
to purchase certain goods and services to the extent the purchases 73032
fall within the exemption to the Robinson-Patman Act, 15 U.S.C. 13 73033
et seq., applicable to ~~non-profit~~ nonprofit institutions, in 15 73034
U.S.C. 13c, as amended. 73035

(C) The goods and services ~~to~~ that may be provided by the 73036
department of mental health under divisions (A) and (B) of this 73037
section may include: 73038

(1) Procurement, storage, processing, and distribution of 73039
food and professional consultation on food operations; 73040

(2) Procurement, storage, and distribution of medical and 73041
laboratory supplies, dental supplies, medical records, forms, 73042
optical supplies, and sundries, subject to section 5120.135 of the 73043
Revised Code; 73044

(3) Procurement, storage, repackaging, distribution, and 73045
dispensing of drugs, the provision of professional pharmacy 73046
consultation, and drug information services; 73047

(4) Other goods and services ~~as may be agreed to~~. 73048

(D) The department of mental health ~~shall~~ may provide the goods and services designated in division (C) of this section to its institutions and to state-operated community-based mental health services.

(E) After consultation with and advice from the director of mental retardation and developmental disabilities, the director of rehabilitation and correction, and the director of youth services, the department of mental health ~~shall~~ may provide the goods and services designated in division (C) of this section to the department of mental retardation and developmental disabilities, the department of rehabilitation and correction, and the department of youth services.

(F) The cost of administration of this section shall be determined by the department of mental health and paid by the agencies or free clinics receiving the goods and services to the department for deposit in the state treasury to the credit of the mental health fund, which is hereby created. The fund shall be used to pay the cost of administration of this section to the department.

~~(G) If the goods or services designated in division (C) of this section are not provided in a satisfactory manner by the department of mental health to the agencies described in division (A) of this section, the director of mental retardation and developmental disabilities, the director of rehabilitation and correction, the director of youth services, or the managing officer of a department of mental health institution shall attempt to resolve unsatisfactory service with the director of mental health. If, after such attempt, the provision of goods or services continues to be unsatisfactory, the director or officer shall notify the director of mental health. If within thirty days of such notice the department of mental health does not provide the specified goods and services in a satisfactory manner, the~~

~~director of mental retardation and developmental disabilities, the 73081
director of rehabilitation and correction, the director of youth 73082
services, or the managing officer of the department of mental 73083
health institution shall notify the director of mental health of 73084
the director's or managing officer's intent to cease purchasing 73085
goods and services from the department. Following a sixty day 73086
cancellation period from the date of such notice, the department 73087
of mental retardation, department of rehabilitation and 73088
correction, department of youth services, or the department of 73089
mental health institution may obtain the goods and services from a 73090
source other than the department of mental health, if the 73091
department certifies to the department of administrative services 73092
that the requirements of this division have been met. 73093~~

~~(H)~~ Whenever a state agency fails to make a payment for goods 73094
and services provided under this section within thirty-one days 73095
after the date the payment was due, the office of budget and 73096
management may transfer moneys from the state agency to the 73097
department of mental health. The amount transferred shall not 73098
exceed the amount of overdue payments. Prior to making a transfer 73099
under this division, the office of budget and management shall 73100
apply any credits the state agency has accumulated in payments for 73101
goods and services provided under this section. 73102

~~(I)~~(H) Purchases of goods and services under this section are 73103
not subject to section 307.86 of the Revised Code. 73104

Sec. 5119.61. Any provision in this chapter that refers to a 73105
board of alcohol, drug addiction, and mental health services also 73106
refers to the community mental health board in an alcohol, drug 73107
addiction, and mental health service district that has a community 73108
mental health board. 73109

The director of mental health with respect to all facilities 73110
and programs established and operated under Chapter 340. of the 73111

Revised Code for mentally ill and emotionally disturbed persons, 73112
shall do all of the following: 73113

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 73114
that may be necessary to carry out the purposes of Chapter 340. 73115
and sections 5119.61 to 5119.63 of the Revised Code. 73116

(1) The rules shall include all of the following: 73117

(a) Rules governing a community mental health agency's 73118
services under section 340.091 of the Revised Code to an 73119
individual referred to the agency under division (C)(2) of section 73120
173.35 of the Revised Code; 73121

(b) For the purpose of division (A)(16) of section 340.03 of 73122
the Revised Code, rules governing the duties of mental health 73123
agencies and boards of alcohol, drug addiction, and mental health 73124
services under section 3722.18 of the Revised Code regarding 73125
referrals of individuals with mental illness or severe mental 73126
disability to adult care facilities and effective arrangements for 73127
ongoing mental health services for the individuals. The rules 73128
shall do at least the following: 73129

(i) Provide for agencies and boards to participate fully in 73130
the procedures owners and managers of adult care facilities must 73131
follow under division (A)~~(2)~~ of section 3722.18 of the Revised 73132
Code; 73133

(ii) Specify the manner in which boards are accountable for 73134
ensuring that ongoing mental health services are effectively 73135
arranged for individuals with mental illness or severe mental 73136
disability who are referred by the board or mental health agency 73137
under contract with the board to an adult care facility. 73138

(c) Rules governing a board of alcohol, drug addiction, and 73139
mental health services when making a report to the director of 73140
health under section 3722.17 of the Revised Code regarding the 73141
quality of care and services provided by an adult care facility to 73142

a person with mental illness or a severe mental disability. 73143

(2) Rules may be adopted to govern the method of paying a 73144
community mental health facility, as defined in section 5111.023 73145
of the Revised Code, for providing services listed in division (B) 73146
of that section. Such rules must be consistent with the contract 73147
entered into between the departments of job and family services 73148
and mental health under section 5111.91 of the Revised Code and 73149
include requirements ensuring appropriate service utilization. 73150

(B) Review and evaluate, and, taking into account the 73151
findings and recommendations of the board of alcohol, drug 73152
addiction, and mental health services of the district served by 73153
the program and the requirements and priorities of the state 73154
mental health plan, including the needs of residents of the 73155
district now residing in state mental institutions, approve and 73156
allocate funds to support community programs, and make 73157
recommendations for needed improvements to boards of alcohol, drug 73158
addiction, and mental health services; 73159

(C) Withhold state and federal funds for any program, in 73160
whole or in part, from a board of alcohol, drug addiction, and 73161
mental health services in the event of failure of that program to 73162
comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, 73163
or 5119.62 of the Revised Code or rules of the department of 73164
mental health. The director shall identify the areas of 73165
noncompliance and the action necessary to achieve compliance. The 73166
director shall offer technical assistance to the board to achieve 73167
compliance. The director shall give the board a reasonable time 73168
within which to comply or to present its position that it is in 73169
compliance. Before withholding funds, a hearing shall be conducted 73170
to determine if there are continuing violations and that either 73171
assistance is rejected or the board is unable to achieve 73172
compliance. Subsequent to the hearing process, if it is determined 73173
that compliance has not been achieved, the director may allocate 73174

all or part of the withheld funds to a public or private agency to 73175
provide the services not in compliance until the time that there 73176
is compliance. The director shall establish rules pursuant to 73177
Chapter 119. of the Revised Code to implement this division. 73178

(D) Withhold state or federal funds from a board of alcohol, 73179
drug addiction, and mental health services that denies available 73180
service on the basis of religion, race, color, creed, sex, 73181
national origin, age, disability as defined in section 4112.01 of 73182
the Revised Code, developmental disability, or the inability to 73183
pay; 73184

(E) Provide consultative services to community mental health 73185
agencies with the knowledge and cooperation of the board of 73186
alcohol, drug addiction, and mental health services; 73187

(F) Provide to boards of alcohol, drug addiction, and mental 73188
health services state or federal funds, in addition to those 73189
allocated under section 5119.62 of the Revised Code, for special 73190
programs or projects the director considers necessary but for 73191
which local funds are not available; 73192

(G) Establish criteria by which a board of alcohol, drug 73193
addiction, and mental health services reviews and evaluates the 73194
quality, effectiveness, and efficiency of services provided 73195
through its community mental health plan. The criteria shall 73196
include requirements ensuring appropriate service utilization. The 73197
department shall assess a board's evaluation of services and the 73198
compliance of each board with this section, Chapter 340. or 73199
section 5119.62 of the Revised Code, and other state or federal 73200
law and regulations. The department, in cooperation with the 73201
board, periodically shall review and evaluate the quality, 73202
effectiveness, and efficiency of services provided through each 73203
board. The department shall collect information that is necessary 73204
to perform these functions. 73205

(H) Develop and operate a community mental health information system or systems. 73206
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Boards of alcohol, drug abuse, and mental health services shall submit information requested by the department in the form and manner prescribed by the department. Information collected by the department shall include, but not be limited to, all of the following: 73208
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(1) Information regarding units of services provided in whole or in part under contract with a board, including diagnosis and special needs, demographic information, the number of units of service provided, past treatment, financial status, and service dates in accordance with rules adopted by the department in accordance with Chapter 119. of the Revised Code; 73213
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(2) Financial information other than price or price-related data regarding expenditures of boards and community mental health agencies, including units of service provided, budgeted and actual expenses by type, and sources of funds. 73219
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Boards shall submit the information specified in division (H)(1) of this section no less frequently than annually for each client, and each time the client's case is opened or closed. The department shall not collect any personal information ~~for the purpose of identifying by name any person who receives a service through a board of alcohol, drug addiction, and mental health services, from the boards~~ except as required or permitted by state or federal law ~~to validate appropriate reimbursement. For the purposes of division (H)(1) of this section, the department shall use an identification system that is consistent with applicable nationally recognized standards for purposes related to payment, health care operations, program and service evaluation, reporting activities, research, system administration, and oversight.~~ 73223
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(I) Review each board's community mental health plan 73236

submitted pursuant to section 340.03 of the Revised Code and 73237
approve or disapprove it in whole or in part. Periodically, in 73238
consultation with representatives of boards and after considering 73239
the recommendations of the medical director, the director shall 73240
issue criteria for determining when a plan is complete, criteria 73241
for plan approval or disapproval, and provisions for conditional 73242
approval. The factors that the director considers may include, but 73243
are not limited to, the following: 73244

(1) The mental health needs of all persons residing within 73245
the board's service district, especially severely mentally 73246
disabled children, adolescents, and adults; 73247

(2) The demonstrated quality, effectiveness, efficiency, and 73248
cultural relevance of the services provided in each service 73249
district, the extent to which any services are duplicative of 73250
other available services, and whether the services meet the needs 73251
identified above; 73252

(3) The adequacy of the board's accounting for the 73253
expenditure of funds. 73254

If the director disapproves all or part of any plan, the 73255
director shall provide the board an opportunity to present its 73256
position. The director shall inform the board of the reasons for 73257
the disapproval and of the criteria that must be met before the 73258
plan may be approved. The director shall give the board a 73259
reasonable time within which to meet the criteria, and shall offer 73260
technical assistance to the board to help it meet the criteria. 73261

If the approval of a plan remains in dispute thirty days 73262
prior to the conclusion of the fiscal year in which the board's 73263
current plan is scheduled to expire, the board or the director may 73264
request that the dispute be submitted to a mutually agreed upon 73265
third-party mediator with the cost to be shared by the board and 73266
the department. The mediator shall issue to the board and the 73267

department recommendations for resolution of the dispute. Prior to 73268
the conclusion of the fiscal year in which the current plan is 73269
scheduled to expire, the director, taking into consideration the 73270
recommendations of the mediator, shall make a final determination 73271
and approve or disapprove the plan, in whole or in part. 73272

Sec. 5119.621. (A)(1) When the director of mental health 73273
allocates funds under section 5119.62 of the Revised Code to a 73274
board of alcohol, drug addiction, and mental health services for 73275
local management of mental health services, the director shall 73276
specify the maximum portion of the funds that may be used for 73277
administrative purposes and the permissible uses of the funds for 73278
administrative purposes. 73279

(2) In specifying the maximum portion of the funds that may 73280
be used for administrative purposes, the director shall take into 73281
account all of the following: 73282

(a) The board's community mental health plan approved under 73283
division (I) of section 5119.61 of the Revised Code; 73284

(b) The board's total budget for mental health services; 73285

(c) Any other factor the director considers appropriate. 73286

(3) In specifying the permissible uses of funds for 73287
administrative purposes, the director shall establish general 73288
categories that describe the function for which the funds may be 73289
used. The categories may include any of the following: 73290

(a) Continuous quality improvement; 73291

(b) Utilization review; 73292

(c) Resource development; 73293

(d) Fiscal administration; 73294

(e) General administration; 73295

(f) Other functions required under Chapter 340. of the 73296

Revised Code; 73297

(g) Any other category the director considers appropriate. 73298

(4) A board shall account for its use of funds for 73299
administrative purposes by submitting an annual report to the 73300
director. The report shall include details about the board's use 73301
of funds according to the general categories of permissible uses 73302
established by the director. 73303

(B) By submitting a written application to the director, a 73304
board may seek a variance or waiver regarding the portion 73305
specified under division (A) of this section as the maximum that 73306
may be used for administrative purposes. The director has sole 73307
discretion in granting or denying the variance or waiver. The 73308
director's determination is final. 73309

Sec. 5119.622. (A)(1) Notwithstanding the provisions of 73310
section 5119.62 of the Revised Code referring to the allocation of 73311
funds for local management of mental health services to separate 73312
boards of alcohol, drug addiction, and mental health services, the 73313
director of mental health may allocate the funds to groups of two 73314
or more boards. The allocations to groups of boards may be made on 73315
a regional or statewide basis, as specified by the director. 73316
73317

(2) If the director chooses to allocate funds to groups of 73318
boards, the director shall require the boards included in each 73319
group to submit to the director a joint plan for the provision of 73320
mental health services and use of the funds. The boards included 73321
in the group shall submit the plan to the director in a timely 73322
manner. 73323

(3) To accommodate the allocation of funds to groups of 73324
boards, the director shall make all necessary adjustments to the 73325
formula and methodology specified in divisions (B)(1) and (D) of 73326

section 5119.62 of the Revised Code. 73327

(B)(1) Notwithstanding the provisions of section 5119.621 of 73328
the Revised Code referring to the director's authority to specify 73329
for separate boards a maximum portion of the funds allocated under 73330
section 5119.62 of the Revised Code that may be used for 73331
administrative purposes, the director may specify a maximum 73332
portion of the funds allocated to a group of boards under this 73333
section that may be used by the group for administrative purposes. 73334

(2) To accommodate the specification of a maximum portion of 73335
the funds that may be used by a group of boards for administrative 73336
purposes, the director shall make all necessary adjustments in the 73337
procedures specified under section 5119.621 of the Revised Code. 73338
These adjustments shall include all of the following: 73339

(a) Taking into account the total amount to be allocated to 73340
the group under division (A)(1) of this section; 73341

(b) Taking into account the joint plan submitted by the group 73342
under division (A)(2) of this section; 73343

(c) Requiring the group to submit an annual plan accounting 73344
for its use of funds for administrative purposes; 73345

(d) Permitting the group to submit a written application for 73346
a variance or waiver regarding the portion specified under 73347
division (B)(1) of this section as the maximum that may be used 73348
for administrative purposes; 73349

(e) Any other adjustments the director considers necessary. 73350

(C) In addition to the adjustments made by the director under 73351
divisions (A)(3) and (B)(2) of this section, all references in the 73352
Revised Code to the allocation of funds to separate boards or to 73353
the use of funds by separate boards for administrative purposes 73354
constitute references to groups of boards as the director 73355
considers necessary to accommodate the allocation of funds to 73356

groups of boards under this section. 73357

Sec. 5120.032. (A) No later than January 1, 1998, the 73358
department of rehabilitation and correction ~~shall~~ may develop and 73359
implement intensive program prisons for male and female prisoners 73360
other than prisoners described in division (B)(2) of this section. 73361
The intensive program prisons, if developed and implemented, shall 73362
include institutions at which imprisonment of the type described 73363
in division (B)(2)(a) of section 5120.031 of the Revised Code is 73364
provided and prisons that focus on educational achievement, 73365
vocational training, alcohol and other drug abuse treatment, 73366
community service and conservation work, and other intensive 73367
regimens or combinations of intensive regimens. 73368

(B)(1)(a) Except as provided in division (B)(2) of this 73369
section, if one or more intensive program prisons are established 73370
under this section, if an offender is sentenced to a term of 73371
imprisonment under the custody of the department, if the 73372
sentencing court either recommends the prisoner for placement in 73373
~~the~~ an intensive program prison under this section or makes no 73374
recommendation on placement of the prisoner, and if the department 73375
determines that the prisoner is eligible for placement in an 73376
intensive program prison under this section, the department may 73377
place the prisoner in an intensive program prison established 73378
pursuant to division (A) of this section. If the sentencing court 73379
disapproves placement of the prisoner in an intensive program 73380
prison, the department shall not place the prisoner in any 73381
intensive program prison. 73382

If the sentencing court recommends a prisoner for placement 73383
in an intensive program prison and if the department subsequently 73384
places the prisoner in the recommended prison, the department 73385
shall notify the court of the prisoner's placement in the 73386
recommended intensive program prison and shall include with the 73387

notice a brief description of the placement. 73388

If the sentencing court recommends placement of a prisoner in 73389
an intensive program prison and the department for any reason does 73390
not subsequently place the prisoner in the recommended prison, the 73391
department shall send a notice to the court indicating why the 73392
prisoner was not placed in the recommended prison. 73393

If the sentencing court does not make a recommendation on the 73394
placement of a prisoner in an intensive program prison and if the 73395
department determines that the prisoner is eligible for placement 73396
in a prison of that nature, the department shall screen the 73397
prisoner and determine if the prisoner is suited for the prison. 73398
If the prisoner is suited for ~~the~~ an intensive program prison, at 73399
least three weeks prior to placing the prisoner in the prison, the 73400
department shall notify the sentencing court of the proposed 73401
placement of the prisoner in the intensive program prison and 73402
shall include with the notice a brief description of the 73403
placement. The court shall have ten days from receipt of the 73404
notice to disapprove the placement. If the sentencing court 73405
disapproves the placement, the department shall not proceed with 73406
it. If the sentencing court does not timely disapprove of the 73407
placement, the department may proceed with plans for it. 73408

If the department determines that a prisoner is not eligible 73409
for placement in an intensive program prison, the department shall 73410
not place the prisoner in any intensive program prison. 73411

(b) The department may reduce the stated prison term of a 73412
prisoner upon the prisoner's successful completion of a ninety-day 73413
period in an intensive program prison. A prisoner whose term has 73414
been so reduced shall be required to serve an intermediate, 73415
transitional type of detention followed by a release under 73416
post-release control sanctions or, in the alternative, shall be 73417
placed under post-release control sanctions, as described in 73418
division (B)(2)(b)(ii) of section 5120.031 of the Revised Code. In 73419

either case, the placement under post-release control sanctions 73420
shall be under terms set by the parole board in accordance with 73421
section 2967.28 of the Revised Code and shall be subject to the 73422
provisions of that section and section 2929.141 of the Revised 73423
Code with respect to a violation of any post-release control 73424
sanction. 73425

(2) A prisoner who is in any of the following categories is 73426
not eligible to participate in an intensive program prison 73427
established pursuant to division (A) of this section: 73428

(a) The prisoner is serving a prison term for aggravated 73429
murder, murder, or a felony of the first or second degree or a 73430
comparable offense under the law in effect prior to July 1, 1996, 73431
or the prisoner previously has been imprisoned for aggravated 73432
murder, murder, or a felony of the first or second degree or a 73433
comparable offense under the law in effect prior to July 1, 1996. 73434

(b) The prisoner is serving a mandatory prison term, as 73435
defined in section 2929.01 of the Revised Code. 73436

(c) The prisoner is serving a prison term for a felony of the 73437
third, fourth, or fifth degree that either is a sex offense, an 73438
offense betraying public trust, or an offense in which the 73439
prisoner caused or attempted to cause actual physical harm to a 73440
person, the prisoner is serving a prison term for a comparable 73441
offense under the law in effect prior to July 1, 1996, or the 73442
prisoner previously has been imprisoned for an offense of that 73443
type or a comparable offense under the law in effect prior to July 73444
1, 1996. 73445

(d) The prisoner is serving a mandatory prison term in prison 73446
for a third or fourth degree felony OVI offense, as defined in 73447
section 2929.01 of the Revised Code, that was imposed pursuant to 73448
division (G)(2) of section 2929.13 of the Revised Code. 73449

(C) Upon the implementation of intensive program prisons 73450

pursuant to division (A) of this section, the department at all 73451
times shall maintain intensive program prisons sufficient in 73452
number to reduce the prison terms of at least three hundred fifty 73453
prisoners who are eligible for reduction of their stated prison 73454
terms as a result of their completion of a regimen in an intensive 73455
program prison under this section. 73456

Sec. 5120.033. (A) As used in this section, "third degree 73457
felony OVI offense" and "fourth degree felony OVI offense" have 73458
the same meanings as in section 2929.01 of the Revised Code. 73459

(B) Within eighteen months after October 17, 1996, the 73460
department of rehabilitation and correction ~~shall~~ may develop and 73461
implement intensive program prisons for male and female prisoners 73462
who are sentenced pursuant to division (G)(2) of section 2929.13 73463
of the Revised Code to a mandatory prison term for a third or 73464
fourth degree felony OVI offense. The If one or more intensive 73465
program prisons are established under this section, the department 73466
~~shall~~ may contract pursuant to section 9.06 of the Revised Code 73467
for the private operation and management of the initial intensive 73468
program prison established under this section and may contract 73469
pursuant to that section for the private operation and management 73470
of any other intensive program prison established under this 73471
section. The intensive program prisons, if established under this 73472
section, shall include prisons that focus on educational 73473
achievement, vocational training, alcohol and other drug abuse 73474
treatment, community service and conservation work, and other 73475
intensive regimens or combinations of intensive regimens. 73476

(C) Except as provided in division (D) of this section, the 73477
department may place a prisoner who is sentenced to a mandatory 73478
prison term for a third or fourth degree felony OVI offense in an 73479
intensive program prison established pursuant to division (B) of 73480
this section if the sentencing judge, upon notification by the 73481

department of its intent to place the prisoner in an intensive 73482
program prison, does not notify the department that the judge 73483
disapproves the placement. If the stated prison term imposed on a 73484
prisoner who is so placed is longer than the mandatory prison term 73485
that is required to be imposed on the prisoner, the department may 73486
reduce the stated prison term upon the prisoner's successful 73487
completion of the prisoner's mandatory prison term in an intensive 73488
program prison. A prisoner whose term has been so reduced shall be 73489
required to serve an intermediate, transitional type of detention 73490
followed by a release under post-release control sanctions or, in 73491
the alternative, shall be placed under post-release control 73492
sanctions, as described in division (B)(2)(b)(ii) of section 73493
5120.031 of the Revised Code. In either case, the placement under 73494
post-release control sanctions shall be under terms set by the 73495
parole board in accordance with section 2967.28 of the Revised 73496
Code and shall be subject to the provisions of that section and 73497
section 2929.141 of the Revised Code with respect to a violation 73498
of any post-release control sanction. ~~Upon the establishment of~~ 73499
~~the initial~~ If one or more intensive program prison prisons are 73500
established pursuant to division (B) of this section ~~that is and~~ 73501
if as described in that division the initial intensive program 73502
prison is to be privately operated and managed by a contractor 73503
pursuant to a contract the department entered into under section 73504
9.06 of the Revised Code, upon the establishment of that initial 73505
intensive program prison the department shall comply with 73506
divisions (G)(2)(a) and (b) of section 2929.13 of the Revised Code 73507
in placing prisoners in intensive program prisons under this 73508
section. 73509

(D) A prisoner who is sentenced to a mandatory prison term 73510
for a third or fourth degree felony OVI offense is not eligible to 73511
participate in an intensive program prison established under 73512
division (B) of this section if any of the following applies 73513
regarding the prisoner: 73514

(1) In addition to the mandatory prison term for the third or 73515
fourth degree felony OVI offense, the prisoner also is serving a 73516
prison term of a type described in division (B)(2)(a), (b), or (c) 73517
of section 5120.032 of the Revised Code. 73518

(2) The prisoner previously has been imprisoned for an 73519
offense of a type described in division (B)(2)(a) or (c) of 73520
section 5120.032 of the Revised Code or a comparable offense under 73521
the law in effect prior to July 1, 1996. 73522

(E) Intensive program prisons established under division (B) 73523
of this section are not subject to section 5120.032 of the Revised 73524
Code. 73525

Sec. 5120.09. Under the supervision and control of the 73526
director of rehabilitation and correction, the division of 73527
business administration shall do all of the following: 73528

(A) Submit the budgets for the several divisions of the 73529
department of rehabilitation and correction, as prepared by the 73530
respective chiefs of those divisions, to the director. The 73531
director, with the assistance of the chief of the division of 73532
business administration, shall compile a departmental budget that 73533
contains all proposals submitted by the chiefs of the divisions 73534
and shall forward the departmental budget to the governor with 73535
comments and recommendations that the director considers 73536
necessary. 73537

(B) Maintain accounts and records and compile statistics that 73538
the director prescribes; 73539

(C) Under the control of the director, coordinate and make 73540
the necessary purchases and requisitions for the department and 73541
its divisions, except ~~as provided under~~ when goods and services 73542
are provided to the department as described in section 5119.16 of 73543
the Revised Code; 73544

(D) Administer within this state federal criminal justice acts that the governor requires the department to administer. In order to improve the criminal justice system of this state, the division of business administration shall apply for, allocate, disburse, and account for grants that are made available pursuant to those federal criminal justice acts and grants that are made available from other federal government sources, state government sources, or private sources. As used in this division, "criminal justice system" and "federal criminal justice acts" have the same meanings as in section 5502.61 of the Revised Code.

(E) Audit the activities of governmental entities, persons as defined in section 1.59 of the Revised Code, and other types of nongovernmental entities that are financed in whole or in part by funds that the department allocates or disburses and that are derived from grants described in division (D) of this section;

(F) Enter into contracts, including contracts with federal, state, or local governmental entities, persons as defined in section 1.59 of the Revised Code, foundations, and other types of nongovernmental entities, that are necessary for the department to carry out its duties and that neither the director nor another section of the Revised Code authorizes another division of the department to enter;

(G) Exercise other powers and perform other duties that the director may assign to the division of business administration.

Sec. 5123.0412. (A) The department of mental retardation and developmental disabilities shall charge each county board of mental retardation and developmental disabilities an annual fee equal to one and one-half per cent of the total value of all medicaid paid claims for home and community-based services provided during the year to an individual eligible for services from the county board. No county board shall pass the cost of a

fee charged to the county board under this section on to another 73576
provider of these services. 73577

(B) The fees collected under this section shall be deposited 73578
into the ODMR/DD administration and oversight fund and the ODJFS 73579
administration and oversight fund, both of which are hereby 73580
created in the state treasury. The portion of the fees to be 73581
deposited into the ODMR/DD administration and oversight fund and 73582
the portion of the fees to be deposited into the ODJFS 73583
administration and oversight fund shall be the portion specified 73584
in an interagency agreement entered into under division (C) of 73585
this section. The department of mental retardation and 73586
developmental disabilities shall use the money in the ODMR/DD 73587
administration and oversight fund and the department of job and 73588
family services shall use the money in the ODJFS administration 73589
and oversight fund for both of the following purposes: 73590

(1) The Medicaid administrative costs, including 73591
administrative and oversight costs of medicaid case management 73592
services and home and community-based services. The administrative 73593
and oversight costs of medicaid case management services and home 73594
and community-based services shall include costs for staff, 73595
systems, and other resources the departments need and dedicate 73596
solely to the following duties associated with the services: 73597

(a) Eligibility determinations; 73599

(b) Training; 73600

(c) Fiscal management; 73601

(d) Claims processing; 73602

(e) Quality assurance oversight; 73603

(f) Other duties the departments identify. 73604

(2) Providing technical support to county boards' local 73605

administrative authority under section 5126.055 of the Revised Code for the services. 73606
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(C) The departments of mental retardation and developmental disabilities and job and family services shall enter into an interagency agreement to do both of the following: 73608
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(1) Specify which portion of the fees collected under this section is to be deposited into the ODMR/DD administration and oversight fund and which portion is to be deposited into the ODJFS administration and oversight fund; 73611
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(2) Provide for the departments to coordinate the staff whose costs are paid for with money in the ODMR/DD administration and oversight fund and the ODJFS administration and oversight fund. 73615
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(D) The departments shall submit an annual report to the director of budget and management certifying how the departments spent the money in the ODMR/DD administration and oversight fund and the ODJFS administration and oversight fund for the purposes specified in division (B) of this section. 73618
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Sec. 5123.42. (A) Beginning nine months after ~~the effective date of this section~~ March 31, 2003, MR/DD personnel who are not specifically authorized by other provisions of the Revised Code to administer prescribed medications, perform health-related activities, or perform tube feedings may do so pursuant to this section as part of the specialized services the MR/DD personnel provide to individuals with mental retardation and developmental disabilities in the following categories: 73623
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(1) Recipients of early intervention, preschool, and school-age services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code; 73631
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(2) Recipients of adult services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code; 73634
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(3) Recipients of family support services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	73636 73637 73638
(4) Recipients of services from certified supported living providers, if the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	73639 73640 73641
(5) Recipients of residential support services from certified home and community-based services providers, if the services are received in a community living arrangement that includes not more than four <u>five</u> individuals with mental retardation and developmental disabilities and the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	73642 73643 73644 73645 73646 73647 73648
(6) Recipients of services not included in divisions (A)(1) to (5) of this section that are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;	73649 73650 73651
(7) Residents of a residential facility with five or fewer resident beds;	73652 73653
(8) Residents of a residential facility with at least six but not more than sixteen resident beds;	73654 73655
(9) Residents of a residential facility with seventeen or more resident beds who are on a field trip from the facility, if all of the following are the case:	73656 73657 73658
(a) The field trip is sponsored by the facility for purposes of complying with federal medicaid statutes and regulations, state medicaid statutes and rules, or other federal or state statutes, regulations, or rules that require the facility to provide habilitation, community integration, or normalization services to its residents.	73659 73660 73661 73662 73663 73664
(b) Not more than five field trip participants are residents	73665

who have health needs requiring the administration of prescribed medications, excluding participants who self-administer prescribed medications or receive assistance with self-administration of prescribed medications. 73666
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(c) The facility staffs the field trip with MR/DD personnel in such a manner that one person will administer prescribed medications, perform health-related activities, or perform tube feedings for not more than two participants if one or both of those participants have health needs requiring the person to administer prescribed medications through a gastrostomy or jejunostomy tube. 73670
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(d) According to the instructions of a health care professional acting within the scope of the professional's practice, the health needs of the participants who require administration of prescribed medications by MR/DD personnel are such that the participants must receive the medications during the field trip to avoid jeopardizing their health and safety. 73677
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(B)(1) In the case of recipients of early intervention, preschool, and school-age services, as specified in division (A)(1) of this section, all of the following apply: 73683
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(a) With nursing delegation, MR/DD personnel may perform health-related activities. 73686
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(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications. 73688
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(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled. 73690
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(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled. 73693
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(2) In the case of recipients of adult services, as specified	73696
in division (A)(2) of this section, all of the following apply:	73697
(a) With nursing delegation, MR/DD personnel may perform	73698
health-related activities.	73699
(b) With nursing delegation, MR/DD personnel may administer	73700
oral and topical prescribed medications.	73701
(c) With nursing delegation, MR/DD personnel may administer	73702
prescribed medications through gastrostomy and jejunostomy tubes,	73703
if the tubes being used are stable and labeled.	73704
(d) With nursing delegation, MR/DD personnel may perform	73705
routine tube feedings, if the gastrostomy and jejunostomy tubes	73706
being used are stable and labeled.	73707
(3) In the case of recipients of family support services, as	73708
specified in division (A)(3) of this section, all of the following	73709
apply:	73710
(a) Without nursing delegation, MR/DD personnel may perform	73711
health-related activities.	73712
(b) Without nursing delegation, MR/DD personnel may	73713
administer oral and topical prescribed medications.	73714
(c) With nursing delegation, MR/DD personnel may administer	73715
prescribed medications through gastrostomy and jejunostomy tubes,	73716
if the tubes being used are stable and labeled.	73717
(d) With nursing delegation, MR/DD personnel may perform	73718
routine tube feedings, if the gastrostomy and jejunostomy tubes	73719
being used are stable and labeled.	73720
(e) With nursing delegation, MR/DD personnel may administer	73721
routine doses of insulin through subcutaneous injections and	73722
insulin pumps.	73723
(4) In the case of recipients of services from certified	73724
supported living providers, as specified in division (A)(4) of	73725

this section, all of the following apply: 73726

(a) Without nursing delegation, MR/DD personnel may perform health-related activities. 73727
73728

(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications. 73729
73730

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled. 73731
73732
73733

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled. 73734
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(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps. 73737
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(5) In the case of recipients of residential support services from certified home and community-based services providers, as specified in division (A)(5) of this section, all of the following apply: 73740
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73743

(a) Without nursing delegation, MR/DD personnel may perform health-related activities. 73744
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(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications. 73746
73747

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled. 73748
73749
73750

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled. 73751
73752
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(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and 73754
73755

insulin pumps. 73756

(6) In the case of recipients of services not included in 73757
divisions (A)(1) to (5) of this section, as specified in division 73758
(A)(6) of this section, all of the following apply: 73759

(a) With nursing delegation, MR/DD personnel may perform 73760
health-related activities. 73761

(b) With nursing delegation, MR/DD personnel may administer 73762
oral and topical prescribed medications. 73763

(c) With nursing delegation, MR/DD personnel may administer 73764
prescribed medications through gastrostomy and jejunostomy tubes, 73765
if the tubes being used are stable and labeled. 73766

(d) With nursing delegation, MR/DD personnel may perform 73767
routine tube feedings, if the gastrostomy and jejunostomy tubes 73768
being used are stable and labeled. 73769

(7) In the case of residents of a residential facility with 73770
five or fewer beds, as specified in division (A)(7) of this 73771
section, all of the following apply: 73772

(a) Without nursing delegation, MR/DD personnel may perform 73773
health-related activities. 73774

(b) Without nursing delegation, MR/DD personnel may 73775
administer oral and topical prescribed medications. 73776

(c) With nursing delegation, MR/DD personnel may administer 73777
prescribed medications through gastrostomy and jejunostomy tubes, 73778
if the tubes being used are stable and labeled. 73779

(d) With nursing delegation, MR/DD personnel may perform 73780
routine tube feedings, if the gastrostomy and jejunostomy tubes 73781
being used are stable and labeled. 73782

(e) With nursing delegation, MR/DD personnel may administer 73783
routine doses of insulin through subcutaneous injections and 73784
insulin pumps. 73785

(8) In the case of residents of a residential facility with 73786
at least six but not more than sixteen resident beds, as specified 73787
in division (A)(8) of this section, all of the following apply: 73788

(a) With nursing delegation, MR/DD personnel may perform 73789
health-related activities. 73790

(b) With nursing delegation, MR/DD personnel may administer 73791
oral and topical prescribed medications. 73792

(c) With nursing delegation, MR/DD personnel may administer 73793
prescribed medications through gastrostomy and jejunostomy tubes, 73794
if the tubes being used are stable and labeled. 73795

(d) With nursing delegation, MR/DD personnel may perform 73796
routine tube feedings, if the gastrostomy and jejunostomy tubes 73797
being used are stable and labeled. 73798

(9) In the case of residents of a residential facility with 73799
seventeen or more resident beds who are on a field trip from the 73800
facility, all of the following apply during the field trip, 73801
subject to the limitations specified in division (A)(9) of this 73802
section: 73803

(a) With nursing delegation, MR/DD personnel may perform 73804
health-related activities. 73805

(b) With nursing delegation, MR/DD personnel may administer 73806
oral and topical prescribed medications. 73807

(c) With nursing delegation, MR/DD personnel may administer 73808
prescribed medications through gastrostomy and jejunostomy tubes, 73809
if the tubes being used are stable and labeled. 73810

(d) With nursing delegation, MR/DD personnel may perform 73811
routine tube feedings, if the gastrostomy and jejunostomy tubes 73812
being used are stable and labeled. 73813

(C) The authority of MR/DD personnel to administer prescribed 73814
medications, perform health-related activities, and perform tube 73815

feedings pursuant to this section is subject to all of the 73816
following: 73817

(1) To administer prescribed medications, perform 73818
health-related activities, or perform tube feedings for 73819
individuals in the categories specified under divisions (A)(1) to 73820
(8) of this section, MR/DD personnel shall obtain the certificate 73821
or certificates required by the department of mental retardation 73822
and developmental disabilities and issued under section 5123.45 of 73823
the Revised Code. MR/DD personnel shall administer prescribed 73824
medication, perform health-related activities, and perform tube 73825
feedings only as authorized by the certificate or certificates 73826
held. 73827

(2) To administer prescribed medications, perform 73828
health-related activities, or perform tube feedings for 73829
individuals in the category specified under division (A)(9) of 73830
this section, MR/DD personnel shall successfully complete the 73831
training course or courses developed under section 5123.43 of the 73832
Revised Code for the MR/DD personnel. MR/DD personnel shall 73833
administer prescribed medication, perform health-related 73834
activities, and perform tube feedings only as authorized by the 73835
training completed. 73836

(3) If nursing delegation is required under division (B) of 73837
this section, MR/DD personnel shall not act without nursing 73838
delegation or in a manner that is inconsistent with the 73839
delegation. 73840

(4) The employer of MR/DD personnel shall ensure that MR/DD 73841
personnel have been trained specifically with respect to each 73842
individual for whom they administer prescribed medications, 73843
perform health-related activities, or perform tube feedings. MR/DD 73844
personnel shall not administer prescribed medications, perform 73845
health-related activities, or perform tube feedings for any 73846
individual for whom they have not been specifically trained. 73847

(5) If the employer of MR/DD personnel believes that MR/DD personnel have not or will not safely administer prescribed medications, perform health-related activities, or perform tube feedings, the employer shall prohibit the action from continuing or commencing. MR/DD personnel shall not engage in the action or actions subject to an employer's prohibition.

(D) In accordance with section 5123.46 of the Revised Code, the department of mental retardation and developmental disabilities shall adopt rules governing its implementation of this section. The rules shall include the following:

(1) Requirements for documentation of the administration of prescribed medications, performance of health-related activities, and performance of tube feedings by MR/DD personnel pursuant to the authority granted under this section;

(2) Procedures for reporting errors that occur in the administration of prescribed medications, performance of health-related activities, and performance of tube feedings by MR/DD personnel pursuant to the authority granted under this section;

(3) Other standards and procedures the department considers necessary for implementation of this section.

Sec. 5126.01. As used in this chapter:

(A) As used in this division, "adult" means an individual who is eighteen years of age or over and not enrolled in a program or service under Chapter 3323. of the Revised Code and an individual sixteen or seventeen years of age who is eligible for adult services under rules adopted by the director of mental retardation and developmental disabilities pursuant to Chapter 119. of the Revised Code.

(1) "Adult services" means services provided to an adult

outside the home, except when they are provided within the home 73878
according to an individual's assessed needs and identified in an 73879
individual service plan, that support learning and assistance in 73880
the area of self-care, sensory and motor development, 73881
socialization, daily living skills, communication, community 73882
living, social skills, or vocational skills. 73883

(2) "Adult services" includes all of the following: 73884

(a) Adult day habilitation services; 73885

(b) Adult day care; 73886

(c) Prevocational services; 73887

(d) Sheltered employment; 73888

(e) Educational experiences and training obtained through 73889
entities and activities that are not expressly intended for 73890
individuals with mental retardation and developmental 73891
disabilities, including trade schools, vocational or technical 73892
schools, adult education, job exploration and sampling, unpaid 73893
work experience in the community, volunteer activities, and 73894
spectator sports; 73895

(f) Community employment services and supported employment 73896
services. 73897

(B)(1) "Adult day habilitation services" means adult services 73898
that do the following: 73899

(a) Provide access to and participation in typical activities 73900
and functions of community life that are desired and chosen by the 73901
general population, including such activities and functions as 73902
opportunities to experience and participate in community 73903
exploration, companionship with friends and peers, leisure 73904
activities, hobbies, maintaining family contacts, community 73905
events, and activities where individuals without disabilities are 73906
involved; 73907

(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community. 73908
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(2) "Adult day habilitation services" includes all of the following: 73912
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(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult day habilitation services; 73914
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(b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services; 73918
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(c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community; 73922
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(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports; 73929
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(e) Counseling and assistance provided to obtain housing, including such counseling as identifying options for either rental or purchase, identifying financial resources, assessing needs for environmental modifications, locating housing, and planning for ongoing management and maintenance of the housing selected; 73932
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(f) Transportation necessary to access adult day habilitation services; 73937
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(g) Habilitation management, as described in section 5126.14 of the Revised Code. 73939
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(3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services. 73941
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(C) "Appointing authority" means the following: 73944

(1) In the case of a member of a county board of mental retardation and developmental disabilities appointed by, or to be appointed by, a board of county commissioners, the board of county commissioners; 73945
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(2) In the case of a member of a county board appointed by, or to be appointed by, a senior probate judge, the senior probate judge. 73949
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(D) "Community employment services" or "supported employment services" means job training and other services related to employment outside a sheltered workshop. "Community employment services" or "supported employment services" include all of the following: 73952
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(1) Job training resulting in the attainment of competitive work, supported work in a typical work environment, or self-employment; 73957
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(2) Supervised work experience through an employer paid to provide the supervised work experience; 73960
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(3) Ongoing work in a competitive work environment at a wage commensurate with workers without disabilities; 73962
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(4) Ongoing supervision by an employer paid to provide the supervision. 73964
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(E) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the 73966
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Revised Code. 73969

"Developmental disability" means a severe, chronic disability 73970
that is characterized by all of the following: 73971

(1) It is attributable to a mental or physical impairment or 73972
a combination of mental and physical impairments, other than a 73973
mental or physical impairment solely caused by mental illness as 73974
defined in division (A) of section 5122.01 of the Revised Code; 73975

(2) It is manifested before age twenty-two; 73976

(3) It is likely to continue indefinitely; 73977

(4) It results in one of the following: 73978

(a) In the case of a person under age three, at least one 73979
developmental delay or an established risk; 73980

(b) In the case of a person at least age three but under age 73981
six, at least two developmental delays or an established risk; 73982

(c) In the case of a person age six or older, a substantial 73983
functional limitation in at least three of the following areas of 73984
major life activity, as appropriate for the person's age: 73985
self-care, receptive and expressive language, learning, mobility, 73986
self-direction, capacity for independent living, and, if the 73987
person is at least age sixteen, capacity for economic 73988
self-sufficiency. 73989

(5) It causes the person to need a combination and sequence 73990
of special, interdisciplinary, or other type of care, treatment, 73991
or provision of services for an extended period of time that is 73992
individually planned and coordinated for the person. 73993

(F) "Early childhood services" means a planned program of 73994
habilitation designed to meet the needs of individuals with mental 73995
retardation or other developmental disabilities who have not 73996
attained compulsory school age. 73997

(G)(1) "Environmental modifications" means the physical 73998

adaptations to an individual's home, specified in the individual's 73999
service plan, that are necessary to ensure the individual's 74000
health, safety, and welfare or that enable the individual to 74001
function with greater independence in the home, and without which 74002
the individual would require institutionalization. 74003

(2) "Environmental modifications" includes such adaptations 74004
as installation of ramps and grab-bars, widening of doorways, 74005
modification of bathroom facilities, and installation of 74006
specialized electric and plumbing systems necessary to accommodate 74007
the individual's medical equipment and supplies. 74008

(3) "Environmental modifications" does not include physical 74009
adaptations or improvements to the home that are of general 74010
utility or not of direct medical or remedial benefit to the 74011
individual, including such adaptations or improvements as 74012
carpeting, roof repair, and central air conditioning. 74013

(H) "Family support services" means the services provided 74014
under a family support services program operated under section 74015
5126.11 of the Revised Code. 74016

(I) "Habilitation" means the process by which the staff of 74017
the facility or agency assists an individual with mental 74018
retardation or other developmental disability in acquiring and 74019
maintaining those life skills that enable the individual to cope 74020
more effectively with the demands of the individual's own person 74021
and environment, and in raising the level of the individual's 74022
personal, physical, mental, social, and vocational efficiency. 74023
Habilitation includes, but is not limited to, programs of formal, 74024
structured education and training. 74025

(J) "Home and community-based services" means medicaid-funded 74026
home and community-based services specified in division (B)(1) of 74027
section 5111.87 of the Revised Code and provided under the 74028
medicaid waiver components the department of mental retardation 74029

and developmental disabilities administers pursuant to section 74030
5111.871 of the Revised Code. 74031

(K) "Immediate family" means parents, grandparents, brothers, 74032
sisters, spouses, sons, daughters, aunts, uncles, mothers-in-law, 74033
fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and 74034
daughters-in-law. 74035

(L) "Medicaid" has the same meaning as in section 5111.01 of 74036
the Revised Code. 74037

(M) "Medicaid case management services" means case management 74038
services provided to an individual with mental retardation or 74039
other developmental disability that the state medicaid plan 74040
requires. 74041

(N) "Mental retardation" means a mental impairment manifested 74042
during the developmental period characterized by significantly 74043
subaverage general intellectual functioning existing concurrently 74044
with deficiencies in the effectiveness or degree with which an 74045
individual meets the standards of personal independence and social 74046
responsibility expected of the individual's age and cultural 74047
group. 74048

(O) "Residential services" means services to individuals with 74049
mental retardation or other developmental disabilities to provide 74050
housing, food, clothing, habilitation, staff support, and related 74051
support services necessary for the health, safety, and welfare of 74052
the individuals and the advancement of their quality of life. 74053
"Residential services" includes program management, as described 74054
in section 5126.14 of the Revised Code. 74055

(P) "Resources" means available capital and other assets, 74056
including moneys received from the federal, state, and local 74057
governments, private grants, and donations; appropriately 74058
qualified personnel; and appropriate capital facilities and 74059
equipment. 74060

(Q) "Senior probate judge" means the current probate judge of a county who has served as probate judge of that county longer than any of the other current probate judges of that county. If a county has only one probate judge, "senior probate judge" means that probate judge.

(R) "Service and support administration" means the duties performed by a service and support administrator pursuant to section 5126.15 of the Revised Code.

(S)(1) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" means equipment, supplies, and supports that enable an individual to increase the ability to perform activities of daily living or to perceive, control, or communicate within the environment.

(2) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" includes the following:

(a) Eating utensils, adaptive feeding dishes, plate guards, mylatex straps, hand splints, reaches, feeder seats, adjustable pointer sticks, interpreter services, telecommunication devices for the deaf, computerized communications boards, other communication devices, support animals, veterinary care for support animals, adaptive beds, supine boards, prone boards, wedges, sand bags, sidelayers, bolsters, adaptive electrical switches, hand-held shower heads, air conditioners, humidifiers, emergency response systems, folding shopping carts, vehicle lifts, vehicle hand controls, other adaptations of vehicles for accessibility, and repair of the equipment received.

(b) Nondisposable items not covered by medicaid that are intended to assist an individual in activities of daily living or instrumental activities of daily living.

(T) "Supportive home services" means a range of services to families of individuals with mental retardation or other

developmental disabilities to develop and maintain increased 74092
acceptance and understanding of such persons, increased ability of 74093
family members to teach the person, better coordination between 74094
school and home, skills in performing specific therapeutic and 74095
management techniques, and ability to cope with specific 74096
situations. 74097

(U)(1) "Supported living" means services provided for as long 74098
as twenty-four hours a day to an individual with mental 74099
retardation or other developmental disability through any public 74100
or private resources, including moneys from the individual, that 74101
enhance the individual's reputation in community life and advance 74102
the individual's quality of life by doing the following: 74103

(a) Providing the support necessary to enable an individual 74104
to live in a residence of the individual's choice, with any number 74105
of individuals who are not disabled, or with not more than ~~three~~ 74106
four other individuals with mental retardation and developmental 74107
disabilities unless the individuals are related by blood or 74108
marriage; 74109

(b) Encouraging the individual's participation in the 74110
community; 74111

(c) Promoting the individual's rights and autonomy; 74112

(d) Assisting the individual in acquiring, retaining, and 74113
improving the skills and competence necessary to live successfully 74114
in the individual's residence. 74115

(2) "Supported living" includes the provision of all of the 74116
following: 74117

(a) Housing, food, clothing, habilitation, staff support, 74118
professional services, and any related support services necessary 74119
to ensure the health, safety, and welfare of the individual 74120
receiving the services; 74121

(b) A combination of lifelong or extended-duration supervision, training, and other services essential to daily living, including assessment and evaluation and assistance with the cost of training materials, transportation, fees, and supplies;

(c) Personal care services and homemaker services;

(d) Household maintenance that does not include modifications to the physical structure of the residence;

(e) Respite care services;

(f) Program management, as described in section 5126.14 of the Revised Code.

Sec. 5126.044. (A) As used in this section, ~~"eligible:~~ 74133

(1) "Eligible person" has the same meaning as in section 5126.03 of the Revised Code. 74134
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(2) "Treatment" means the provision, coordination, or management of services provided to an eligible person. 74136
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(3) "Payment" means activities undertaken by a service provider or governmental entity to obtain or provide reimbursement for services to an eligible person. 74138
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(B) Except as provided in division ~~(D)~~(C) of this section, no person shall disclose the identity of an individual who requests programs or services under this chapter or release a record or report regarding an eligible person that is maintained by a county board of mental retardation and developmental disabilities or an entity under contract with a county board unless one of the following circumstances exists: 74141
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(1) The individual, eligible person, or the individual's guardian, or, if the individual is a minor, the individual's parent or guardian, makes a written request to the county board or 74148
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entity for or approves in writing disclosure of the individual's 74151
identity or release of the record or report regarding the eligible 74152
person. 74153

(2) Disclosure of the identity of an individual is needed for 74154
approval of a direct services contract under section 5126.032 or 74155
5126.033 of the Revised Code. The county board shall release only 74156
the individual's name and the general nature of the services to be 74157
provided. 74158

(3) Disclosure of the identity of the individual is needed to 74159
ascertain that the county board's waiting lists for programs or 74160
services are being maintained in accordance with section 5126.042 74161
of the Revised Code and the rules adopted under that section. The 74162
county board shall release only the individual's name, the general 74163
nature of the programs or services to be provided the individual, 74164
the individual's rank on each waiting list that includes the 74165
individual, and any circumstances under which the individual was 74166
given priority when placed on a waiting list. 74167

(4) Disclosure of the identity of an individual who is an 74168
eligible person is needed for treatment of or payment for services 74169
provided to the individual. 74170

~~(C) A board or entity that discloses an individual's identity 74171
or releases a record or report regarding an eligible person shall 74172
maintain a record of when and to whom the disclosure or release 74173
was made. 74174~~

~~(D)~~(1) At the request of an eligible person or the person's 74175
guardian or, if the eligible person is a minor, the person's 74176
parent or guardian, a county board or entity under contract with a 74177
county board shall provide the person who made the request access 74178
to records and reports regarding the eligible person. On written 74179
request, the county board or entity shall provide copies of the 74180
records and reports to the eligible person, guardian, or parent. 74181

The county board or entity may charge a reasonable fee to cover 74182
the costs of copying. The county board or entity may waive the fee 74183
in cases of hardship. 74184

(2) A county board shall provide access to any waiting list 74185
or record or report regarding an eligible person maintained by the 74186
board to any state agency responsible for monitoring and reviewing 74187
programs and services provided or arranged by the county board, 74188
any state agency involved in the coordination of services for an 74189
eligible person, and any agency under contract with the department 74190
of mental retardation and developmental disabilities for the 74191
provision of protective service pursuant to section 5123.56 of the 74192
Revised Code. 74193

(3) When an eligible person who requests programs or services 74194
under this chapter dies, the county board or entity under contract 74195
with the county board, shall, on written request, provide to both 74196
of the following persons any reports and records in the board or 74197
entity's possession concerning the eligible person: 74198

(a) If the report or records are necessary to administer the 74199
estate of the person who is the subject of the reports or records, 74200
to the executor or administrator of the person's estate; 74201

(b) To the guardian of the person who is the subject of the 74202
reports or records or, if the individual had no guardian at the 74203
time of death, to a person in the first applicable of the 74204
following categories: 74205

(i) The person's spouse; 74206

(ii) The person's children; 74207

(iii) The person's parents; 74208

(iv) The person's brothers or sisters; 74209

(v) The person's uncles or aunts; 74210

(vi) The person's closest relative by blood or adoption; 74211

(vii) The person's closest relative by marriage. 74212

The county board or entity shall provide the reports and 74213
records as required by division ~~(D)~~(C)(3) of this section not 74214
later than thirty days after receipt of the request. 74215

~~(E)~~(D) A county board shall notify an eligible person, the 74216
person's guardian, or, if the eligible person is a minor, the 74217
person's parent or guardian, prior to destroying any record or 74218
report regarding the eligible person. 74219

Sec. 5126.05. (A) Subject to the rules established by the 74220
director of mental retardation and developmental disabilities 74221
pursuant to Chapter 119. of the Revised Code for programs and 74222
services offered pursuant to this chapter, and subject to the 74223
rules established by the state board of education pursuant to 74224
Chapter 119. of the Revised Code for programs and services offered 74225
pursuant to Chapter 3323. of the Revised Code, the county board of 74226
mental retardation and developmental disabilities shall: 74227

(1) Administer and operate facilities, programs, and services 74228
as provided by this chapter and Chapter 3323. of the Revised Code 74229
and establish policies for their administration and operation; 74230

(2) Coordinate, monitor, and evaluate existing services and 74231
facilities available to individuals with mental retardation and 74232
developmental disabilities; 74233

(3) Provide early childhood services, supportive home 74234
services, and adult services, according to the plan and priorities 74235
developed under section 5126.04 of the Revised Code; 74236

(4) Provide or contract for special education services 74237
pursuant to Chapters 3306., 3317. and 3323. of the Revised Code 74238
and ensure that related services, as defined in section 3323.01 of 74239
the Revised Code, are available according to the plan and 74240
priorities developed under section 5126.04 of the Revised Code; 74241

(5) Adopt a budget, authorize expenditures for the purposes 74242
specified in this chapter and do so in accordance with section 74243
319.16 of the Revised Code, approve attendance of board members 74244
and employees at professional meetings and approve expenditures 74245
for attendance, and exercise such powers and duties as are 74246
prescribed by the director; 74247

(6) Submit annual reports of its work and expenditures, 74248
pursuant to sections 3323.09 and 5126.12 of the Revised Code, to 74249
the director, the superintendent of public instruction, and the 74250
board of county commissioners at the close of the fiscal year and 74251
at such other times as may reasonably be requested; 74252

(7) Authorize all positions of employment, establish 74253
compensation, including but not limited to salary schedules and 74254
fringe benefits for all board employees, approve contracts of 74255
employment for management employees that are for a term of more 74256
than one year, employ legal counsel under section 309.10 of the 74257
Revised Code, and contract for employee benefits; 74258

(8) Provide service and support administration in accordance 74259
with section 5126.15 of the Revised Code; 74260

(9) Certify respite care homes pursuant to rules adopted 74261
under section 5123.171 of the Revised Code by the director of 74262
mental retardation and developmental disabilities. 74263

(B) To the extent that rules adopted under this section apply 74264
to the identification and placement of children with disabilities 74265
under Chapter 3323. of the Revised Code, they shall be consistent 74266
with the standards and procedures established under sections 74267
3323.03 to 3323.05 of the Revised Code. 74268

(C) Any county board may enter into contracts with other such 74269
boards and with public or private, nonprofit, or profit-making 74270
agencies or organizations of the same or another county, to 74271
provide the facilities, programs, and services authorized or 74272

required, upon such terms as may be agreeable, and in accordance 74273
with this chapter and Chapter 3323. of the Revised Code and rules 74274
adopted thereunder and in accordance with sections 307.86 and 74275
5126.071 of the Revised Code. 74276

(D) A county board may combine transportation for children 74277
and adults enrolled in programs and services offered under section 74278
5126.12 with transportation for children enrolled in classes 74279
funded under section 3317.20 or units approved under section 74280
3317.05 of the Revised Code. 74281

(E) A county board may purchase all necessary insurance 74282
policies, may purchase equipment and supplies through the 74283
department of administrative services or from other sources, and 74284
may enter into agreements with public agencies or nonprofit 74285
organizations for cooperative purchasing arrangements. 74286

(F) A county board may receive by gift, grant, devise, or 74287
bequest any moneys, lands, or property for the benefit of the 74288
purposes for which the board is established and hold, apply, and 74289
dispose of the moneys, lands, and property according to the terms 74290
of the gift, grant, devise, or bequest. All money received by 74291
gift, grant, bequest, or disposition of lands or property received 74292
by gift, grant, devise, or bequest shall be deposited in the 74293
county treasury to the credit of such board and shall be available 74294
for use by the board for purposes determined or stated by the 74295
donor or grantor, but may not be used for personal expenses of the 74296
board members. Any interest or earnings accruing from such gift, 74297
grant, devise, or bequest shall be treated in the same manner and 74298
subject to the same provisions as such gift, grant, devise, or 74299
bequest. 74300

(G) The board of county commissioners shall levy taxes and 74301
make appropriations sufficient to enable the county board of 74302
mental retardation and developmental disabilities to perform its 74303
functions and duties, and may utilize any available local, state, 74304

and federal funds for such purpose. 74305

Sec. 5126.24. (A) As used in this section: 74306

(1) "License" means an educator license issued by the state 74307
board of education under section 3319.22 of the Revised Code or a 74308
certificate issued by the department of mental retardation and 74309
developmental disabilities. 74310

(2) "Teacher" means a person employed by a county board of 74311
mental retardation and developmental disabilities in a position 74312
that requires a license. 74313

(3) "Nonteaching employee" means a person employed by a 74314
county board of mental retardation and developmental disabilities 74315
in a position that does not require a license. 74316

(4) "Years of service" includes all service described in 74317
division (A) of section 3317.13 of the Revised Code. 74318

(B) Subject to rules established by the director of mental 74319
retardation and developmental disabilities pursuant to Chapter 74320
119. of the Revised Code, each county board of mental retardation 74321
and developmental disabilities shall annually adopt separate 74322
salary schedules for teachers and nonteaching employees. 74323

(C) The teachers' salary schedule shall provide for 74324
increments based on training and years of service. The board may 74325
establish its own service requirements provided no teacher 74326
receives less than the salary the teacher would be paid under 74327
section 3317.13 of the Revised Code if the teacher were employed 74328
by a school district board of education and provided full credit 74329
for a minimum of five years of actual teaching and military 74330
experience as defined in division (A) of such section is given to 74331
each teacher. 74332

Each teacher who has completed training that would qualify 74333
the teacher for a higher salary bracket pursuant to this section 74334

shall file by the fifteenth day of September with the fiscal 74335
officer of the board, satisfactory evidence of the completion of 74336
such additional training. The fiscal officer shall then 74337
immediately place the teacher, pursuant to this section, in the 74338
proper salary bracket in accordance with training and years of 74339
service. No teacher shall be paid less than the salary to which 74340
the teacher would be entitled under section 3317.13 of the Revised 74341
Code if the teacher were employed by a school district board of 74342
education. 74343

The superintendent of each county board, on or before the 74344
fifteenth day of October of each year, shall certify to the state 74345
board of education the name of each teacher employed, on an annual 74346
salary, in each special education program operated pursuant to 74347
section 3323.09 of the Revised Code during the first full school 74348
week of October. The superintendent further shall certify, for 74349
each teacher, the number of years of training completed at a 74350
recognized college, the degrees earned from a college recognized 74351
by the state board, the type of license held, the number of months 74352
employed by the board, the annual salary, and other information 74353
that the state board may request. 74354

(D) The nonteaching employees' salary schedule established by 74355
the board shall be based on training, experience, and 74356
qualifications with initial salaries no less than salaries in 74357
effect on July 1, 1985. Each board shall prepare and may amend 74358
from time to time, specifications descriptive of duties, 74359
responsibilities, requirements, and desirable qualifications of 74360
the classifications of employees required to perform the duties 74361
specified in the salary schedule. All nonteaching employees shall 74362
be notified of the position classification to which they are 74363
assigned and the salary for the classification. The compensation 74364
of all nonteaching employees working for a particular board shall 74365
be uniform for like positions except as compensation would be 74366

affected by salary increments based upon length of service. 74367

On the fifteenth day of October of each year the nonteaching 74368
employees' salary schedule and list of job classifications and 74369
salaries in effect on that date shall be filed by each board with 74370
the superintendent of public instruction. If such salary schedule 74371
and classification plan is not filed, the superintendent of public 74372
instruction shall order the board to file such schedule and list 74373
forthwith. If this condition is not corrected within ten days 74374
after receipt of the order from the superintendent, no money shall 74375
be distributed to the district under Chapter 3306. or 3317. of the 74376
Revised Code until the superintendent has satisfactory evidence of 74377
the board's full compliance with such order. 74378

Sec. 5139.43. (A) The department of youth services shall 74379
operate a felony delinquent care and custody program that shall be 74380
operated in accordance with the formula developed pursuant to 74381
section 5139.41 of the Revised Code, subject to the conditions 74382
specified in this section. 74383

(B)(1) Each juvenile court shall use the moneys disbursed to 74384
it by the department of youth services pursuant to division (B) of 74385
section 5139.41 of the Revised Code in accordance with the 74386
applicable provisions of division (B)(2) of this section and shall 74387
transmit the moneys to the county treasurer for deposit in 74388
accordance with this division. The county treasurer shall create 74389
in the county treasury a fund that shall be known as the felony 74390
delinquent care and custody fund and shall deposit in that fund 74391
the moneys disbursed to the juvenile court pursuant to division 74392
(B) of section 5139.41 of the Revised Code. The county treasurer 74393
also shall deposit into that fund the state subsidy funds granted 74394
to the county pursuant to section 5139.34 of the Revised Code. The 74395
moneys disbursed to the juvenile court pursuant to division (B) of 74396
section 5139.41 of the Revised Code and deposited pursuant to this 74397

division in the felony delinquent care and custody fund shall not 74398
be commingled with any other county funds except state subsidy 74399
funds granted to the county pursuant to section 5139.34 of the 74400
Revised Code; shall not be used for any capital construction 74401
projects; upon an order of the juvenile court and subject to 74402
appropriation by the board of county commissioners, shall be 74403
disbursed to the juvenile court for use in accordance with the 74404
applicable provisions of division (B)(2) of this section; shall 74405
not revert to the county general fund at the end of any fiscal 74406
year; and shall carry over in the felony delinquent care and 74407
custody fund from the end of any fiscal year to the next fiscal 74408
year. At the end of each fiscal year, beginning June 30, 2008, the 74409
balance in the felony delinquent care and custody fund in any 74410
county shall not exceed the total moneys allocated to the county 74411
pursuant to sections 5139.34 and 5139.41 of the Revised Code 74412
during the previous fiscal year, unless that county has applied 74413
for and been granted an exemption by the director of youth 74414
services. The department shall withhold from future payments to a 74415
county an amount equal to any moneys in the felony delinquent care 74416
and custody fund of the county that exceed fifty per cent of the 74417
total moneys allocated in fiscal year 2010, and twenty-five per 74418
cent of the total moneys allocated in subsequent fiscal years 74419
pursuant to those sections to the county during the preceding 74420
fiscal year and shall reallocate the withheld amount. The 74421
department shall adopt rules for the withholding and reallocation 74422
of moneys disbursed under sections 5139.34 and 5139.41 of the 74423
Revised Code and for the criteria and process for a county to 74424
obtain an exemption from the withholding requirement. The moneys 74425
disbursed to the juvenile court pursuant to division (B) of 74426
section 5139.41 of the Revised Code and deposited pursuant to this 74427
division in the felony delinquent care and custody fund shall be 74428
in addition to, and shall not be used to reduce, any usual annual 74429
increase in county funding that the juvenile court is eligible to 74430

receive or the current level of county funding of the juvenile 74431
court and of any programs or services for delinquent children, 74432
unruly children, or juvenile traffic offenders. 74433

(2)(a) A county and the juvenile court that serves the county 74434
shall use the moneys in its felony delinquent care and custody 74435
fund in accordance with rules that the department of youth 74436
services adopts pursuant to division (D) of section 5139.04 of the 74437
Revised Code and as follows: 74438

(i) The moneys in the fund that represent state subsidy funds 74439
granted to the county pursuant to section 5139.34 of the Revised 74440
Code shall be used to aid in the support of prevention, early 74441
intervention, diversion, treatment, and rehabilitation programs 74442
that are provided for alleged or adjudicated unruly children or 74443
delinquent children or for children who are at risk of becoming 74444
unruly children or delinquent children. The county shall not use 74445
for capital improvements more than fifteen per cent of the moneys 74446
in the fund that represent the applicable annual grant of those 74447
state subsidy funds. 74448

(ii) The moneys in the fund that were disbursed to the 74449
juvenile court pursuant to division (B) of section 5139.41 of the 74450
Revised Code and deposited pursuant to division (B)(1) of this 74451
section in the fund shall be used to provide programs and services 74452
for the training, treatment, or rehabilitation of felony 74453
delinquents that are alternatives to their commitment to the 74454
department, including, but not limited to, community residential 74455
programs, day treatment centers, services within the home, and 74456
electronic monitoring, and shall be used in connection with 74457
training, treatment, rehabilitation, early intervention, or other 74458
programs or services for any delinquent child, unruly child, or 74459
juvenile traffic offender who is under the jurisdiction of the 74460
juvenile court. 74461

The fund also may be used for prevention, early intervention, 74462

diversion, treatment, and rehabilitation programs that are 74463
provided for alleged or adjudicated unruly children, delinquent 74464
children, or juvenile traffic offenders or for children who are at 74465
risk of becoming unruly children, delinquent children, or juvenile 74466
traffic offenders. Consistent with division (B)(1) of this 74467
section, a county and the juvenile court of a county shall not use 74468
any of those moneys for capital construction projects. 74469

(iii) Moneys in the fund shall not be used to support 74470
programs or services that do not comply with federal juvenile 74471
justice and delinquency prevention core requirements or to support 74472
programs or services that research has shown to be ineffective. 74473

(iv) The county and the juvenile court that serves the county 74474
may use moneys in the fund to provide out-of-home placement of 74475
children only in detention centers, community rehabilitation 74476
centers, or community corrections facilities approved by the 74477
department pursuant to standards adopted by the department, 74478
licensed by an authorized state agency, or accredited by the 74479
American correctional association or another national organization 74480
recognized by the department. 74481

(b) Each juvenile court shall comply with division (B)(3)(d) 74482
of this section as implemented by the department. If a juvenile 74483
court fails to comply with division (B)(3)(d) of this section, the 74484
department shall not be required to make any disbursements in 74485
accordance with division (C) or (D) of section 5139.41 or division 74486
(C)(2) of section 5139.34 of the Revised Code. 74487

(3) In accordance with rules adopted by the department 74488
pursuant to division (D) of section 5139.04 of the Revised Code, 74489
each juvenile court and the county served by that juvenile court 74490
shall do all of the following that apply: 74491

(a) The juvenile court shall prepare an annual grant 74492
agreement and application for funding that satisfies the 74493

requirements of this section and section 5139.34 of the Revised Code and that pertains to the use, upon an order of the juvenile court and subject to appropriation by the board of county commissioners, of the moneys in its felony delinquent care and custody fund for specified programs, care, and services as described in division (B)(2)(a) of this section, shall submit that agreement and application to the county family and children first council, the regional family and children first council, or the local intersystem services to children cluster as described in sections 121.37 and 121.38 of the Revised Code, whichever is applicable, and shall file that agreement and application with the department for its approval. The annual grant agreement and application for funding shall include a method of ensuring equal access for minority youth to the programs, care, and services specified in it.

The department may approve an annual grant agreement and application for funding only if the juvenile court involved has complied with the preparation, submission, and filing requirements described in division (B)(3)(a) of this section. If the juvenile court complies with those requirements and the department approves that agreement and application, the juvenile court and the county served by the juvenile court may expend the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code only in accordance with division (B)(2)(a) of this section, the rules pertaining to state subsidy funds that the department adopts pursuant to division (D) of section 5139.04 of the Revised Code, and the approved agreement and application.

(b) By the thirty-first day of August of each year, the juvenile court shall file with the department a report that contains all of the statistical and other information for each month of the prior state fiscal year. If the juvenile court fails to file the report required by division (B)(3)(b) of this section

by the thirty-first day of August of any year, the department 74526
shall not disburse any payment of state subsidy funds to which the 74527
county otherwise is entitled pursuant to section 5139.34 of the 74528
Revised Code and shall not disburse pursuant to division (B) of 74529
section 5139.41 of the Revised Code the applicable allocation 74530
until the juvenile court fully complies with division (B)(3)(b) of 74531
this section. 74532

(c) If the department requires the juvenile court to prepare 74533
monthly statistical reports and to submit the reports on forms 74534
provided by the department, the juvenile court shall file those 74535
reports with the department on the forms so provided. If the 74536
juvenile court fails to prepare and submit those monthly 74537
statistical reports within the department's timelines, the 74538
department shall not disburse any payment of state subsidy funds 74539
to which the county otherwise is entitled pursuant to section 74540
5139.34 of the Revised Code and shall not disburse pursuant to 74541
division (B) of section 5139.41 of the Revised Code the applicable 74542
allocation until the juvenile court fully complies with division 74543
(B)(3)(c) of this section. If the juvenile court fails to prepare 74544
and submit those monthly statistical reports within one hundred 74545
eighty days of the date the department establishes for their 74546
submission, the department shall not disburse any payment of state 74547
subsidy funds to which the county otherwise is entitled pursuant 74548
to section 5139.34 of the Revised Code and shall not disburse 74549
pursuant to division (B) of section 5139.41 of the Revised Code 74550
the applicable allocation, and the state subsidy funds and the 74551
remainder of the applicable allocation shall revert to the 74552
department. If a juvenile court states in a monthly statistical 74553
report that the juvenile court adjudicated within a state fiscal 74554
year five hundred or more children to be delinquent children for 74555
committing acts that would be felonies if committed by adults and 74556
if the department determines that the data in the report may be 74557
inaccurate, the juvenile court shall have an independent auditor 74558

or other qualified entity certify the accuracy of the data on a 74559
date determined by the department. 74560

(d) If the department requires the juvenile court and the 74561
county to participate in a fiscal monitoring program or another 74562
monitoring program that is conducted by the department to ensure 74563
compliance by the juvenile court and the county with division (B) 74564
of this section, the juvenile court and the county shall 74565
participate in the program and fully comply with any guidelines 74566
for the performance of audits adopted by the department pursuant 74567
to that program and all requests made by the department pursuant 74568
to that program for information necessary to reconcile fiscal 74569
accounting. If an audit that is performed pursuant to a fiscal 74570
monitoring program or another monitoring program described in this 74571
division determines that the juvenile court or the county used 74572
moneys in the county's felony delinquent care and custody fund for 74573
expenses that are not authorized under division (B) of this 74574
section, within forty-five days after the department notifies the 74575
county of the unauthorized expenditures, the county either shall 74576
repay the amount of the unauthorized expenditures from the county 74577
general revenue fund to the state's general revenue fund or shall 74578
file a written appeal with the department. If an appeal is timely 74579
filed, the director of the department shall render a decision on 74580
the appeal and shall notify the appellant county or its juvenile 74581
court of that decision within forty-five days after the date that 74582
the appeal is filed. If the director denies an appeal, the 74583
county's fiscal agent shall repay the amount of the unauthorized 74584
expenditures from the county general revenue fund to the state's 74585
general revenue fund within thirty days after receiving the 74586
director's notification of the appeal decision. 74587

(C) The determination of which county a reduction of the care 74588
and custody allocation will be charged against for a particular 74589
youth shall be made as outlined below for all youths who do not 74590

qualify as public safety beds. The determination of which county a 74591
reduction of the care and custody allocation will be charged 74592
against shall be made as follows until each youth is released: 74593

(1) In the event of a commitment, the reduction shall be 74595
charged against the committing county. 74596

(2) In the event of a recommitment, the reduction shall be 74597
charged against the original committing county until the 74598
expiration of the minimum period of institutionalization under the 74599
original order of commitment or until the date on which the youth 74600
is admitted to the department of youth services pursuant to the 74601
order of recommitment, whichever is later. Reductions of the 74602
allocation shall be charged against the county that recommitted 74603
the youth after the minimum expiration date of the original 74604
commitment. 74605

(3) In the event of a revocation of a release on parole, the 74606
reduction shall be charged against the county that revokes the 74607
youth's parole. 74608

(D) A juvenile court is not precluded by its allocation 74609
amount for the care and custody of felony delinquents from 74610
committing a felony delinquent to the department of youth services 74611
for care and custody in an institution or a community corrections 74612
facility when the juvenile court determines that the commitment is 74613
appropriate. 74614

Sec. 5155.38. As used in this section, "long-term care bed" 74615
has the same meaning as in section 3702.51 of the Revised Code. 74616

The operator of each county home and each county nursing home 74617
shall, not later than November 1, 2009, certify to the director of 74618
health the number of long-term care beds that were in operation in 74619
the home on July 1, 1993. The certification shall be accompanied 74620

by any documentation requested by the director. 74621

Sec. 5502.01. (A) The department of public safety shall 74622
administer and enforce the laws relating to the registration, 74623
licensing, sale, and operation of motor vehicles and the laws 74624
pertaining to the licensing of drivers of motor vehicles. 74625

The department shall compile, analyze, and publish statistics 74626
relative to motor vehicle accidents and the causes of them, 74627
prepare and conduct educational programs for the purpose of 74628
promoting safety in the operation of motor vehicles on the 74629
highways, and conduct research and studies for the purpose of 74630
promoting safety on the highways of this state. 74631

(B) The department shall administer the laws and rules 74632
relative to trauma and emergency medical services specified in 74633
Chapter 4765. of the Revised Code. 74634

(C) The department shall administer and enforce the laws 74635
contained in Chapters 4301. and 4303. of the Revised Code and 74636
enforce the rules and orders of the liquor control commission 74637
pertaining to retail liquor permit holders. 74638

(D) The department shall administer the laws governing the 74639
state emergency management agency and shall enforce all additional 74640
duties and responsibilities as prescribed in the Revised Code 74641
related to emergency management services. 74642

(E) The department shall conduct investigations pursuant to 74643
Chapter 5101. of the Revised Code in support of the duty of the 74644
department of job and family services to administer ~~food stamp~~ 74645
~~programs~~ the supplemental nutrition assistance program throughout 74646
this state. The department of public safety shall conduct 74647
investigations necessary to protect the state's property rights 74648
and interests in the ~~food stamp~~ supplemental nutrition assistance 74649
program. 74650

(F) The department of public safety shall enforce compliance with orders and rules of the public utilities commission and applicable laws in accordance with Chapters 4919., 4921., and 4923. of the Revised Code regarding commercial motor vehicle transportation safety, economic, and hazardous materials requirements.

(G) Notwithstanding Chapter 4117. of the Revised Code, the department of public safety may establish requirements for its enforcement personnel, including its enforcement agents described in section 5502.14 of the Revised Code, that include standards of conduct, work rules and procedures, and criteria for eligibility as law enforcement personnel.

(H) The department shall administer, maintain, and operate the Ohio criminal justice network. The Ohio criminal justice network shall be a computer network that supports state and local criminal justice activities. The network shall be an electronic repository for various data, which may include arrest warrants, notices of persons wanted by law enforcement agencies, criminal records, prison inmate records, stolen vehicle records, vehicle operator's licenses, and vehicle registrations and titles.

(I) The department shall coordinate all homeland security activities of all state agencies and shall be a liaison between state agencies and local entities for those activities and related purposes.

(J) Beginning July 1, 2004, the department shall administer and enforce the laws relative to private investigators and security service providers specified in Chapter 4749. of the Revised Code.

(K) The department shall administer criminal justice services in accordance with sections 5502.61 to 5502.66 of the Revised Code.

Sec. 5502.14. (A) As used in this section, "felony" has the 74682
same meaning as in section 109.511 of the Revised Code. 74683

(B)(1) Any person who is employed by the department of public 74684
safety and designated by the director of public safety to enforce 74685
Title XLIII of the Revised Code, the rules adopted under it, and 74686
the laws and rules regulating the use of ~~food stamps~~ supplemental 74687
nutrition assistance program benefits shall be known as an 74688
enforcement agent. The employment by the department of public 74689
safety and the designation by the director of public safety of a 74690
person as an enforcement agent shall be subject to division (D) of 74691
this section. An enforcement agent has the authority vested in 74692
peace officers pursuant to section 2935.03 of the Revised Code to 74693
keep the peace, to enforce all applicable laws and rules on any 74694
retail liquor permit premises, or on any other premises of public 74695
or private property, where a violation of Title XLIII of the 74696
Revised Code or any rule adopted under it is occurring, and to 74697
enforce all laws and rules governing the use of ~~food stamp coupons~~ 74698
supplemental nutrition assistance program benefits, women, 74699
infants, and children's coupons, electronically transferred 74700
benefits, or any other access device that is used alone or in 74701
conjunction with another access device to obtain payments, 74702
allotments, benefits, money, goods, or other things of value, or 74703
that can be used to initiate a transfer of funds, pursuant to the 74704
~~food stamp~~ supplemental nutrition assistance program established 74705
under the "Food Stamp and Nutrition Act of 1977," ~~91 Stat. 958,~~ 74706
~~2008 (7 U.S.C.A. 2011, as amended, et seq.)~~ or any supplemental 74707
food program administered by any department of this state pursuant 74708
to the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C.A. 74709
1786. Enforcement agents, in enforcing compliance with the laws 74710
and rules described in this division, may keep the peace and make 74711
arrests for violations of those laws and rules. 74712

(2) In addition to the authority conferred by division (B)(1) 74713

of this section, an enforcement agent also may execute search 74714
warrants and seize and take into custody any contraband, as 74715
defined in section 2901.01 of the Revised Code, or any property 74716
that is otherwise necessary for evidentiary purposes related to 74717
any violations of the laws or rules described in division (B)(1) 74718
of this section. An enforcement agent may enter public or private 74719
premises where activity alleged to violate the laws or rules 74720
described in division (B)(1) of this section is occurring. 74721

(3) Enforcement agents who are on, immediately adjacent to, 74722
or across from retail liquor permit premises and who are 74723
performing investigative duties relating to that premises, 74724
enforcement agents who are on premises that are not liquor permit 74725
premises but on which a violation of Title XLIII of the Revised 74726
Code or any rule adopted under it allegedly is occurring, and 74727
enforcement agents who view a suspected violation of Title XLIII 74728
of the Revised Code, of a rule adopted under it, or of another law 74729
or rule described in division (B)(1) of this section have the 74730
authority to enforce the laws and rules described in division 74731
(B)(1) of this section, authority to enforce any section in Title 74732
XXIX of the Revised Code or any other section of the Revised Code 74733
listed in section 5502.13 of the Revised Code if they witness a 74734
violation of the section under any of the circumstances described 74735
in this division, and authority to make arrests for violations of 74736
the laws and rules described in division (B)(1) of this section 74737
and violations of any of those sections. 74738

(4) The jurisdiction of an enforcement agent under division 74739
(B) of this section shall be concurrent with that of the peace 74740
officers of the county, township, or municipal corporation in 74741
which the violation occurs. 74742

(C) Enforcement agents of the department of public safety who 74743
are engaged in the enforcement of the laws and rules described in 74744
division (B)(1) of this section may carry concealed weapons when 74745

conducting undercover investigations pursuant to their authority 74746
as law enforcement officers and while acting within the scope of 74747
their authority pursuant to this chapter. 74748

(D)(1) The department of public safety shall not employ, and 74749
the director of public safety shall not designate, a person as an 74750
enforcement agent on a permanent basis, on a temporary basis, for 74751
a probationary term, or on other than a permanent basis if the 74752
person previously has been convicted of or has pleaded guilty to a 74753
felony. 74754

(2)(a) The department of public safety shall terminate the 74755
employment of a person who is designated as an enforcement agent 74756
and who does either of the following: 74757

(i) Pleads guilty to a felony; 74758

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 74759
plea agreement as provided in division (D) of section 2929.43 of 74760
the Revised Code in which the enforcement agent agrees to 74761
surrender the certificate awarded to that agent under section 74762
109.77 of the Revised Code. 74763

(b) The department shall suspend the employment of a person 74764
who is designated as an enforcement agent if the person is 74765
convicted, after trial, of a felony. If the enforcement agent 74766
files an appeal from that conviction and the conviction is upheld 74767
by the highest court to which the appeal is taken or if no timely 74768
appeal is filed, the department shall terminate the employment of 74769
that agent. If the enforcement agent files an appeal that results 74770
in that agent's acquittal of the felony or conviction of a 74771
misdemeanor, or in the dismissal of the felony charge against the 74772
agent, the department shall reinstate the agent. An enforcement 74773
agent who is reinstated under division (D)(2)(b) of this section 74774
shall not receive any back pay unless the conviction of that agent 74775
of the felony was reversed on appeal, or the felony charge was 74776

dismissed, because the court found insufficient evidence to 74777
convict the agent of the felony. 74778

(3) Division (D) of this section does not apply regarding an 74779
offense that was committed prior to January 1, 1997. 74780

(4) The suspension or termination of the employment of a 74781
person designated as an enforcement agent under division (D)(2) of 74782
this section shall be in accordance with Chapter 119. of the 74783
Revised Code. 74784

Sec. 5502.15. Any funding provided or made available by the 74785
United States or by any agency designated and authorized by the 74786
United States government for the purposes of enforcing compliance 74787
with ~~food stamp~~ supplemental nutrition assistance program laws 74788
shall be expended by the department of public safety for those 74789
purposes. 74790

Sec. 5703.05. All powers, duties, and functions of the 74791
department of taxation are vested in and shall be performed by the 74792
tax commissioner, which powers, duties, and functions shall 74793
include, but shall not be limited to, the following: 74794

(A) Prescribing all blank forms which the department is 74795
authorized to prescribe, and to provide such forms and distribute 74796
the same as required by law and the rules of the department. The 74797
tax commissioner shall include a mail-in registration form 74798
prescribed in section 3503.14 of the Revised Code within the 74799
return and instructions for the tax levied in odd-numbered years 74800
under section 5747.02 of the Revised Code, beginning with the tax 74801
levied for 1995. The secretary of state shall bear all costs for 74802
the inclusion of the mail-in registration form. That form shall be 74803
addressed for return to the office of the secretary of state. 74804

(B) Exercising the authority provided by law, including 74805
orders from bankruptcy courts, relative to remitting or refunding 74806

taxes or assessments, including penalties and interest thereon, 74807
illegally or erroneously assessed or collected, or for any other 74808
reason overpaid, and in addition, the commissioner may on written 74809
application of any person, firm, or corporation claiming to have 74810
overpaid to the treasurer of state at any time within five years 74811
prior to the making of such application any tax payable under any 74812
law which the department of taxation is required to administer 74813
which does not contain any provision for refund, or on the 74814
commissioner's own motion investigate the facts and make in 74815
triplicate a written statement of the commissioner's findings, 74816
and, if the commissioner finds that there has been an overpayment, 74817
issue in triplicate a certificate of abatement payable to the 74818
taxpayer, the taxpayer's assigns, or legal representative which 74819
shows the amount of the overpayment and the kind of tax overpaid. 74820
One copy of such statement shall be entered on the journal of the 74821
commissioner, one shall be certified to the attorney general, and 74822
one certified copy shall be delivered to the taxpayer. All copies 74823
of the certificate of abatement shall be transmitted to the 74824
attorney general, and if the attorney general finds it to be 74825
correct the attorney general shall so certify on each copy, and 74826
deliver one copy to the taxpayer, one copy to the commissioner, 74827
and the third copy to the treasurer of state. Except as provided 74828
in sections 5725.08 and 5725.16 of the Revised Code the taxpayer's 74829
copy of any certificates of abatement may be tendered by the payee 74830
or transferee thereof to the treasurer of state as payment, to the 74831
extent of the amount thereof, of any tax payable to the treasurer 74832
of state. 74833

(C) Exercising the authority provided by law relative to 74834
consenting to the compromise and settlement of tax claims; 74835

(D) Exercising the authority provided by law relative to the 74836
use of alternative tax bases by taxpayers in the making of 74837
personal property tax returns; 74838

(E) Exercising the authority provided by law relative to 74839
authorizing the prepayment of taxes on retail sales of tangible 74840
personal property or on the storage, use, or consumption of 74841
personal property, and waiving the collection of such taxes from 74842
the consumers; 74843

(F) Exercising the authority provided by law to revoke 74844
licenses; 74845

(G) Maintaining a continuous study of the practical operation 74846
of all taxation and revenue laws of the state, the manner in which 74847
and extent to which such laws provide revenues for the support of 74848
the state and its political subdivisions, the probable effect upon 74849
such revenue of possible changes in existing laws, and the 74850
possible enactment of measures providing for other forms of 74851
taxation. For this purpose the commissioner may establish and 74852
maintain a division of research and statistics, ~~and may appoint~~ 74853
~~necessary employees who shall be in the unclassified civil~~ 74854
~~service; the.~~ The results of such study shall be available to the 74855
members of the general assembly and the public. 74856

(H) Making all tax assessments, valuations, findings, 74857
determinations, computations, and orders the department of 74858
taxation is by law authorized and required to make and, pursuant 74859
to time limitations provided by law, on the commissioner's own 74860
motion, reviewing, redetermining, or correcting any tax 74861
assessments, valuations, findings, determinations, computations, 74862
or orders the commissioner has made, but the commissioner shall 74863
not review, redetermine, or correct any tax assessment, valuation, 74864
finding, determination, computation, or order which the 74865
commissioner has made as to which an appeal or application for 74866
rehearing, review, redetermination, or correction has been filed 74867
with the board of tax appeals, unless such appeal or application 74868
is withdrawn by the appellant or applicant or dismissed; 74869

(I) Appointing not more than five deputy tax commissioners, 74870

who, under such regulations as the rules of the department of 74871
taxation prescribe, may act for the commissioner in the 74872
performance of such duties as the commissioner prescribes in the 74873
administration of the laws which the commissioner is authorized 74874
and required to administer, and who shall serve in the 74875
unclassified civil service at the pleasure of the commissioner, 74876
but if a person who holds a position in the classified service is 74877
appointed, it shall not affect the civil service status of such 74878
person. The commissioner may designate not more than two of the 74879
deputy commissioners to act as commissioner in case of the 74880
absence, disability, or recusal of the commissioner or vacancy in 74881
the office of commissioner. The commissioner may adopt rules 74882
relating to the order of precedence of such designated deputy 74883
commissioners and to their assumption and administration of the 74884
office of commissioner. 74885

(J) Appointing and prescribing the duties of all other 74886
employees of the department of taxation necessary in the 74887
performance of the work of the department which the tax 74888
commissioner is by law authorized and required to perform, and 74889
creating such divisions or sections of employees as, in the 74890
commissioner's judgment, is proper; 74891

(K) Organizing the work of the department, which the 74892
commissioner is by law authorized and required to perform, so 74893
that, in the commissioner's judgment, an efficient and economical 74894
administration of the laws will result; 74895

(L) Maintaining a journal, which is open to public 74896
inspection, in which the tax commissioner shall keep a record of 74897
all final determinations of the commissioner; 74898

(M) Adopting and promulgating, in the manner provided by 74899
section 5703.14 of the Revised Code, all rules of the department, 74900
including rules for the administration of sections 3517.16, 74901
3517.17, and 5747.081 of the Revised Code; 74902

(N) Destroying any or all returns or assessment certificates 74903
in the manner authorized by law; 74904

(O) Adopting rules, in accordance with division (B) of 74905
section 325.31 of the Revised Code, governing the expenditure of 74906
moneys from the real estate assessment fund under that division. 74907

Sec. 5703.37. ~~Whenever (A)(1) Except as provided in division 74908
(B) of this section, whenever service of a notice or order is 74909
required in the manner provided in this section, a certified copy 74910
of the order or notice or order shall be served upon the person 74911
affected thereby either by personal service or by certified mail- 74912
Within the time specified in an order of the department of 74913
taxation, every person upon whom it is served, if required by the 74914
order, shall notify the department, by personal service, certified 74915
mail, or a delivery service authorized under section 5703.056 of 74916
the Revised Code, whether the terms of the order are accepted and 74917
will be obeyed that notifies the tax commissioner of the date of 74918
delivery. 74919~~

(2) With the permission of the person affected by the notice 74920
or order, the commissioner may enter into a written agreement to 74921
deliver a notice or order by alternative means as provided in this 74922
section, including, but not limited to, delivery by secure 74923
electronic mail. Delivery by such means satisfies the requirements 74924
for delivery under this section. 74925

(B)(1)(a) If certified mail is returned because of an 74926
undeliverable address, the commissioner shall first utilize 74927
reasonable means to ascertain a new last known address, including 74928
the use of an address service offered by the United States postal 74929
service. An assessment is deemed final for the purposes of section 74930
131.02 of the Revised Code sixty days after the notice or order 74931
sent by certified mail is first returned to the commissioner. If, 74932
after using reasonable means, the commissioner is unable to 74933

ascertain a new last known address, the commissioner shall certify 74934
the notice or order, if applicable, to the attorney general for 74935
collection under section 131.02 of the Revised Code. 74936

(b) Notwithstanding certification to the attorney general 74937
under division (B)(1)(a) of this section, once the commissioner or 74938
attorney general, or the designee of either, makes an initial 74939
contact with the person to whom the notice or order is directed, 74940
the person may protest an assessment by filing a petition for 74941
reassessment within sixty days after the initial contact. The 74942
certification of an assessment under division (B)(1)(a) of this 74943
section is prima-facie evidence that delivery is complete and that 74944
the notice or order is served. 74945

(2) If mailing of a notice or order by certified mail is 74946
returned for some cause other than an undeliverable address, the 74947
tax commissioner shall resend the notice or order by ordinary 74948
mail. The notice or order shall show the date the commissioner 74949
sends the notice or order and include the following statement: 74950

"This notice or order is deemed to be served on the addressee 74951
under applicable law ten days from the date this notice or order 74952
was mailed by the commissioner as shown on the notice or order, 74953
and all periods within which an appeal may be filed apply from and 74954
after that date." 74955

Unless the mailing is returned because of an undeliverable 74956
address, the mailing of that information is prima-facie evidence 74957
that delivery of the notice or order was completed ten days after 74958
the commissioner sent the notice or order by ordinary mail and 74959
that the notice or order was served. 74960

If the ordinary mail is subsequently returned because of an 74961
undeliverable address, the commissioner shall proceed under 74962
division (B)(1)(a) of this section. A person may challenge the 74963
presumption of delivery and service under this division in 74964

accordance with division (C) of this section. 74965

For the purposes of this section, mail is not returned 74966
because of an undeliverable address if the mail is returned 74967
because the addressee fails to acknowledge or accept the mailing. 74968

(C)(1) A person disputing the presumption of delivery and 74969
service under division (B) of this section bears the burden of 74970
proving by a preponderance of the evidence that the address to 74971
which the notice or order was sent was not an address with which 74972
the person was associated at the time the commissioner originally 74973
mailed the notice or order by certified mail. For the purposes of 74974
this section, a person is associated with an address if the person 74975
was residing or receiving legal documents at the address, or if a 74976
business was conducted at the address either by the person or the 74977
person's agent, or by any other person affiliated with the 74978
business, if the person owned or controlled at least twenty per 74979
cent of the business' ownership interests having voting rights. 74980

(2) If the person elects to protest an assessment certified 74981
to the attorney general for collection, the person must do so 74982
within sixty days after the attorney general's initial contact 74983
with the person. The attorney general must either enter into a 74984
compromise with the person under sections 131.02 and 5703.06 of 74985
the Revised Code, or send to the tax commissioner the person's 74986
petition for reassessment for action under the procedures 74987
prescribed by this title for petitions for reassessment. 74988

(D) Nothing in this section prohibits the tax commissioner or 74989
the commissioner's designee from delivering a notice or order by 74990
personal service. 74991

(E) Collection actions taken pursuant to section 131.02 of 74992
the Revised Code upon any assessment being challenged under 74993
division (B)(1)(b) of this section shall be stayed upon the 74994
pendency of an appeal under this section, but such a claim remains 74995

certified for subsequent collection by the attorney general for 74996
the purposes of this section and section 131.02 of the Revised 74997
Code. 74998

Sec. 5703.80. There is hereby created in the state treasury 74999
the property tax administration fund. All money to the credit of 75000
the fund shall be used to defray the costs incurred by the 75001
department of taxation in administering the taxation of property 75002
and the equalization of real property valuation. 75003

Each fiscal year between the first and fifteenth days of 75004
July, the tax commissioner shall compute the following amounts for 75005
the property in each taxing district in each county, and certify 75006
to the director of budget and management the sum of those amounts 75007
for all taxing districts in all counties: 75008

(A) For fiscal year ~~2006~~ 2010, ~~thirty-three~~ forty-two 75009
hundredths of one per cent of the total amount by which taxes 75010
charged against real property on the general tax list of real and 75011
public utility property were reduced under section 319.302 of the 75012
Revised Code for the preceding tax year; 75013

(B) For fiscal year ~~2007~~ 2011 and thereafter, ~~thirty-five~~ 75014
forty-eight hundredths of one per cent of the total amount by 75015
which taxes charged against real property on the general tax list 75016
of real and public utility property were reduced under section 75017
319.302 of the Revised Code for the preceding tax year; 75018

(C) For fiscal year ~~2006~~ 2010, ~~one-half~~ eight-tenths of one 75019
per cent of the total amount of taxes charged and payable against 75020
public utility personal property on the general tax list of real 75021
and public utility property for the preceding tax year and of the 75022
total amount of taxes charged and payable against tangible 75023
personal property on the general tax list of personal property of 75024
the preceding tax year and for which returns were filed with the 75025
tax commissioner under section 5711.13 of the Revised Code; 75026

(D) For fiscal year ~~2007~~ 2011 and thereafter, ~~fifty six~~ 75027
~~hundredths~~ nine hundred fifty-one thousandths of one per cent of 75028
the total amount of taxes charged and payable against public 75029
utility personal property on the general tax list of real and 75030
public utility property for the preceding tax year and of the 75031
total amount of taxes charged and payable against tangible 75032
personal property on the general tax list of personal property of 75033
the preceding tax year and for which returns were filed with the 75034
tax commissioner under section 5711.13 of the Revised Code; 75035

~~(E) For fiscal year 2008, six tenths of one per cent of the~~ 75036
~~total amount of taxes charged and payable against public utility~~ 75037
~~personal property on the general tax list of real and public~~ 75038
~~utility property for the preceding tax year and of the total~~ 75039
~~amount of taxes charged and payable against tangible personal~~ 75040
~~property on the general tax list of personal property of the~~ 75041
~~preceding tax year and for which returns were filed with the tax~~ 75042
~~commissioner under section 5711.13 of the Revised Code;~~ 75043

~~(F) For fiscal year 2009 and thereafter, seven hundred~~ 75044
~~twenty five one thousandths of one per cent of the total amount of~~ 75045
~~taxes charged and payable against public utility personal property~~ 75046
~~on the general tax list of real and public utility property for~~ 75047
~~the preceding tax year and of the total amount of taxes charged~~ 75048
~~and payable against tangible personal property on the general tax~~ 75049
~~list of personal property of the preceding tax year and for which~~ 75050
~~returns were filed with the tax commissioner under section 5711.13~~ 75051
~~of the Revised Code.~~ 75052

After receiving the tax commissioner's certification, the 75053
director of budget and management shall transfer from the general 75054
revenue fund to the property tax administration fund one-fourth of 75055
the amount certified on or before each of the following days: the 75056
first days of August, November, February, and May. 75057

On or before the thirtieth day of June of the fiscal year, 75058

the tax commissioner shall certify to the director of budget and 75059
management the sum of the amounts by which the amounts computed 75060
for a taxing district under this section exceeded the 75061
distributions to the taxing district under division (F) of section 75062
321.24 of the Revised Code, and the director shall transfer that 75063
sum from the property tax administration fund to the general 75064
revenue fund. 75065

Sec. 5705.214. Not more than three elections during any 75066
calendar year shall include the questions by a school district of 75067
tax levies proposed under any one or any combination of the 75068
following sections: sections 5705.194, 5705.199, 5705.21, 75069
5705.212, 5705.213, 5705.217, ~~and~~ 5705.218, and 5705.219 of the 75070
Revised Code. 75071

Sec. 5705.219. (A) As used in this section: 75072

(1) "Eligible school district" means a city, local, or 75073
exempted village school district in which the taxes charged and 75074
payable for current expenses on residential/agricultural real 75075
property in the tax year preceding the year in which the levy 75076
authorized by this section will be submitted for elector approval 75077
or rejection are greater than two per cent of the taxable value of 75078
the residential/agricultural real property. 75079

(2) "Residential/agricultural real property" and 75080
"nonresidential/agricultural real property" means the property 75081
classified as such under section 5713.041 of the Revised Code. 75082

(3) "Effective tax rate" and "taxes charged and payable" have 75083
the same meanings as in division (B) of section 319.301 of the 75084
Revised Code. 75085

(B) On or after January 1, 2010, but before January 1, 2014, 75086
the board of education of an eligible school district, by a vote 75087
of two-thirds of all its members, may adopt a resolution proposing 75088

to convert existing levies imposed for the purpose of current 75089
expenses into a levy raising a specified amount of tax money by 75090
repealing all or a portion of one or more of those existing levies 75091
and imposing a levy in excess of the ten-mill limitation that will 75092
raise a specified amount of money for current expenses of the 75093
district. 75094

The board of education shall certify a copy of the resolution 75095
to the tax commissioner not later than ninety days before the 75096
election upon which the repeal and levy authorized by this section 75097
will be proposed to the electors. Within ten days after receiving 75098
the copy of the resolution, the tax commissioner shall determine 75099
each of the following and certify the determinations to the board 75100
of education: 75101

(1) The dollar amount to be raised by the proposed levy, 75102
which shall be the product of: 75103

(a) The difference between the aggregate effective tax rate 75104
for residential/agricultural real property for the tax year 75105
preceding the year in which the repeal and levy will be proposed 75106
to the electors and twenty mills per dollar of taxable value; 75107

(b) The total taxable value of all property on the tax list 75108
of real and public utility property for the tax year preceding the 75109
year in which the repeal and levy will be proposed to the 75110
electors. 75111

(2) The estimated tax rate of the proposed levy. 75112

(3) The existing levies and any portion of an existing levy 75113
to be repealed upon approval of the question. Levies shall be 75114
repealed in reverse chronological order from most recently imposed 75115
to least recently imposed until the sum of the effective tax rates 75116
repealed for residential/agricultural real property is equal to 75117
the difference calculated in division (B)(1)(a) of this section. 75118

(4) The sum of the following: 75119

(a) The total taxable value of nonresidential/agricultural real property for the tax year preceding the year in which the repeal and levy will be proposed to the electors multiplied by the difference between (i) the aggregate effective tax rate for nonresidential/agricultural real property for the existing levies and any portion of an existing levy to be repealed and (ii) the amount determined under division (B)(1)(a) of this section, but not less than zero; 75120
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(b) The total taxable value of public utility tangible personal property for the tax year preceding the year in which the repeal and levy will be proposed to the electors multiplied by the difference between (i) the aggregate voted tax rate for the existing levies and any portion of an existing levy to be repealed and (ii) the amount determined under division (B)(1)(a) of this section, but not less than zero. 75128
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(C) Upon receipt of the certification from the tax commissioner under division (B) of this section, a majority of the members of the board of education may adopt a resolution proposing the repeal of all or a portion of the existing levies identified in the certification and the imposition of a levy in excess of the ten-mill limitation that will raise annually the amount certified by the commissioner. The resolution shall state the first calendar year in which the levy will be due; the existing levies and any portion of an existing levy that will be repealed, as certified by the commissioner; the term of the levy expressed in years, which may be any number not exceeding ten, or that it will be levied for a continuing period of time; and the date of the election. 75135
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Immediately upon its passage, the resolution shall go into effect and shall be certified by the board of education to the county auditor of the proper county. The county auditor and the board of education shall proceed as required under section 5705.195 of the Revised Code. No publication of the resolution is 75147
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necessary other than that provided for in the notice of election. 75152
Section 5705.196 of the Revised Code shall govern the matters 75153
concerning the election. The submission of a question to the 75154
electors under this section is subject to the limitation on the 75155
number of election dates established by section 5705.214 of the 75156
Revised Code. 75157

(D) The form of the ballot to be used at the election 75158
provided for in this section shall be as follows: 75159

"Shall the existing levy of . . . (insert the voted millage 75160
rate of the levy to be repealed), currently being charged against 75161
residential and agricultural property by the . . . (insert the 75162
name of school district) at a rate of . . . (insert the 75163
residential/agricultural real property effective tax rate of the 75164
levy being repealed) for the purpose of . . . (insert the purpose 75165
of the existing levy) be repealed, and shall a levy be imposed by 75166
the . . . (insert the name of school district) in excess of the 75167
ten-mill limitation for the necessary requirements of the school 75168
district in the sum of . . . (insert the annual amount the levy is 75169
to produce), estimated by the tax commissioner to require . . . 75170
(insert the number of mills) mills for each one dollar of 75171
valuation, which amounts to . . . (insert the rate expressed in 75172
dollars and cents) for each one hundred dollars of valuation for 75173
the initial year of the tax, for a period of . . . (insert the 75174
number of years the levy is to be imposed, or that it will be 75175
levied for a continuing period of time), commencing in . . . 75176
(insert the first year the tax is to be levied), first due in 75177
calendar year . . . (insert the first calendar year in which the 75178
tax shall be due)? 75179

	FOR THE REPEAL AND TAX	
	AGAINST THE REPEAL AND TAX	"

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If the question submitted is a proposal to repeal all or a portion of more than one existing levy, the form of the ballot shall be modified by substituting the statement "shall the existing levy of" with "shall existing levies of" and inserting the aggregate voted and aggregate effective tax rates to be repealed.

(E) If a majority of the electors voting on the question submitted in an election vote in favor of the repeal and levy, the board of education may make the levy necessary to raise the amount specified in the resolution for the purpose stated in the resolution. The levy shall be included in the next tax budget that is certified to the county budget commission.

(F) A levy imposed under this section for a continuing period of time may be decreased pursuant to section 5705.261 of the Revised Code. If all or part of such a levy imposed under this section is decreased, the amount calculated under division (B)(4) of this section and paid under section 5705.2110 of the Revised Code shall be decreased by the same proportion as the levy is decreased.

(G) The board of education, by a vote of two-thirds of all of its members, may adopt a resolution to renew a tax levied under this section. The resolution shall provide for levying the tax and specifically all of the following:

(1) That the tax shall be called, and designated on the ballot as, a renewal levy;

(2) The amount of the renewal tax, which shall be no more than the amount of tax previously collected;

(3) The number of years, not to exceed ten, that the renewal tax will be levied, or that it will be levied for a continuing period of time;

(4) That the purpose of the renewal tax is for current

expenses. 75215

(H) The form of the ballot to be used at the election on the 75216
question of renewing a levy under this section shall be as 75217
follows: 75218

"Shall a tax levy renewing an existing levy of . . . (insert 75219
the annual dollar amount the levy is to produce each year), 75220
estimated to require . . . (insert the number of mills) mills for 75221
each one dollar of valuation be imposed by the . . . (insert the 75222
name of school district) for the purpose of current expenses for a 75223
period of . . . (insert the number of years the levy is to be 75224
imposed, or that it will be levied for a continuing period of 75225
time), commencing in . . . (insert the first year the tax is to be 75226
levied), first due in calendar year . . . (insert the first 75227
calendar year in which the tax shall be due)? 75228

	<u>FOR THE RENEWAL OF THE TAX</u>
	<u>LEVY</u>
	<u>AGAINST THE RENEWAL OF THE</u>
	<u>TAX LEVY</u>

"

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If the levy submitted is to be for less than the amount of 75233
money previously collected, the form of the ballot shall be 75234
modified to add "and reducing" after "renewing" and to add before 75235
"estimated to require" the statement "be approved at a tax rate 75236
necessary to produce . . . (insert the lower annual dollar amount 75237
the levy is to produce each year)." 75238

Sec. 5705.2110. (A) For purposes of this section: 75239

(1) "Carryover property" has the same meaning as in section 75240
319.301 of the Revised Code. 75241

(2) "Residential/agricultural real property" has the same 75242

meaning as in section 5705.219 of the Revised Code. 75243

(B) For each city, local, or exempted village school district 75244
in which the tax authorized by section 5705.219 of the Revised 75245
Code has been approved by electors in the preceding year, the tax 75246
commissioner, not later than the twenty-eighth day of February, 75247
shall certify to the department of education the amount determined 75248
in division (B)(4) of section 5705.219 of the Revised Code. Not 75249
later than the twenty-eighth day of February of each year 75250
thereafter, the commissioner shall certify an amount equal to the 75251
difference between the amount certified in the preceding year 75252
under this division and the product of ten mills per dollar 75253
multiplied by the excess, if any, of the value of carryover 75254
property for residential/agricultural real property for the 75255
preceding tax year over the value of carryover property for 75256
residential/agricultural real property in the second preceding tax 75257
year. The commissioner shall make the certifications required by 75258
this section until the year after the first year in which the 75259
amount certified is zero or until 2026, whichever occurs first. If 75260
the amount to be certified in any year is zero, in the 75261
commissioner's certification the commissioner shall state that no 75262
further certifications shall be forthcoming. 75263

(C) Not later than the last day of April and of October 75264
beginning in the first year in which a certification under 75265
division (B) of this section is received, the department of 75266
education shall pay to the school district for which the 75267
certification is made one-half of the amount most recently 75268
certified by the tax commissioner. 75269

Sec. 5705.29. This section does not apply to a subdivision or 75270
taxing unit for which the county budget commission has waived the 75271
requirement to adopt a tax budget pursuant to section 5705.281 of 75272
the Revised Code. The tax budget shall present the following 75273

information in such detail as is prescribed by the auditor of 75274
state: 75275

(A)(1) A statement of the necessary current operating 75276
expenses for the ensuing fiscal year for each department and 75277
division of the subdivision, classified as to personal services 75278
and other expenses, and the fund from which such expenditures are 75279
to be made. Except in the case of a school district, this estimate 75280
may include a contingent expense not designated for any particular 75281
purpose, and not to exceed three per cent of the total amount of 75282
appropriations for current expenses. In the case of a school 75283
district, this estimate may include a contingent expense not 75284
designated for any particular purpose and not to exceed thirteen 75285
per cent of the total amount of appropriations for current 75286
expenses. 75287

(2) A statement of the expenditures for the ensuing fiscal 75288
year necessary for permanent improvements, exclusive of any 75289
expense to be paid from bond issues, classified as to the 75290
improvements contemplated by the subdivision and the fund from 75291
which such expenditures are to be made; 75292

(3) The amounts required for the payment of final judgments; 75293

(4) A statement of expenditures for the ensuing fiscal year 75294
necessary for any purpose for which a special levy is authorized, 75295
and the fund from which such expenditures are to be made; 75296

(5) Comparative statements, so far as possible, in parallel 75297
columns of corresponding items of expenditures for the current 75298
fiscal year and the two preceding fiscal years. 75299

(B)(1) An estimate of receipts from other sources than the 75300
general property tax during the ensuing fiscal year, which shall 75301
include an estimate of unencumbered balances at the end of the 75302
current fiscal year, and the funds to which such estimated 75303
receipts are credited; 75304

(2) The amount each fund requires from the general property tax, which shall be the difference between the contemplated expenditure from the fund and the estimated receipts, as provided in this section. The section of the Revised Code under which the tax is authorized shall be set forth.

(3) Comparative statements, so far as possible, in parallel columns of taxes and other revenues for the current fiscal year and the two preceding fiscal years.

(C)(1) The amount required for debt charges;

(2) The estimated receipts from sources other than the tax levy for payment of such debt charges, including the proceeds of refunding bonds to be issued to refund bonds maturing in the next succeeding fiscal year;

(3) The net amount for which a tax levy shall be made, classified as to bonds authorized and issued prior to January 1, 1922, and those authorized and issued subsequent to such date, and as to what portion of the levy will be within and what in excess of the ten-mill limitation.

(D) An estimate of amounts from taxes authorized to be levied in excess of the ten-mill limitation on the tax rate, and the fund to which such amounts will be credited, together with the sections of the Revised Code under which each such tax is exempted from all limitations on the tax rate.

(E)(1) A board of education may include in its budget for the fiscal year in which a levy proposed under section 5705.194, 5705.199, 5705.21, ~~or 5705.213~~, or 5705.219, or the original levy under section 5705.212 of the Revised Code is first extended on the tax list and duplicate an estimate of expenditures to be known as a voluntary contingency reserve balance, which shall not be greater than twenty-five per cent of the total amount of the levy estimated to be available for appropriation in such year.

(2) A board of education may include in its budget for the 75336
fiscal year following the year in which a levy proposed under 75337
section 5705.194, 5705.199, 5705.21, ~~or~~ 5705.213, or 5705.219, or 75338
the original levy under section 5705.212 of the Revised Code is 75339
first extended on the tax list and duplicate an estimate of 75340
expenditures to be known as a voluntary contingency reserve 75341
balance, which shall not be greater than twenty per cent of the 75342
amount of the levy estimated to be available for appropriation in 75343
such year. 75344

(3) Except as provided in division (E)(4) of this section, 75345
the full amount of any reserve balance the board includes in its 75346
budget shall be retained by the county auditor and county 75347
treasurer out of the first semiannual settlement of taxes until 75348
the beginning of the next succeeding fiscal year, and thereupon, 75349
with the depository interest apportioned thereto, it shall be 75350
turned over to the board of education, to be used for the purposes 75351
of such fiscal year. 75352

(4) A board of education, by a two-thirds vote of all members 75353
of the board, may appropriate any amount withheld as a voluntary 75354
contingency reserve balance during the fiscal year for any lawful 75355
purpose, provided that prior to such appropriation the board of 75356
education has authorized the expenditure of all amounts 75357
appropriated for contingencies under section 5705.40 of the 75358
Revised Code. Upon request by the board of education, the county 75359
auditor shall draw a warrant on the district's account in the 75360
county treasury payable to the district in the amount requested. 75361

(F)(1) A board of education may include a spending reserve in 75362
its budget for fiscal years ending on or before June 30, 2002. The 75363
spending reserve shall consist of an estimate of expenditures not 75364
to exceed the district's spending reserve balance. A district's 75365
spending reserve balance is the amount by which the designated 75366
percentage of the district's estimated personal property taxes to 75367

be settled during the calendar year in which the fiscal year ends 75368
exceeds the estimated amount of personal property taxes to be so 75369
settled and received by the district during that fiscal year. 75370
Moneys from a spending reserve shall be appropriated in accordance 75371
with section 133.301 of the Revised Code. 75372

(2) For the purposes of computing a school district's 75373
spending reserve balance for a fiscal year, the designated 75374
percentage shall be as follows: 75375

Fiscal year ending in:	Designated percentage	
1998	50%	75377
1999	40%	75378
2000	30%	75379
2001	20%	75380
2002	10%	75381

(G) Except as otherwise provided in this division, the county 75382
budget commission shall not reduce the taxing authority of a 75383
subdivision as a result of the creation of a reserve balance 75384
account. Except as otherwise provided in this division, the county 75385
budget commission shall not consider the amount in a reserve 75386
balance account of a township, county, or municipal corporation as 75387
an unencumbered balance or as revenue for the purposes of division 75388
(E)(3) or (4) of section 5747.51 of the Revised Code. The county 75389
budget commission may require documentation of the reasonableness 75390
of the reserve balance held in any reserve balance account. The 75391
commission shall consider any amount in a reserve balance account 75392
that it determines to be unreasonable as unencumbered and as 75393
revenue for the purposes of section 5747.51 of the Revised Code 75394
and may take such amounts into consideration when determining 75395
whether to reduce the taxing authority of a subdivision. 75396

Sec. 5705.341. Any person required to pay taxes on real, 75397
public utility, or tangible personal property in any taxing 75398

district or other political subdivision of this state may appeal 75399
to the board of tax appeals from the action of the county budget 75400
commission of any county which relates to the fixing of uniform 75401
rates of taxation and the rate necessary to be levied by each 75402
taxing authority within its subdivision or taxing unit and which 75403
action has been certified by the county budget commission to the 75404
taxing authority of any political subdivision or other taxing 75405
district within the county. 75406

Such appeal shall be in writing and shall set forth the tax 75407
rate complained of and the reason that such a tax rate is not 75408
necessary to produce the revenue needed by the taxing district or 75409
political subdivision for the ensuing fiscal year as those needs 75410
are set out in the tax budget of said taxing unit or, if adoption 75411
of a tax budget was waived under section 5705.281 of the Revised 75412
Code, as set out in such other information the district or 75413
subdivision was required to provide under that section, or that 75414
the action of the budget commission appealed from does not 75415
otherwise comply with sections 5705.01 to 5705.47 of the Revised 75416
Code. The notice of appeal shall be filed with the board of tax 75417
appeals, and a true copy thereof shall be filed with the tax 75418
commissioner, the county auditor, and with the fiscal officer of 75419
each taxing district or political subdivision authorized to levy 75420
the tax complained of, and such notice of appeal and copies 75421
thereof must be filed within thirty days after the budget 75422
commission has certified its action as provided by section 5705.34 75423
of the Revised Code. Such notice of appeal and the copies thereof 75424
may be filed either in person or by certified mail. If filed by 75425
certified mail, the date of the United States postmark placed on 75426
the sender's receipt by the postal employee to whom the notice of 75427
appeal is presented shall be treated as the date of filing. 75428

Prior to filing the appeal provided by this section, the 75429
appellant shall deposit with the county auditor of the county or, 75430

in the event the appeal concerns joint taxing districts in two or 75431
more counties, with the county auditor of the county with the 75432
greatest valuation of taxable property the sum of five hundred 75433
dollars to cover the costs of the proceeding. The county auditor 75434
shall forthwith issue a pay-in order and pay such money into the 75435
county treasury to the credit of the general fund. The appellant 75436
shall produce the receipt of the county treasurer for such deposit 75437
and shall file such receipt with the notice of appeal. 75438

The board of tax appeals shall forthwith consider the matter 75439
presented on appeal from the action of the county budget 75440
commission and may modify any action of the commission with 75441
reference to the fixing of tax rates, to the end that no tax rate 75442
shall be levied above that necessary to produce the revenue needed 75443
by the taxing district or political subdivision for the ensuing 75444
fiscal year and to the end that the action of the budget 75445
commission appealed from shall otherwise be in conformity with 75446
sections 5705.01 to 5705.47 of the Revised Code. The findings of 75447
the board of tax appeals shall be substituted for the findings of 75448
the budget commission and shall be ~~certified~~ sent to the county 75449
auditor and the taxing authority of the taxing district or 75450
political subdivision affected as the action of such budget 75451
commission under sections 5705.01 to 5705.47 of the Revised Code 75452
and to the tax commissioner. 75453

The board of tax appeals shall promptly prepare a cost bill 75454
listing the expenses incurred by the board in conducting any 75455
hearing on the appeal and certify the cost bill to the county 75456
auditor of the county receiving the deposit for costs, who shall 75457
forthwith draw a warrant on the general fund of the county in 75458
favor of the person or persons named in the bill of costs 75459
certified by the board of tax appeals. 75460

In the event the appellant prevails, the board of tax appeals 75461
promptly shall direct the county auditor to refund the deposit to 75462

the appellant and the costs shall be taxed to the taxing district 75463
or political subdivision involved in the appeal. The county 75464
auditor shall withhold from any funds then or thereafter in the 75465
auditor's possession belonging to the taxing district or political 75466
subdivision named in the order of the board of tax appeals and 75467
shall reimburse the general fund of the county. 75468

If the appellant fails, the costs shall be deducted from the 75469
deposit provided for in this section and any balance which remains 75470
shall be refunded promptly to the appellant by warrant of the 75471
county auditor drawn on the general fund of the county. 75472

Nothing in this section or any section of the Revised Code 75473
shall permit or require the levying of any rate of taxation, 75474
whether within the ten-mill limitation or whether the levy has 75475
been approved by the electors of the taxing district, the 75476
political subdivision, or the charter of a municipal corporation 75477
in excess of such ten-mill limitation, unless such rate of 75478
taxation for the ensuing fiscal year is clearly required by a 75479
budget of the taxing district or political subdivision properly 75480
and lawfully adopted under this chapter, or by other information 75481
that must be provided under section 5705.281 of the Revised Code 75482
if a tax budget was waived. 75483

In the event more than one appeal is filed involving the same 75484
taxing district or political subdivision, all such appeals may be 75485
consolidated by the board of tax appeals and heard at the same 75486
time. 75487

Nothing herein contained shall be construed to bar or 75488
prohibit the tax commissioner from initiating an investigation or 75489
hearing on the commissioner's own motion. 75490

The tax commissioner shall adopt and issue such orders, 75491
rules, and instructions, not inconsistent with law, as the 75492
commissioner deems necessary, as to the exercise of the powers and 75493

the discharge of the duties of any particular county budget 75494
commission, county auditor, or other officer which relate to the 75495
budget, the assessment of property, or the levy and collection of 75496
taxes. The commissioner shall cause the orders and instructions 75497
issued by the commissioner to be obeyed. 75498

Sec. 5705.37. The taxing authority of any subdivision, or the 75499
board of trustees of any public library, nonprofit corporation, or 75500
library association maintaining a free public library that has 75501
adopted and certified rules under section 5705.28 of the Revised 75502
Code, that is dissatisfied with any action of the county budget 75503
commission may, through its fiscal officer, appeal to the board of 75504
tax appeals within thirty days after the receipt by the 75505
subdivision of the official certificate or notice of the 75506
commission's action. In like manner, but through its clerk, any 75507
park district may appeal to the board of tax appeals. An appeal 75508
under this section shall be taken by the filing of a notice of 75509
appeal, either in person or by certified mail, express mail, or 75510
authorized delivery service as provided in section 5703.056 of the 75511
Revised Code, with the board and with the commission. If notice of 75512
appeal is filed by certified mail, express mail, or authorized 75513
delivery service, date of the United States postmark placed on the 75514
sender's receipt by the postal service or the date of receipt 75515
recorded by the authorized delivery service shall be treated as 75516
the date of filing. Upon receipt of the notice of appeal, the 75517
commission, by certified mail, shall notify all persons who were 75518
parties to the proceeding before the commission of the filing of 75519
the notice of appeal and shall file proof of notice with the board 75520
of tax appeals. The secretary of the commission shall forthwith 75521
certify to the board a transcript of the full and accurate record 75522
of all proceedings before the commission, together with all 75523
evidence presented in the proceedings or considered by the 75524
commission, pertaining to the action from which the appeal is 75525

taken. The secretary of the commission also shall certify to the board any additional information that the board may request.

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The board of tax appeals, in a de novo proceeding, shall forthwith consider the matter presented to the commission, and may modify any action of the commission with reference to the budget, the estimate of revenues and balances, the allocation of the public library fund, or the fixing of tax rates. The finding of the board of tax appeals shall be substituted for the findings of the commission, and shall be ~~certified~~ sent to the tax commissioner, the county auditor, and the taxing authority of the subdivision affected, or to the board of public library trustees affected, as the action of the commission under sections 5705.01 to 5705.47 of the Revised Code.

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This section does not give the board of tax appeals any authority to place any tax levy authorized by law within the ten-mill limitation outside of that limitation, or to reduce any levy below any minimum fixed by law.

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Sec. 5711.33. (A)(1) When a county treasurer receives a certificate from a county auditor pursuant to division (A) of section 5711.32 of the Revised Code charging the treasurer with the collection of an amount of taxes due as the result of a deficiency assessment, the treasurer shall immediately prepare and mail a tax bill to the taxpayer owing such tax. The tax bill shall contain the name of the taxpayer; the taxable value, tax rate, and taxes charged for each year being assessed; the total amount of taxes due; the final date payment may be made without additional penalty; and any other information the treasurer considers pertinent or necessary. Taxes due and payable as a result of a deficiency assessment, less any amount specifically excepted from collection under division (B) of section 5711.32 of the Revised

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Code, shall be paid with interest thereon as prescribed by section 75557
5719.041 of the Revised Code on or before the sixtieth day 75558
following the date of issuance of the certificate by the county 75559
auditor. The balance of taxes found due and payable after a final 75560
determination by the tax commissioner or a final judgment of the 75561
board of tax appeals or any court to which such final judgment may 75562
be appealed shall be paid with interest thereon as prescribed by 75563
section 5719.041 of the Revised Code on or before the sixtieth day 75564
following the date of certification by the auditor to the 75565
treasurer pursuant to division (C) of section 5711.32 of the 75566
Revised Code of such final determination or judgment. Such final 75567
dates for payment shall be determined and exhibited on the tax 75568
bill by the treasurer. 75569

(2) If, on or before the sixtieth day following the date of a 75570
certification of a deficiency assessment under division (A) of 75571
section 5711.32 of the Revised Code or of a certification of a 75572
final determination or judgment under division (C) of section 75573
5711.32 of the Revised Code, the taxpayer pays the full amount of 75574
taxes and interest due at the time of the receipt of certification 75575
with respect to that assessment, determination, or judgment, no 75576
interest shall accrue or be charged with respect to that 75577
assessment, determination, or judgment for the period that begins 75578
on the first day of the month in which the certification is made 75579
and that ends on the last day of the month preceding the month in 75580
which such sixtieth day occurs. 75581

(B) When the taxes charged, as mentioned in division (A) of 75582
this section, are not paid within the time prescribed by such 75583
division, a penalty of ten per cent of the amount due and unpaid 75584
and interest for the period described in division (A)(2) of this 75585
section shall accrue at the time the treasurer closes the 75586
treasurer's office for business on the last day so prescribed, but 75587
if the taxes are paid within ten days subsequent to the last day 75588

prescribed, the treasurer shall waive the collection of and the 75589
auditor shall remit one-half of the penalty. The treasurer shall 75590
not thereafter accept less than the full amount of taxes and 75591
penalty except as otherwise authorized by law. Such penalty shall 75592
be distributed in the same manner and at the same time as the tax 75593
upon which it has accrued. The whole amount collected shall be 75594
included in the next succeeding settlement of appropriate taxes. 75595

(C) When the taxes charged, as mentioned in division (A) of 75596
this section, remain unpaid after the final date for payment 75597
prescribed by such division, such charges shall be deemed to be 75598
delinquent taxes. The county auditor shall cause such charges, 75599
including the penalty that has accrued pursuant to this section, 75600
to be added to the delinquent tax duplicate in accordance with 75601
section 5719.04 of the Revised Code. 75602

(D) The county auditor, upon consultation with the county 75603
treasurer, shall remit a penalty imposed under division (B) of 75604
this section or division ~~(C)~~(D) of section 5719.03 of the Revised 75605
Code for the late payment of taxes when: 75606

(1) The taxpayer could not make timely payment of the tax 75607
because of the negligence or error of the county auditor or county 75608
treasurer in the performance of a statutory duty relating to the 75609
levy or collection of such tax. 75610

(2) In cases other than those described in division (D)(1) of 75611
this section, the taxpayer failed to receive a tax bill or a 75612
correct tax bill, and the taxpayer made a good faith effort to 75613
obtain such bill within thirty days after the last day for payment 75614
of the tax. 75615

(3) The tax was not timely paid because of the death or 75616
serious injury of the taxpayer, or the taxpayer's confinement in a 75617
hospital within sixty days preceding the last day for payment of 75618
the tax if, in any case, the tax was subsequently paid within 75619

sixty days after the last day for payment of such tax. 75620

(4) The taxpayer demonstrates that the full payment was 75621
properly deposited in the mail in sufficient time for the envelope 75622
to be postmarked by the United States postal service on or before 75623
the last day for payment of such tax. A private meter postmark on 75624
an envelope is not a valid postmark for purposes of establishing 75625
the date of payment of such tax. 75626

(5) In cases other than those described in divisions (D)(1) 75627
to (4) of this section, the taxpayer's failure to make timely 75628
payment of the tax is due to reasonable cause and not willful 75629
neglect. 75630

(E) The taxpayer, upon application within sixty days after 75631
the mailing of the county auditor's decision, may request the tax 75632
commissioner to review the denial of the remission of a penalty by 75633
the county auditor. The application may be filed in person or by 75634
certified mail. If the application is filed by certified mail, the 75635
date of the United States postmark placed on the sender's receipt 75636
by the postal service shall be treated as the date of filing. The 75637
commissioner shall consider the application, determine whether the 75638
penalty should be remitted, and certify the determination to the 75639
taxpayer and to the county treasurer and county auditor, who shall 75640
correct the tax list and duplicate accordingly. The commissioner 75641
may issue orders and instructions for the uniform implementation 75642
of this section by all county auditors and county treasurers, and 75643
such orders and instructions shall be followed by such officers. 75644

Sec. 5715.251. The county auditor may appeal to the board of 75645
tax appeals any determination of change in the abstract of real 75646
property of a taxing district in ~~his~~ the auditor's county that is 75647
made by the tax commissioner under section 5715.24 of the Revised 75648
Code. The appeal shall be taken within thirty days after receipt 75649
of the statement by the county auditor of the commissioner's 75650

determination by the filing by the county auditor of a notice of appeal with the board and the commissioner. Such notice of appeal shall set forth the determination of the commissioner appealed from and the errors therein complained of. Proof of the filing of such notice with the commissioner shall be filed with the board. The board shall have exclusive jurisdiction of the appeal.

In all such appeals the commissioner shall be made appellee. Unless waived, notice of the appeal shall be served upon the commissioner by certified mail. The prosecuting attorney shall represent the county auditor in such an appeal.

The commissioner, upon written demand filed by the county auditor, shall within thirty days after the filing of such demand file with the board a certified transcript of the record of the commissioner's proceedings pertaining to the determination complained of and the evidence ~~he~~ the commissioner considered in making such determination.

If upon hearing and consideration of such record and evidence the board decides that the determination appealed from is reasonable and lawful, it shall affirm the same, but if the board decides that such determination is unreasonable or unlawful, the board shall reverse and vacate the determination or modify it and enter final order in accordance with such modification.

The secretary of the board shall ~~certify~~ send the order of the board to the county auditor and to the commissioner, and they shall take such action in connection therewith as is required to give effect to the order of the board.

Sec. 5715.26. (A)(1) Upon receiving the statement required by section 5715.25 of the Revised Code, the county auditor shall forthwith add to or deduct from each tract, lot, or parcel of real property or class of real property the required percentage or amount of the valuation thereof, adding or deducting any sum less

than five dollars so that the value of any separate tract, lot, or parcel of real property shall be ten dollars or some multiple thereof. 75682
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(2) ~~When he has made~~ After making the additions or deductions required by this section, the auditor shall transmit to the tax commissioner the appropriate adjusted abstract of the real property of each taxing district in ~~his~~ the auditor's county in which an adjustment was required. 75685
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(3) If the commissioner increases or decreases the aggregate value of the real property or any class thereof in any county or taxing district thereof and does not receive within ninety days thereafter an adjusted abstract conforming to its statement for such county or taxing district therein, ~~he~~ the commissioner shall withhold from such county or taxing district therein fifty per cent of its share in the distribution of state revenues to local governments pursuant to sections 5747.50 to 5747.55 of the Revised Code and shall direct the department of education to withhold therefrom fifty per cent of state revenues to school districts pursuant to ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code. The commissioner shall withhold the distribution of such funds until such county auditor has complied with this division, and the department shall withhold the distribution of such funds until the commissioner has notified the department that such county auditor has complied with this division. 75690
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(B)(1) If the commissioner's determination is appealed under section 5715.251 of the Revised Code, the county auditor, treasurer, and all other officers shall forthwith proceed with the levy and collection of the current year's taxes in the manner prescribed by law. The taxes shall be determined and collected as if the commissioner had determined under section 5715.24 of the Revised Code that the real property and the various classes thereof in the county as shown in the auditor's abstract were 75706
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assessed for taxation and the true and agricultural use values 75714
were recorded on the agricultural land tax list as required by 75715
law. 75716

(2) If as a result of the appeal to the board it is finally 75717
determined either that all real property and the various classes 75718
thereof have not been assessed as required by law or that the 75719
values set forth in the agricultural land tax list do not 75720
correctly reflect the true and agricultural use values of the 75721
lands contained therein, the county auditor shall forthwith add to 75722
or deduct from each tract, lot, or parcel of real property or 75723
class of real property the required percentage or amount of the 75724
valuation in accordance with the order of the board or judgment of 75725
the court to which the board's order was appealed, and the taxes 75726
on each tract, lot, or parcel and the percentages required by 75727
section 319.301 of the Revised Code shall be recomputed using the 75728
valuation as finally determined. The order or judgment making the 75729
final determination shall prescribe the time and manner for 75730
collecting, crediting, or refunding the resultant increases or 75731
decreases in taxes. 75732

Sec. 5717.03. (A) A decision of the board of tax appeals on 75733
an appeal filed with it pursuant to section 5717.01, 5717.011, or 75734
5717.02 of the Revised Code shall be entered of record on the 75735
journal together with the date when the order is filed with the 75736
secretary for journalization. 75737

(B) In case of an appeal from a decision of a county board of 75738
revision, the board of tax appeals shall determine the taxable 75739
value of the property whose valuation or assessment by the county 75740
board of revision is complained of, or in the event the complaint 75741
and appeal is against a discriminatory valuation, shall determine 75742
a valuation which shall correct such discrimination, and shall 75743
determine the liability of the property for taxation, if that 75744

question is in issue, and the board of tax ~~appeals's~~ appeals' 75745
decision and the date when it was filed with the secretary for 75746
journalization shall be ~~certified~~ sent by the board ~~by certified~~ 75747
~~mail~~ to all persons who were parties to the appeal before the 75748
board, to the person in whose name the property is listed, or 75749
sought to be listed, if such person is not a party to the appeal, 75750
to the county auditor of the county in which the property involved 75751
in the appeal is located, and to the tax commissioner. 75752

In correcting a discriminatory valuation, the board of tax 75753
appeals shall increase or decrease the value of the property whose 75754
valuation or assessment by the county board of revision is 75755
complained of by a per cent or amount which will cause such 75756
property to be listed and valued for taxation by an equal and 75757
uniform rule. 75758

(C) In the case of an appeal from a review, redetermination, 75759
or correction of a tax assessment, valuation, determination, 75760
finding, computation, or order of the tax commissioner, the order 75761
of the board of tax appeals and the date of the entry thereof upon 75762
its journal shall be ~~certified~~ sent by the board ~~by certified mail~~ 75763
to all persons who were parties to the appeal before the board, 75764
the person in whose name the property is listed or sought to be 75765
listed, if the decision determines the valuation or liability of 75766
property for taxation and if such person is not a party to the 75767
appeal, the taxpayer or other person to whom notice of the tax 75768
assessment, valuation, determination, finding, computation, or 75769
order, or correction or redetermination thereof, by the tax 75770
commissioner was by law required to be given, the director of 75771
budget and management, if the revenues affected by such decision 75772
would accrue primarily to the state treasury, and the county 75773
auditors of the counties to the undivided general tax funds of 75774
which the revenues affected by such decision would primarily 75775
accrue. 75776

(D) In the case of an appeal from a municipal board of appeal created under section 718.11 of the Revised Code, the order of the board of tax appeals and the date of the entry thereof upon the board's journal shall be ~~certified sent~~ sent by the board ~~by certified mail~~ to all persons who were parties to the appeal before the board.

(E) In the case of all other appeals or applications filed with and determined by the board, the board's order and the date when the order was filed by the secretary for journalization shall be ~~certified sent~~ sent by the board ~~by certified mail~~ to the person who is a party to such appeal or application, to such persons as the law requires, and to such other persons as the board deems proper.

(F) The orders of the board may affirm, reverse, vacate, modify, or remand the tax assessments, valuations, determinations, findings, computations, or orders complained of in the appeals determined by the board, and the board's decision shall become final and conclusive for the current year unless reversed, vacated, or modified as provided in section 5717.04 of the Revised Code. When an order of the board becomes final the tax commissioner and all officers to whom such decision has been ~~certified sent~~ sent shall make the changes in their tax lists or other records which the decision requires.

(G) If the board finds that issues not raised on the appeal are important to a determination of a controversy, the board may remand the cause for an administrative determination and the issuance of a new tax assessment, valuation, determination, finding, computation, or order, unless the parties stipulate to the determination of such other issues without remand. An order remanding the cause is a final order. If the order relates to any issue other than a municipal income tax matter appealed under sections 718.11 and 5717.011 of the Revised Code, the order may be appealed to the court of appeals in Franklin county. If the order

relates to a municipal income tax matter appealed under sections 75809
718.11 and 5717.011 of the Revised Code, the order may be appealed 75810
to the court of appeals for the county in which the municipal 75811
corporation in which the dispute arose is primarily situated. 75812

Sec. 5717.04. The proceeding to obtain a reversal, vacation, 75813
or modification of a decision of the board of tax appeals shall be 75814
by appeal to the supreme court or the court of appeals for the 75815
county in which the property taxed is situate or in which the 75816
taxpayer resides. If the taxpayer is a corporation, then the 75817
proceeding to obtain such reversal, vacation, or modification 75818
shall be by appeal to the supreme court or to the court of appeals 75819
for the county in which the property taxed is situate, or the 75820
county of residence of the agent for service of process, tax 75821
notices, or demands, or the county in which the corporation has 75822
its principal place of business. In all other instances, the 75823
proceeding to obtain such reversal, vacation, or modification 75824
shall be by appeal to the court of appeals for Franklin county. 75825

Appeals from decisions of the board determining appeals from 75826
decisions of county boards of revision may be instituted by any of 75827
the persons who were parties to the appeal before the board of tax 75828
appeals, by the person in whose name the property involved in the 75829
appeal is listed or sought to be listed, if such person was not a 75830
party to the appeal before the board of tax appeals, or by the 75831
county auditor of the county in which the property involved in the 75832
appeal is located. 75833

Appeals from decisions of the board of tax appeals 75834
determining appeals from final determinations by the tax 75835
commissioner of any preliminary, amended, or final tax 75836
assessments, reassessments, valuations, determinations, findings, 75837
computations, or orders made by the commissioner may be instituted 75838
by any of the persons who were parties to the appeal or 75839

application before the board, by the person in whose name the 75840
property is listed or sought to be listed, if the decision 75841
appealed from determines the valuation or liability of property 75842
for taxation and if any such person was not a party to the appeal 75843
or application before the board, by the taxpayer or any other 75844
person to whom the decision of the board appealed from was by law 75845
required to be ~~certified~~ sent, by the director of budget and 75846
management, if the revenue affected by the decision of the board 75847
appealed from would accrue primarily to the state treasury, by the 75848
county auditor of the county to the undivided general tax funds of 75849
which the revenues affected by the decision of the board appealed 75850
from would primarily accrue, or by the tax commissioner. 75851

Appeals from decisions of the board upon all other appeals or 75852
applications filed with and determined by the board may be 75853
instituted by any of the persons who were parties to such appeal 75854
or application before the board, by any persons to whom the 75855
decision of the board appealed from was by law required to be 75856
~~certified~~ sent, or by any other person to whom the board ~~certified~~ 75857
sent the decision appealed from, as authorized by section 5717.03 75858
of the Revised Code. 75859

Such appeals shall be taken within thirty days after the date 75860
of the entry of the decision of the board on the journal of its 75861
proceedings, as provided by such section, by the filing by 75862
appellant of a notice of appeal with the court to which the appeal 75863
is taken and the board. If a timely notice of appeal is filed by a 75864
party, any other party may file a notice of appeal within ten days 75865
of the date on which the first notice of appeal was filed or 75866
within the time otherwise prescribed in this section, whichever is 75867
later. A notice of appeal shall set forth the decision of the 75868
board appealed from and the errors therein complained of. Proof of 75869
the filing of such notice with the board shall be filed with the 75870
court to which the appeal is being taken. The court in which 75871

notice of appeal is first filed shall have exclusive jurisdiction 75872
of the appeal. 75873

In all such appeals the tax commissioner or all persons to 75874
whom the decision of the board appealed from is required by such 75875
section to be ~~certified~~ sent, other than the appellant, shall be 75876
made appellees. Unless waived, notice of the appeal shall be 75877
served upon all appellees by certified mail. The prosecuting 75878
attorney shall represent the county auditor in any such appeal in 75879
which the auditor is a party. 75880

The board, upon written demand filed by an appellant, shall 75881
within thirty days after the filing of such demand file with the 75882
court to which the appeal is being taken a certified transcript of 75883
the record of the proceedings of the board pertaining to the 75884
decision complained of and the evidence considered by the board in 75885
making such decision. 75886

If upon hearing and consideration of such record and evidence 75887
the court decides that the decision of the board appealed from is 75888
reasonable and lawful it shall affirm the same, but if the court 75889
decides that such decision of the board is unreasonable or 75890
unlawful, the court shall reverse and vacate the decision or 75891
modify it and enter final judgment in accordance with such 75892
modification. 75893

The clerk of the court shall certify the judgment of the 75894
court to the board, which shall certify such judgment to such 75895
public officials or take such other action in connection therewith 75896
as is required to give effect to the decision. The "taxpayer" 75897
includes any person required to return any property for taxation. 75898

Any party to the appeal shall have the right to appeal from 75899
the judgment of the court of appeals on questions of law, as in 75900
other cases. 75901

Sec. 5725.18. (A) An annual franchise tax on the privilege of being an insurance company is hereby levied on each domestic insurance company. In the month of May, annually, the treasurer of state shall charge for collection from each domestic insurance company a franchise tax in the amount computed in accordance with the following, as applicable:

(1) With respect to a domestic insurance company that is a health insuring corporation, one per cent of all premium rate payments received, exclusive of payments received under the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, ~~or pursuant to the medical assistance program established under Chapter 5111. of the Revised Code,~~ as reflected in its annual report for the preceding calendar year;

(2) With respect to a domestic insurance company that is not a health insuring corporation, one and four-tenths per cent of the gross amount of premiums received from policies covering risks within this state, exclusive of premiums received under the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, ~~or pursuant to the medical assistance program established under Chapter 5111. of the Revised Code,~~ as reflected in its annual statement for the preceding calendar year, and, if the company operates a health insuring corporation as a line of business, one per cent of all premium rate payments received from that line of business, exclusive of payments received under the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, ~~or pursuant to the medical assistance program established under Chapter 5111. of the Revised Code,~~ as reflected in its annual statement for the preceding calendar year.

(B) The gross amount of premium rate payments or premiums 75933
used to compute the applicable tax in accordance with division (A) 75934
of this section is subject to the deductions prescribed by section 75935
5729.03 of the Revised Code for foreign insurance companies. The 75936
objects of such tax are those declared in section 5725.24 of the 75937
Revised Code, to which only such tax shall be applied. 75938

(C) In no case shall such tax be less than two hundred fifty 75939
dollars. 75940

Sec. 5725.25. (A) The real estate of a domestic insurance 75941
company shall be taxed in the place where it is located, the same 75942
as the real estate of other persons is taxed, but the tax provided 75943
for by sections 5725.01 to 5725.26 of the Revised Code, shall be 75944
in lieu of all other taxes on the other property and assets of 75945
such domestic insurance company, except as provided in division 75946
(B) of this section, and of all other taxes, charges, and excises 75947
on such domestic insurance companies except taxes on transactions 75948
that are sales by a medicaid health insuring corporation under 75949
division (B)(11) of section 5739.01 of the Revised Code, and all 75950
other taxes on the stockholders, members, or policyholders of such 75951
company by reason of their stock or other interest in such 75952
insurance company, except as to annuities or the right to receive 75953
the proceeds of a policy payable after its maturity in 75954
installments, or left with the company at interest. Sections 75955
5725.01 to 5725.26 of the Revised Code do not assess any tax on 75956
any foreign insurance company or affect any tax on a foreign 75957
insurance company under any laws of this state. 75958

(B) Tangible personal property taxable under Chapter 5711. of 75959
the Revised Code shall be subject to taxation if it is owned by a 75960
domestic insurance company and leased or held for the purpose of 75961
leasing to a person other than an insurance company for use in 75962
business. 75963

(C) For reports required to be filed under section 5725.14 of the Revised Code in 2003 and thereafter, nothing in this section shall be construed to exempt the property of any dealer in intangibles under section 5725.13 of the Revised Code from the tax imposed under section 5707.03 of the Revised Code.

Sec. 5725.33. (A) Except as otherwise provided in this section, terms used in this section have the same meaning as section 45D of the Internal Revenue Code.

As used in this section:

(1) "Adjusted purchase price" means the amount paid for qualified equity investments multiplied by the qualified low-income community investments held by the issuer in this state as a percentage of the total amount of qualified low-income community investments held by the issuer in all states on the credit allowance date during the applicable tax year, subject to divisions (B)(1) and (2) of this section.

(2) "Applicable percentage" means zero per cent for each of the first two credit allowance dates, seven per cent for the third credit allowance date, and eight per cent for the four following credit allowance dates.

(3) "Credit allowance date" means the date, on or after January 1, 2010, a qualified equity investment is made and each of the six anniversary dates thereafter. For qualified equity investments made after the effective date of this section but before January 1, 2010, the initial credit allowance date is January 1, 2010, and each of the six anniversary dates thereafter is on the first day of January of each year.

(4) "Long-term debt security" means any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date at least seven years

after the date of its issuance. The debt instrument shall not 75994
provide for acceleration of repayment, amortization, or prepayment 75995
features prior to its original maturity date, or for distribution, 75996
payment, or interest features related to profitability of the 75997
qualified community development entity or the performance of the 75998
qualified community development entity's investment portfolio, 75999
except for provisions permitting the instrument's holder to 76000
accelerate payments on the instrument if the issuer defaults on 76001
covenants designed to ensure compliance with this section or 76002
section 45D of the Internal Revenue Code. 76003

(5) "Qualified active low-income community business" excludes 76004
any business that derives or projects to derive fifteen per cent 76005
or more of annual revenue from the rental or sale of real 76006
property. 76007

(6) "Qualified community development entity" includes only 76008
entities that have entered into an allocation agreement with the 76009
community development financial institutions fund of the United 76010
States department of the treasury with respect to credits 76011
authorized by section 45D of the Internal Revenue Code and whose 76012
service area includes this state. 76013

(7) "Qualified equity investment" is limited to an equity 76014
investment in, or long-term debt security issued by, a qualified 76015
community development entity that: 76016

(a) Is acquired after the effective date of the enactment of 76017
this section at its original issuance solely in exchange for cash; 76018
76019

(b) Has at least eighty-five per cent of its cash purchase 76020
price used by the issuer to make qualified low-income community 76021
investments; and 76022

(c) Is designated by the issuer as a qualified equity 76023
investment. 76024

"Qualified equity investment" includes any equity investment that would, but for division (A)(7)(a) of this section, be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5725.18 of the Revised Code for an insurance company holding a qualified equity investment on the credit allowance date occurring in the calendar year for which the tax is due. The credit shall equal the applicable percentage of the adjusted purchase price of qualified low-income community investments, subject to divisions (B)(1) and (2) of this section:

(1) For the purpose of calculating the amount of qualified low-income community investments held by an issuer, an investment shall be considered held by an issuer even if the investment has been sold or repaid, provided that the issuer reinvests an amount equal to the capital returned to or recovered by the issuer from the original investment, exclusive of any profits realized, in another qualified low-income community investment within twelve months of the receipt of such capital, unless the investment is sold or repaid after the sixth anniversary of the issuance of the qualified equity investment. If the qualified low-income community investment is sold or repaid after the sixth anniversary of the issuance of the qualified equity investment, the qualified low-income community investment shall be considered held by the issuer through the seventh anniversary of the qualified equity investment's issuance.

(2) The qualified low-income community investment held in this state shall equal the sum of the qualified low-income community investments in each qualified active low-income community business, not to exceed one million dollars, in which the qualified community development entity invests, including such

investments in any such businesses related directly or indirectly 76057
to that qualified active low-income community business through 76058
majority ownership or control. 76059

The credit shall be claimed in the order prescribed by 76060
section 5725.98 of the Revised Code. If the amount of the credit 76061
exceeds the amount of tax otherwise due after deducting all other 76062
credits in that order, the excess may be carried forward and 76063
applied to the tax due for not more than four ensuing years. 76064

(C) The amount of qualified equity investments on the basis 76065
of which credits may be claimed under this section and sections 76066
5729.16 and 5733.58 of the Revised Code shall not exceed the 76067
amount, estimated by the director of development, that would cause 76068
the total amount of credits allowed each fiscal year to exceed ten 76069
million dollars, computed without regard to the potential for 76070
taxpayers to carry tax credits forward to later years. 76071

76072

(D) The issuer of a qualified equity investment shall certify 76073
to the director of development the anticipated dollar amount of 76074
qualified low-income community investments to be made during the 76075
first twelve-month period following the initial credit allowance 76076
date. On the second credit allowance date, the director shall 76077
increase or decrease the credits allowed for such investments as 76078
necessary to account for differences between the actual dollar 76079
amount of such investments and the anticipated amount certified by 76080
the issuer. 76081

(E) If any amount of the federal tax credit allowed for a 76082
qualified equity investment for which a credit was received under 76083
this section is recaptured under section 45D of the Internal 76084
Revenue Code, or if the issuer of a qualified equity investment 76085
for which a credit was claimed under this section redeems or 76086
repays principal of the investment before the seventh anniversary 76087
of its issuance, all or a portion of the credit received on 76088

account of that investment shall be paid by the insurance company 76089
that received the credit to the superintendent of insurance. The 76090
amount to be recovered shall be determined by the director of 76091
development pursuant to rules adopted under division (F) of this 76092
section. The director shall certify any amount due under this 76093
division to the superintendent of insurance, and the 76094
superintendent shall notify the insurance company of the amount 76095
due. The amount due is payable not later than thirty days after 76096
the day the superintendent issues the notice. The amount due shall 76097
be considered to be tax due under section 5725.18 of the Revised 76098
Code, and may be collected by assessment as prescribed by section 76099
5725.222 of the Revised Code. All amounts collected under this 76100
division shall be credited as revenue from the tax levied under 76101
section 5725.18 of the Revised Code. 76102

(F) The director of development, pursuant to Chapter 119. of 76103
the Revised Code, shall adopt rules for the administration of this 76104
section and sections 5729.16 and 5733.58 of the Revised Code. The 76105
rules shall provide for determining the recovery of credits under 76106
division (E) of this section, division (E) of section 5729.16, and 76107
section 5733.58 of the Revised Code, including prorating the 76108
amount of the credit to be recovered on any reasonable basis, and 76109
the manner in which credits may be allocated among claimants. The 76110
manner of allocating credits among claimants shall provide that 76111
credits shall be granted in the order in which claimants certify 76112
their anticipated qualified equity investments under division (D) 76113
of this section, division (D) of section 5729.16, and section 76114
5733.58 of the Revised Code. 76115

Sec. 5725.98. (A) To provide a uniform procedure for 76116
calculating the amount of tax imposed by section 5725.18 of the 76117
Revised Code that is due under this chapter, a taxpayer shall 76118
claim any credits and offsets against tax liability to which it is 76119
entitled in the following order: 76120

(1) The credit for an insurance company or insurance company group under section 5729.031 of the Revised Code. 76121
76122

(2) The credit for eligible employee training costs under section 5725.31 of the Revised Code. 76123
76124

(3) The credit for purchasers of qualified low-income community investments under section 5725.33 of the Revised Code; 76125
76126

(4) The job retention credit under section 122.171 of the Revised Code; 76127
76128

(5) The offset of assessments by the Ohio life and health insurance guaranty association permitted by section 3956.20 of the Revised Code. 76129
76130
76131

~~(4)~~(6) The refundable credit for Ohio job creation under section 5725.32 of the Revised Code. 76132
76133

~~(5)~~(7) The refundable credit under section 5729.08 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code. 76134
76135
76136
76137

(B) For any credit except the credits enumerated in divisions (A)~~(4)~~(6) and ~~(5)~~(7) of this section, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year. 76138
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Sec. 5727.84. (A) As used in this section and sections 5727.85, 5727.86, and 5727.87 of the Revised Code: 76147
76148

(1) "School district" means a city, local, or exempted village school district. 76149
76150

(2) "Joint vocational school district" means a joint vocational school district created under section 3311.16 of the Revised Code, and includes a cooperative education school district created under section 3311.52 or 3311.521 of the Revised Code and a county school financing district created under section 3311.50 of the Revised Code.

(3) "Local taxing unit" means a subdivision or taxing unit, as defined in section 5705.01 of the Revised Code, a park district created under Chapter 1545. of the Revised Code, or a township park district established under section 511.23 of the Revised Code, but excludes school districts and joint vocational school districts.

(4) "State education aid," for a school district, means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of state aid amounts computed for the district under divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022; divisions (B), (C), and (D) of section 3317.023; divisions (G), (L), and (N) of section 3317.024; and sections 3317.029, 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of the Revised Code; and the adjustments required by: division (C) of section 3310.08; division (C)(2) of section 3310.41; division (C) of section 3314.08, as that section existed for that fiscal year; division (D)(2) of section 3314.091; division (D) of former section 3314.13; divisions (E), (K), (L), (M), and (N) of section 3317.023; division (C) of section 3317.20; and sections 3313.979 and 3313.981 of the Revised Code. However, when calculating state education aid for a school district for fiscal years 2008 and 2009, include the amount computed for the district under Section 269.20.80 of H.B. 119 of the 127th general assembly, as subsequently amended, instead of division (D) of section 3317.022 of the Revised Code; and include amounts calculated under Section

269.30.80 of ~~this act~~ H.B. 119 of the 127th General Assembly, as 76183
subsequently amended; ~~and account for adjustments under division~~ 76184
~~(C)(2) of section 3310.41 of the Revised Code.~~ 76185

(b) For fiscal year 2010 and for each fiscal year thereafter, 76187
the sum of the amounts computed for the district under sections 76188
3306.12, 3306.13, and 3306.19; division (G) of section 3317.024; 76189
sections 3317.05, 3317.052, and 3317.053 of the Revised Code; and 76190
the adjustments required by division (C)(2) of section 3310.41; 76191
division (D)(2) of section 3314.091; divisions (E), (K), (L), (M), 76192
and (N) of section 3317.023; division (C) of section 3317.20; and 76193
section 3313.979 of the Revised Code. 76194

(5) "State education aid," for a joint vocational school 76195
district, means the following: 76196

(a) For fiscal years prior to fiscal year 2010, the sum of 76197
the state aid amounts computed for the district under division (N) 76198
of section 3317.024 and section 3317.16 of the Revised Code. 76199
However, when calculating state education aid for a joint 76200
vocational school district for fiscal years 2008 and 2009, include 76201
the amount computed for the district under Section 269.30.90 of 76202
H.B. 119 of the 127th general assembly, as subsequently amended. 76203

(b) For fiscal years 2010 and 2011, the amount computed for 76205
the district in accordance with the section of this act entitled 76206
"FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS". 76207

(6) "State education aid offset" means the amount determined 76208
for each school district or joint vocational school district under 76209
division (A)(1) of section 5727.85 of the Revised Code. 76210

(7) "Recognized valuation" has the same meaning as in section 76211
3317.02 of the Revised Code. 76212

(8) "Electric company tax value loss" means the amount 76213

determined under division (D) of this section. 76214

(9) "Natural gas company tax value loss" means the amount 76215
determined under division (E) of this section. 76216

(10) "Tax value loss" means the sum of the electric company 76217
tax value loss and the natural gas company tax value loss. 76218

(11) "Fixed-rate levy" means any tax levied on property other 76219
than a fixed-sum levy. 76220

(12) "Fixed-rate levy loss" means the amount determined under 76221
division (G) of this section. 76222

(13) "Fixed-sum levy" means a tax levied on property at 76223
whatever rate is required to produce a specified amount of tax 76224
money or levied in excess of the ten-mill limitation to pay debt 76225
charges, and includes school district emergency levies imposed 76226
pursuant to section 5705.194 of the Revised Code. 76227

(14) "Fixed-sum levy loss" means the amount determined under 76228
division (H) of this section. 76229

(15) "Consumer price index" means the consumer price index 76230
(all items, all urban consumers) prepared by the bureau of labor 76231
statistics of the United States department of labor. 76232

(B) The kilowatt-hour tax receipts fund is hereby created in 76233
the state treasury and shall consist of money arising from the tax 76234
imposed by section 5727.81 of the Revised Code. All money in the 76235
kilowatt-hour tax receipts fund shall be credited as follows: 76236

(1) Sixty-three per cent shall be credited to the general 76237
revenue fund. 76238

(2) Twenty-five and four-tenths per cent shall be credited to 76239
the school district property tax replacement fund, which is hereby 76240
created in the state treasury for the purpose of making the 76241
payments described in section 5727.85 of the Revised Code. 76242

(3) Eleven and six-tenths per cent shall be credited to the 76243

local government property tax replacement fund, which is hereby 76244
created in the state treasury for the purpose of making the 76245
payments described in section 5727.86 of the Revised Code. 76246

(C) The natural gas tax receipts fund is hereby created in 76247
the state treasury and shall consist of money arising from the tax 76248
imposed by section 5727.811 of the Revised Code. All money in the 76249
fund shall be credited as follows: 76250

(1) Sixty-eight and seven-tenths per cent shall be credited 76251
to the school district property tax replacement fund for the 76252
purpose of making the payments described in section 5727.85 of the 76253
Revised Code. 76254

(2) Thirty-one and three-tenths per cent shall be credited to 76255
the local government property tax replacement fund for the purpose 76256
of making the payments described in section 5727.86 of the Revised 76257
Code. 76258

(D) Not later than January 1, 2002, the tax commissioner 76259
shall determine for each taxing district its electric company tax 76260
value loss, which is the sum of the applicable amounts described 76261
in divisions (D)(1) to (4) of this section: 76262

(1) The difference obtained by subtracting the amount 76263
described in division (D)(1)(b) from the amount described in 76264
division (D)(1)(a) of this section. 76265

(a) The value of electric company and rural electric company 76266
tangible personal property as assessed by the tax commissioner for 76267
tax year 1998 on a preliminary assessment, or an amended 76268
preliminary assessment if issued prior to March 1, 1999, and as 76269
apportioned to the taxing district for tax year 1998; 76270

(b) The value of electric company and rural electric company 76271
tangible personal property as assessed by the tax commissioner for 76272
tax year 1998 had the property been apportioned to the taxing 76273
district for tax year 2001, and assessed at the rates in effect 76274

for tax year 2001. 76275

(2) The difference obtained by subtracting the amount 76276
described in division (D)(2)(b) from the amount described in 76277
division (D)(2)(a) of this section. 76278

(a) The three-year average for tax years 1996, 1997, and 1998 76279
of the assessed value from nuclear fuel materials and assemblies 76280
assessed against a person under Chapter 5711. of the Revised Code 76281
from the leasing of them to an electric company for those 76282
respective tax years, as reflected in the preliminary assessments; 76283

(b) The three-year average assessed value from nuclear fuel 76284
materials and assemblies assessed under division (D)(2)(a) of this 76285
section for tax years 1996, 1997, and 1998, as reflected in the 76286
preliminary assessments, using an assessment rate of twenty-five 76287
per cent. 76288

(3) In the case of a taxing district having a nuclear power 76289
plant within its territory, any amount, resulting in an electric 76290
company tax value loss, obtained by subtracting the amount 76291
described in division (D)(1) of this section from the difference 76292
obtained by subtracting the amount described in division (D)(3)(b) 76293
of this section from the amount described in division (D)(3)(a) of 76294
this section. 76295

(a) The value of electric company tangible personal property 76296
as assessed by the tax commissioner for tax year 2000 on a 76297
preliminary assessment, or an amended preliminary assessment if 76298
issued prior to March 1, 2001, and as apportioned to the taxing 76299
district for tax year 2000; 76300

(b) The value of electric company tangible personal property 76301
as assessed by the tax commissioner for tax year 2001 on a 76302
preliminary assessment, or an amended preliminary assessment if 76303
issued prior to March 1, 2002, and as apportioned to the taxing 76304
district for tax year 2001. 76305

(4) In the case of a taxing district having a nuclear power plant within its territory, the difference obtained by subtracting the amount described in division (D)(4)(b) of this section from the amount described in division (D)(4)(a) of this section, provided that such difference is greater than ten per cent of the amount described in division (D)(4)(a) of this section.

(a) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2005 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2006, and as apportioned to the taxing district for tax year 2005;

(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2006 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2007, and as apportioned to the taxing district for tax year 2006.

(E) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its natural gas company tax value loss, which is the sum of the amounts described in divisions (E)(1) and (2) of this section:

(1) The difference obtained by subtracting the amount described in division (E)(1)(b) from the amount described in division (E)(1)(a) of this section.

(a) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2000, and apportioned to the taxing district for tax year 1999;

(b) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this

section, as assessed by the tax commissioner for tax year 1999 had 76337
the property been apportioned to the taxing district for tax year 76338
2001, and assessed at the rates in effect for tax year 2001. 76339

(2) The difference in the value of current gas obtained by 76340
subtracting the amount described in division (E)(2)(b) from the 76341
amount described in division (E)(2)(a) of this section. 76342

(a) The three-year average assessed value of current gas as 76343
assessed by the tax commissioner for tax years 1997, 1998, and 76344
1999 on a preliminary assessment, or an amended preliminary 76345
assessment if issued prior to March 1, 2001, and as apportioned in 76346
the taxing district for those respective years; 76347

(b) The three-year average assessed value from current gas 76348
under division (E)(2)(a) of this section for tax years 1997, 1998, 76349
and 1999, as reflected in the preliminary assessment, using an 76350
assessment rate of twenty-five per cent. 76351

(F) The tax commissioner may request that natural gas 76352
companies, electric companies, and rural electric companies file a 76353
report to help determine the tax value loss under divisions (D) 76354
and (E) of this section. The report shall be filed within thirty 76355
days of the commissioner's request. A company that fails to file 76356
the report or does not timely file the report is subject to the 76357
penalty in section 5727.60 of the Revised Code. 76358

(G) Not later than January 1, 2002, the tax commissioner 76359
shall determine for each school district, joint vocational school 76360
district, and local taxing unit its fixed-rate levy loss, which is 76361
the sum of its electric company tax value loss multiplied by the 76362
tax rate in effect in tax year 1998 for fixed-rate levies and its 76363
natural gas company tax value loss multiplied by the tax rate in 76364
effect in tax year 1999 for fixed-rate levies. 76365

(H) Not later than January 1, 2002, the tax commissioner 76366
shall determine for each school district, joint vocational school 76367

district, and local taxing unit its fixed-sum levy loss, which is 76368
the amount obtained by subtracting the amount described in 76369
division (H)(2) of this section from the amount described in 76370
division (H)(1) of this section: 76371

(1) The sum of the electric company tax value loss multiplied 76372
by the tax rate in effect in tax year 1998, and the natural gas 76373
company tax value loss multiplied by the tax rate in effect in tax 76374
year 1999, for fixed-sum levies for all taxing districts within 76375
each school district, joint vocational school district, and local 76376
taxing unit. For the years 2002 through 2006, this computation 76377
shall include school district emergency levies that existed in 76378
1998 in the case of the electric company tax value loss, and 1999 76379
in the case of the natural gas company tax value loss, and all 76380
other fixed-sum levies that existed in 1998 in the case of the 76381
electric company tax value loss and 1999 in the case of the 76382
natural gas company tax value loss and continue to be charged in 76383
the tax year preceding the distribution year. For the years 2007 76384
through 2016 in the case of school district emergency levies, and 76385
for all years after 2006 in the case of all other fixed-sum 76386
levies, this computation shall exclude all fixed-sum levies that 76387
existed in 1998 in the case of the electric company tax value loss 76388
and 1999 in the case of the natural gas company tax value loss, 76389
but are no longer in effect in the tax year preceding the 76390
distribution year. For the purposes of this section, an emergency 76391
levy that existed in 1998 in the case of the electric company tax 76392
value loss, and 1999 in the case of the natural gas company tax 76393
value loss, continues to exist in a year beginning on or after 76394
January 1, 2007, but before January 1, 2017, if, in that year, the 76395
board of education levies a school district emergency levy for an 76396
annual sum at least equal to the annual sum levied by the board in 76397
tax year 1998 or 1999, respectively, less the amount of the 76398
payment certified under this division for 2002. 76399

(2) The total taxable value in tax year 1999 less the tax value loss in each school district, joint vocational school district, and local taxing unit multiplied by one-fourth of one mill. 76400
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If the amount computed under division (H) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the fixed-sum levy loss reimbursed pursuant to division (E) of section 5727.85 of the Revised Code or division (A)(2) of section 5727.86 of the Revised Code, and the one-fourth of one mill that is subtracted under division (H)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion of each levy to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit. 76404
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(I) Notwithstanding divisions (D), (E), (G), and (H) of this section, in computing the tax value loss, fixed-rate levy loss, and fixed-sum levy loss, the tax commissioner shall use the greater of the 1998 tax rate or the 1999 tax rate in the case of levy losses associated with the electric company tax value loss, but the 1999 tax rate shall not include for this purpose any tax levy approved by the voters after June 30, 1999, and the tax commissioner shall use the greater of the 1999 or the 2000 tax rate in the case of levy losses associated with the natural gas company tax value loss. 76415
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(J) Not later than January 1, 2002, the tax commissioner shall certify to the department of education the tax value loss determined under divisions (D) and (E) of this section for each taxing district, the fixed-rate levy loss calculated under division (G) of this section, and the fixed-sum levy loss calculated under division (H) of this section. The calculations under divisions (G) and (H) of this section shall separately 76425
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display the levy loss for each levy eligible for reimbursement. 76432

(K) Not later than September 1, 2001, the tax commissioner 76433
shall certify the amount of the fixed-sum levy loss to the county 76434
auditor of each county in which a school district with a fixed-sum 76435
levy loss has territory. 76436

Sec. 5728.12. Any non-resident of this state who accepts the 76437
privilege extended by the laws of this state to non-residents of 76438
operating a commercial car or commercial tractor, which is subject 76439
to the tax levied in section 5728.06 of the Revised Code, or of 76440
having the same operated within this state, and any resident of 76441
this state who operates a commercial car or commercial tractor, 76442
which is subject to the tax levied in section 5728.06 of the 76443
Revised Code, or has the same operated within this state and 76444
subsequently becomes a non-resident or conceals ~~his~~ the person's 76445
whereabouts, makes the secretary of state of the state of Ohio ~~his~~ 76446
the person's agent for the service of process or notice in any 76447
assessment, action or proceeding instituted in this state against 76448
such person out of the failure to pay the taxes imposed ~~upon him~~ 76449
by the provisions of section 5728.06 of the Revised Code. 76450

Such process or notice shall be served, ~~by the officer to~~ 76451
~~whom the same is directed or by the tax commissioner, or by the~~ 76452
~~sheriff of Franklin county, who may be deputized for such purpose~~ 76453
~~by the officer to whom the service is directed, upon the secretary~~ 76454
~~of state by leaving at the office of the secretary of state, at~~ 76455
~~least fifteen days before the return day of such process or~~ 76456
~~notice, a true and attested copy thereof, and by sending to the~~ 76457
~~defendant by registered or certified mail, postage prepaid, a like~~ 76458
~~and true attested copy, with an endorsement thereon of the service~~ 76459
~~upon said secretary of state, addressed to such defendant at his~~ 76460
~~last known address. The registered or certified mail return~~ 76461
~~receipt of such defendant shall be attached to and made a part of~~ 76462

~~the return of such service of process as provided under section 76463
5703.37 of the Revised Code. 76464~~

Sec. 5729.03. (A) If the superintendent of insurance finds 76465
the annual statement required by section 5729.02 of the Revised 76466
Code to be correct, the superintendent shall compute the following 76467
amount, as applicable, of the balance of such gross amount, after 76468
deducting such return premiums and considerations received for 76469
reinsurance, and charge such amount to such company as a tax upon 76470
the business done by it in this state for the period covered by 76471
such annual statement: 76472

(1) If the company is a health insuring corporation, one per 76473
cent of the balance of premium rate payments received, exclusive 76474
of payments received under the medicare program established under 76475
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 76476
U.S.C.A. 301, as amended, ~~or pursuant to the medical assistance 76477
program established under Chapter 5111. of the Revised Code, as 76478
reflected in its annual report; 76479~~

(2) If the company is not a health insuring corporation, one 76480
and four-tenths per cent of the balance of premiums received, 76481
exclusive of premiums received under the medicare program 76482
established under Title XVIII of the "Social Security Act," 49 76483
Stat. 620 (1935), 42 U.S.C.A. 301, as amended, ~~or pursuant to the 76484
medical assistance program established under Chapter 5111. of the 76485
Revised Code, as reflected in its annual statement, and, if the 76486
company operates a health insuring corporation as a line of 76487
business, one per cent of the balance of premium rate payments 76488
received from that line of business, exclusive of payments 76489
received under the medicare program established under Title XVIII 76490
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 76491
301, as amended, ~~or pursuant to the medical assistance program 76492
established under Chapter 5111. of the Revised Code, as reflected 76493~~~~

in its annual statement. 76494

(B) Any insurance policies that were not issued in violation 76495
of Title XXXIX of the Revised Code and that were issued prior to 76496
April 15, 1967, by a life insurance company organized and operated 76497
without profit to any private shareholder or individual, 76498
exclusively for the purpose of aiding educational or scientific 76499
institutions organized and operated without profit to any private 76500
shareholder or individual, are not subject to the tax imposed by 76501
this section. All taxes collected pursuant to this section shall 76502
be credited to the general revenue fund. 76503

(C) In no case shall the tax imposed under this section be 76504
less than two hundred fifty dollars. 76505

Sec. 5729.16. (A) Terms used in this section have the same 76506
meaning as in section 5725.33 of the Revised Code. 76507

(B) There is hereby allowed a nonrefundable credit against 76508
the tax imposed by section 5729.03 of the Revised Code for a 76509
foreign insurance company holding a qualified equity investment on 76510
the credit allowance date occurring in the calendar year for which 76511
the tax is due. The credit shall be computed in the same manner 76512
prescribed for the computation of credits allowed under section 76513
5725.33 of the Revised Code. 76514

The credit shall be claimed in the order prescribed by 76515
section 5729.98 of the Revised Code. If the amount of the credit 76516
exceeds the amount of tax otherwise due after deducting all other 76517
credits in that order, the excess may be carried forward and 76518
applied to the tax due for not more than four ensuing years. 76519

(C) The total amount of qualified equity investments on the 76520
basis of which credits may be claimed under this section, section 76521
5725.33, and section 5733.58 of the Revised Code is subject to the 76522
limitation of division (C) of section 5725.33 of the Revised Code. 76523

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(D) The issuer of a qualified equity investment shall certify 76525
to the director of development the anticipated dollar amount of 76526
qualified low-income community investments to be made during the 76527
first twelve-month period following the initial credit allowance 76528
date. On the second credit allowance date, the director shall 76529
increase or decrease the credits allowed for such investments as 76530
necessary to account for differences between the actual dollar 76531
amount of such investments and the anticipated amount certified by 76532
the issuer. 76533

(E) If any amount of the federal tax credit allowed for a 76534
qualified equity investment for which a credit was received under 76535
this section is recaptured under section 45D of the Internal 76536
Revenue Code, or if the issuer of a qualified equity investment 76537
for which a credit was claimed under this section redeems or 76538
repays principal of the investment before the seventh anniversary 76539
of its issuance, all or a portion of the credit received on 76540
account of that investment shall be paid by the insurance company 76541
that received the credit to the superintendent of insurance. The 76542
amount to be recovered shall be determined by the director of 76543
development pursuant to rules adopted under section 5725.33 of the 76544
Revised Code. The director shall certify any amount due under this 76545
division to the superintendent of insurance, and the 76546
superintendent shall notify the insurance company of the amount 76547
due. The amount due is payable not later than thirty days after 76548
the day the superintendent issues the notice. The amount due shall 76549
be considered to be tax due under section 5729.03 of the Revised 76550
Code, and may be collected by assessment as prescribed by section 76551
5729.102 of the Revised Code. All amounts collected under this 76552
division shall be credited as revenue from the tax levied under 76553
section 5729.03 of the Revised Code. 76554

Sec. 5729.98. (A) To provide a uniform procedure for 76555
calculating the amount of tax due under this chapter, a taxpayer 76556
shall claim any credits and offsets against tax liability to which 76557
it is entitled in the following order: 76558

(1) The credit for an insurance company or insurance company 76559
group under section 5729.031 of the Revised Code. 76560

(2) The credit for eligible employee training costs under 76561
section 5729.07 of the Revised Code. 76562

(3) The credit for purchases of qualified low-income 76563
community investments under section 5729.16 of the Revised Code; 76564

(4) The job retention credit under section 122.171 of the 76565
Revised Code. 76566

(5) The offset of assessments by the Ohio life and health 76567
insurance guaranty association against tax liability permitted by 76568
section 3956.20 of the Revised Code. 76569

~~(4)~~(6) The refundable credit for Ohio job creation under 76570
section 5729.032 of the Revised Code. 76571

~~(5)~~(7) The refundable credit under section 5729.08 of the 76572
Revised Code for losses on loans made under the Ohio venture 76573
capital program under sections 150.01 to 150.10 of the Revised 76574
Code. 76575

(B) For any credit except the credits enumerated in divisions 76576
(A)~~(4)~~(6) and ~~(5)~~(7) of this section, the amount of the credit for 76577
a taxable year shall not exceed the tax due after allowing for any 76578
other credit that precedes it in the order required under this 76579
section. Any excess amount of a particular credit may be carried 76580
forward if authorized under the section creating that credit. 76581
Nothing in this chapter shall be construed to allow a taxpayer to 76582
claim, directly or indirectly, a credit more than once for a 76583
taxable year. 76584

Sec. 5733.01. (A) The tax provided by this chapter for 76585
domestic corporations shall be the amount charged against each 76586
corporation organized for profit under the laws of this state and 76587
each nonprofit corporation organized pursuant to Chapter 1729. of 76588
the Revised Code, except as provided in sections 5733.09 and 76589
5733.10 of the Revised Code, for the privilege of exercising its 76590
franchise during the calendar year in which that amount is 76591
payable, and the tax provided by this chapter for foreign 76592
corporations shall be the amount charged against each corporation 76593
organized for profit and each nonprofit corporation organized or 76594
operating in the same or similar manner as nonprofit corporations 76595
organized under Chapter 1729. of the Revised Code, under the laws 76596
of any state or country other than this state, except as provided 76597
in sections 5733.09 and 5733.10 of the Revised Code, for the 76598
privilege of doing business in this state, owning or using a part 76599
or all of its capital or property in this state, holding a 76600
certificate of compliance with the laws of this state authorizing 76601
it to do business in this state, or otherwise having nexus in or 76602
with this state under the Constitution of the United States, 76603
during the calendar year in which that amount is payable. 76604

(B) A corporation is subject to the tax imposed by section 76605
5733.06 of the Revised Code for each calendar year that it is so 76606
organized, doing business, owning or using a part or all of its 76607
capital or property, holding a certificate of compliance, or 76608
otherwise having nexus in or with this state under the 76609
Constitution of the United States, on the first day of January of 76610
that calendar year. 76611

(C) Any corporation subject to this chapter that is not 76612
subject to the federal income tax shall file its returns and 76613
compute its tax liability as required by this chapter in the same 76614
manner as if that corporation were subject to the federal income 76615
tax. 76616

(D) For purposes of this chapter, a federally chartered financial institution shall be deemed to be organized under the laws of the state within which its principal office is located.

(E) For purposes of this chapter, any person, as defined in section 5701.01 of the Revised Code, shall be treated as a corporation if the person is classified for federal income tax purposes as an association taxable as a corporation, and an equity interest in the person shall be treated as capital stock of the person.

(F) For the purposes of this chapter, "disregarded entity" has the same meaning as in division (D) of section 5745.01 of the Revised Code.

(1) A person's interest in a disregarded entity, whether held directly or indirectly, shall be treated as the person's ownership of the assets and liabilities of the disregarded entity, and the income, including gain or loss, shall be included in the person's net income under this chapter.

(2) Any sale, exchange, or other disposition of the person's interest in the disregarded entity, whether held directly or indirectly, shall be treated as a sale, exchange, or other disposition of the person's share of the disregarded entity's underlying assets or liabilities, and the gain or loss from such sale, exchange, or disposition shall be included in the person's net income under this chapter.

(3) The disregarded entity's payroll, property, and sales factors shall be included in the person's factors.

(G) The tax a corporation is required to pay under this chapter shall be as follows:

(1)(a) For financial institutions, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all taxes charged the

financial institution under this chapter, without regard to 76648
division (G)(2) of this section, less any credits allowable 76649
against such tax. 76650

(b) A corporation satisfying the description in division 76651
(E)(5), (6), (7), (8), or (10) of section 5751.01 of the Revised 76652
Code that is not a financial institution, insurance company, or 76653
dealer in intangibles is subject to the taxes imposed under this 76654
chapter as a corporation and not subject to tax as a financial 76655
institution, and shall pay the greater of the minimum payment 76656
required under division (E) of section 5733.06 of the Revised Code 76657
or the difference between all the taxes charged under this 76658
chapter, without regard to division (G)(2) of this section, less 76659
any credits allowable against such tax. 76660

(2) For all corporations other than those persons described 76661
in division (G)(1)(a) or (b) of this section, the amount under 76662
division (G)(2)(a) of this section applicable to the tax year 76663
specified less the amount under division (G)(2)(b) of this 76664
section: 76665

(a)(i) For tax year 2005, the greater of the minimum payment 76666
required under division (E) of section 5733.06 of the Revised Code 76667
or the difference between all taxes charged the corporation under 76668
this chapter and any credits allowable against such tax; 76669

(ii) For tax year 2006, the greater of the minimum payment 76670
required under division (E) of section 5733.06 of the Revised Code 76671
or four-fifths of the difference between all taxes charged the 76672
corporation under this chapter and any credits allowable against 76673
such tax, except the qualifying pass-through entity tax credit 76674
described in division (A)~~(29)~~(30) and the refundable credits 76675
described in divisions (A)~~(30)~~(31) to ~~(34)~~(35) of section 5733.98 76676
of the Revised Code; 76677

(iii) For tax year 2007, the greater of the minimum payment 76678

required under division (E) of section 5733.06 of the Revised Code 76679
or three-fifths of the difference between all taxes charged the 76680
corporation under this chapter and any credits allowable against 76681
such tax, except the qualifying pass-through entity tax credit 76682
described in division (A)~~(29)~~(30) and the refundable credits 76683
described in divisions (A)~~(30)~~(31) to ~~(34)~~(35) of section 5733.98 76684
of the Revised Code; 76685

(iv) For tax year 2008, the greater of the minimum payment 76686
required under division (E) of section 5733.06 of the Revised Code 76687
or two-fifths of the difference between all taxes charged the 76688
corporation under this chapter and any credits allowable against 76689
such tax, except the qualifying pass-through entity tax credit 76690
described in division (A)~~(29)~~(30) and the refundable credits 76691
described in divisions (A)~~(30)~~(31) to ~~(34)~~(35) of section 5733.98 76692
of the Revised Code; 76693

(v) For tax year 2009, the greater of the minimum payment 76694
required under division (E) of section 5733.06 of the Revised Code 76695
or one-fifth of the difference between all taxes charged the 76696
corporation under this chapter and any credits allowable against 76697
such tax, except the qualifying pass-through entity tax credit 76698
described in division (A)~~(29)~~(30) and the refundable credits 76699
described in divisions (A)~~(30)~~, (31), (32), ~~and~~ (33), and (34) of 76700
section 5733.98 of the Revised Code; 76701

(vi) For tax year 2010 and each tax year thereafter, no tax. 76702

(b) A corporation shall subtract from the amount calculated 76703
under division (G)(2)(a)(ii), (iii), (iv), or (v) of this section 76704
any qualifying pass-through entity tax credit described in 76705
division (A)~~(29)~~(30) and any refundable credits described in 76706
divisions (A)~~(30)~~(31) to ~~(34)~~(35) of section 5733.98 of the 76707
Revised Code to which the corporation is entitled. Any unused 76708
qualifying pass-through entity tax credit is not refundable. 76709

(c) For the purposes of computing the amount of a credit that may be carried forward to a subsequent tax year under division (G)(2) of this section, a credit is utilized against the tax for a tax year to the extent the credit applies against the tax for that tax year, even if the difference is then multiplied by the applicable fraction under division (G)(2)(a) of this section.

(3) Nothing in division (G) of this section eliminates or reduces the tax imposed by section 5733.41 of the Revised Code on a qualifying pass-through entity.

Sec. 5733.04. As used in this chapter:

(A) "Issued and outstanding shares of stock" applies to nonprofit corporations, as provided in section 5733.01 of the Revised Code, and includes, but is not limited to, membership certificates and other instruments evidencing ownership of an interest in such nonprofit corporations, and with respect to a financial institution that does not have capital stock, "issued and outstanding shares of stock" includes, but is not limited to, ownership interests of depositors in the capital employed in such an institution.

(B) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code.

(C) "Resident" means a corporation organized under the laws of this state.

(D) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(E) "Taxable year" means the period prescribed by division (A) of section 5733.031 of the Revised Code upon the net income of which the value of the taxpayer's issued and outstanding shares of stock is determined under division (B) of section 5733.05 of the

Revised Code or the period prescribed by division (A) of section 76740
5733.031 of the Revised Code that immediately precedes the date as 76741
of which the total value of the corporation is determined under 76742
division (A) or (C) of section 5733.05 of the Revised Code. 76743

(F) "Tax year" means the calendar year in and for which the 76744
tax imposed by section 5733.06 of the Revised Code is required to 76745
be paid. 76746

(G) "Internal Revenue Code" means the "Internal Revenue Code 76747
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 76748

(H) "Federal income tax" means the income tax imposed by the 76749
Internal Revenue Code. 76750

(I) Except as provided in section 5733.058 of the Revised 76751
Code, "net income" means the taxpayer's taxable income before 76752
operating loss deduction and special deductions, as required to be 76753
reported for the taxpayer's taxable year under the Internal 76754
Revenue Code, subject to the following adjustments: 76755

(1)(a) Deduct any net operating loss incurred in any taxable 76756
years ending in 1971 or thereafter, but exclusive of any net 76757
operating loss incurred in taxable years ending prior to January 76758
1, 1971. This deduction shall not be allowed in any tax year 76759
commencing before December 31, 1973, but shall be carried over and 76760
allowed in tax years commencing after December 31, 1973, until 76761
fully utilized in the next succeeding taxable year or years in 76762
which the taxpayer has net income, but in no case for more than 76763
the designated carryover period as described in division (I)(1)(b) 76764
of this section. The amount of such net operating loss, as 76765
determined under the allocation and apportionment provisions of 76766
section 5733.051 and division (B) of section 5733.05 of the 76767
Revised Code for the year in which the net operating loss occurs, 76768
shall be deducted from net income, as determined under the 76769
allocation and apportionment provisions of section 5733.051 and 76770

division (B) of section 5733.05 of the Revised Code, to the extent 76771
necessary to reduce net income to zero with the remaining unused 76772
portion of the deduction, if any, carried forward to the remaining 76773
years of the designated carryover period as described in division 76774
(I)(1)(b) of this section, or until fully utilized, whichever 76775
occurs first. 76776

(b) For losses incurred in taxable years ending on or before 76777
December 31, 1981, the designated carryover period shall be the 76778
five consecutive taxable years after the taxable year in which the 76779
net operating loss occurred. For losses incurred in taxable years 76780
ending on or after January 1, 1982, and beginning before August 6, 76781
1997, the designated carryover period shall be the fifteen 76782
consecutive taxable years after the taxable year in which the net 76783
operating loss occurs. For losses incurred in taxable years 76784
beginning on or after August 6, 1997, the designated carryover 76785
period shall be the twenty consecutive taxable years after the 76786
taxable year in which the net operating loss occurs. 76787

(c) The tax commissioner may require a taxpayer to furnish 76788
any information necessary to support a claim for deduction under 76789
division (I)(1)(a) of this section and no deduction shall be 76790
allowed unless the information is furnished. 76791

(2) Deduct any amount included in net income by application 76792
of section 78 or 951 of the Internal Revenue Code, amounts 76793
received for royalties, technical or other services derived from 76794
sources outside the United States, and dividends received from a 76795
subsidiary, associate, or affiliated corporation that neither 76796
transacts any substantial portion of its business nor regularly 76797
maintains any substantial portion of its assets within the United 76798
States. For purposes of determining net foreign source income 76799
deductible under division (I)(2) of this section, the amount of 76800
gross income from all such sources other than dividend income and 76801
income derived by application of section 78 or 951 of the Internal 76802

Revenue Code shall be reduced by: 76803

(a) The amount of any reimbursed expenses for personal 76804
services performed by employees of the taxpayer for the 76805
subsidiary, associate, or affiliated corporation; 76806

(b) Ten per cent of the amount of royalty income and 76807
technical assistance fees; 76808

(c) Fifteen per cent of the amount of all other income. 76809

The amounts described in divisions (I)(2)(a) to (c) of this 76810
section are deemed to be the expenses attributable to the 76811
production of deductible foreign source income unless the taxpayer 76812
shows, by clear and convincing evidence, less actual expenses, or 76813
the tax commissioner shows, by clear and convincing evidence, more 76814
actual expenses. 76815

(3) Add any loss or deduct any gain resulting from the sale, 76816
exchange, or other disposition of a capital asset, or an asset 76817
described in section 1231 of the Internal Revenue Code, to the 76818
extent that such loss or gain occurred prior to the first taxable 76819
year on which the tax provided for in section 5733.06 of the 76820
Revised Code is computed on the corporation's net income. For 76821
purposes of division (I)(3) of this section, the amount of the 76822
prior loss or gain shall be measured by the difference between the 76823
original cost or other basis of the asset and the fair market 76824
value as of the beginning of the first taxable year on which the 76825
tax provided for in section 5733.06 of the Revised Code is 76826
computed on the corporation's net income. At the option of the 76827
taxpayer, the amount of the prior loss or gain may be a percentage 76828
of the gain or loss, which percentage shall be determined by 76829
multiplying the gain or loss by a fraction, the numerator of which 76830
is the number of months from the acquisition of the asset to the 76831
beginning of the first taxable year on which the fee provided in 76832
section 5733.06 of the Revised Code is computed on the 76833

corporation's net income, and the denominator of which is the 76834
number of months from the acquisition of the asset to the sale, 76835
exchange, or other disposition of the asset. The adjustments 76836
described in this division do not apply to any gain or loss where 76837
the gain or loss is recognized by a qualifying taxpayer, as 76838
defined in section 5733.0510 of the Revised Code, with respect to 76839
a qualifying taxable event, as defined in that section. 76840

(4) Deduct the dividend received deduction provided by 76841
section 243 of the Internal Revenue Code. 76842

(5) Deduct any interest or interest equivalent on public 76843
obligations and purchase obligations to the extent included in 76844
federal taxable income. As used in divisions (I)(5) and (6) of 76845
this section, "public obligations," "purchase obligations," and 76846
"interest or interest equivalent" have the same meanings as in 76847
section 5709.76 of the Revised Code. 76848

(6) Add any loss or deduct any gain resulting from the sale, 76849
exchange, or other disposition of public obligations to the extent 76850
included in federal taxable income. 76851

(7) To the extent not otherwise allowed, deduct any dividends 76852
or distributions received by a taxpayer from a public utility, 76853
excluding an electric company and a combined company, and, for tax 76854
years 2005 and thereafter, a telephone company, if the taxpayer 76855
owns at least eighty per cent of the issued and outstanding common 76856
stock of the public utility. As used in division (I)(7) of this 76857
section, "public utility" means a public utility as defined in 76858
Chapter 5727. of the Revised Code, whether or not the public 76859
utility is doing business in the state. 76860

(8) To the extent not otherwise allowed, deduct any dividends 76861
received by a taxpayer from an insurance company, if the taxpayer 76862
owns at least eighty per cent of the issued and outstanding common 76863
stock of the insurance company. As used in division (I)(8) of this 76864

section, "insurance company" means an insurance company that is 76865
taxable under Chapter 5725. or 5729. of the Revised Code. 76866

(9) Deduct expenditures for modifying existing buildings or 76867
structures to meet American national standards institute standard 76868
A-117.1-1961 (R-1971), as amended; provided, that no deduction 76869
shall be allowed to the extent that such deduction is not 76870
permitted under federal law or under rules of the tax 76871
commissioner. Those deductions as are allowed may be taken over a 76872
period of five years. The tax commissioner shall adopt rules under 76873
Chapter 119. of the Revised Code establishing reasonable 76874
limitations on the extent that expenditures for modifying existing 76875
buildings or structures are attributable to the purpose of making 76876
the buildings or structures accessible to and usable by physically 76877
handicapped persons. 76878

(10) Deduct the amount of wages and salaries, if any, not 76879
otherwise allowable as a deduction but that would have been 76880
allowable as a deduction in computing federal taxable income 76881
before operating loss deduction and special deductions for the 76882
taxable year, had the targeted jobs credit allowed and determined 76883
under sections 38, 51, and 52 of the Internal Revenue Code not 76884
been in effect. 76885

(11) Deduct net interest income on obligations of the United 76886
States and its territories and possessions or of any authority, 76887
commission, or instrumentality of the United States to the extent 76888
the laws of the United States prohibit inclusion of the net 76889
interest for purposes of determining the value of the taxpayer's 76890
issued and outstanding shares of stock under division (B) of 76891
section 5733.05 of the Revised Code. As used in division (I)(11) 76892
of this section, "net interest" means interest net of any expenses 76893
taken on the federal income tax return that would not have been 76894
allowed under section 265 of the Internal Revenue Code if the 76895
interest were exempt from federal income tax. 76896

(12)(a) Except as set forth in division (I)(12)(d) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions, made by a related entity who is not a taxpayer, of the taxpayer's indirect, beneficial, or constructive investment in the stock or debt of another entity, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related investment in the stock or debt of the other entity. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(b) Except as set forth in division (I)(12)(e) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions made by a related entity who is not a taxpayer, of intangible property other than stock, securities, and debt, if such property was owned, or used in whole or in part, at any time prior to or at the time of the sale, exchange, or disposition by either the taxpayer or by a related entity that was a taxpayer at any time during the related entity's ownership or use of such property, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related ownership or use of such intangible property. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly,

beneficially, or constructively, of the outstanding stock of the 76930
related entity immediately prior to the direct or indirect sale, 76931
exchange, or other disposition. 76932

(c) As used in division (I)(12) of this section, "related 76933
entity" means those entities described in divisions (I)(12)(c)(i) 76934
to (iii) of this section: 76935

(i) An individual stockholder, or a member of the 76936
stockholder's family enumerated in section 318 of the Internal 76937
Revenue Code, if the stockholder and the members of the 76938
stockholder's family own, directly, indirectly, beneficially, or 76939
constructively, in the aggregate, at least fifty per cent of the 76940
value of the taxpayer's outstanding stock; 76941

(ii) A stockholder, or a stockholder's partnership, estate, 76942
trust, or corporation, if the stockholder and the stockholder's 76943
partnerships, estates, trusts, and corporations own directly, 76944
indirectly, beneficially, or constructively, in the aggregate, at 76945
least fifty per cent of the value of the taxpayer's outstanding 76946
stock; 76947

(iii) A corporation, or a party related to the corporation in 76948
a manner that would require an attribution of stock from the 76949
corporation to the party or from the party to the corporation 76950
under division (I)(12)(c)(iv) of this section, if the taxpayer 76951
owns, directly, indirectly, beneficially, or constructively, at 76952
least fifty per cent of the value of the corporation's outstanding 76953
stock. 76954

(iv) The attribution rules of section 318 of the Internal 76955
Revenue Code apply for purposes of determining whether the 76956
ownership requirements in divisions (I)(12)(c)(i) to (iii) of this 76957
section have been met. 76958

(d) For purposes of the adjustments required by division 76959
(I)(12)(a) of this section, the term "investment in the stock or 76960

debt of another entity" means only those investments where the taxpayer and the taxpayer's related entities directly, beneficially, or constructively own, in the aggregate, at any time during the twenty-four month period commencing one year prior to the direct or indirect sale, exchange, or other disposition of such investment at least fifty per cent or more of the value of either the outstanding stock or such debt of such other entity.

(e) For purposes of the adjustments required by division (I)(12)(b) of this section, the term "related entity" excludes all of the following:

(i) Foreign corporations as defined in section 7701 of the Internal Revenue Code;

(ii) Foreign partnerships as defined in section 7701 of the Internal Revenue Code;

(iii) Corporations, partnerships, estates, and trusts created or organized in or under the laws of the Commonwealth of Puerto Rico or any possession of the United States;

(iv) Foreign estates and foreign trusts as defined in section 7701 of the Internal Revenue Code.

The exclusions described in divisions (I)(12)(e)(i) to (iv) of this section do not apply if the corporation, partnership, estate, or trust is described in any one of divisions (C)(1) to (5) of section 5733.042 of the Revised Code.

(f) Nothing in division (I)(12) of this section shall require or permit a taxpayer to add any gains or deduct any losses described in divisions (I)(12)(f)(i) and (ii) of this section:

(i) Gains or losses recognized for federal income tax purposes by an individual, estate, or trust without regard to the attribution rules described in division (I)(12)(c) of this section;

(ii) A related entity's gains or losses described in division 76991
(I)(12)(b) of this section if the taxpayer's ownership of or use 76992
of such intangible property was limited to a period not exceeding 76993
nine months and was attributable to a transaction or a series of 76994
transactions executed in accordance with the election or elections 76995
made by the taxpayer or a related entity pursuant to section 338 76996
of the Internal Revenue Code. 76997

(13) Any adjustment required by section 5733.042 of the 76998
Revised Code. 76999

(14) Add any amount claimed as a credit under section 77000
5733.0611 of the Revised Code to the extent that such amount 77001
satisfies either of the following: 77002

(a) It was deducted or excluded from the computation of the 77003
corporation's taxable income before operating loss deduction and 77004
special deductions as required to be reported for the 77005
corporation's taxable year under the Internal Revenue Code; 77006

(b) It resulted in a reduction of the corporation's taxable 77007
income before operating loss deduction and special deductions as 77008
required to be reported for any of the corporation's taxable years 77009
under the Internal Revenue Code. 77010

(15) Deduct the amount contributed by the taxpayer to an 77011
individual development account program established by a county 77012
department of job and family services pursuant to sections 329.11 77013
to 329.14 of the Revised Code for the purpose of matching funds 77014
deposited by program participants. On request of the tax 77015
commissioner, the taxpayer shall provide any information that, in 77016
the tax commissioner's opinion, is necessary to establish the 77017
amount deducted under division (I)(15) of this section. 77018

(16) Any adjustment required by section 5733.0510 or 77019
5733.0511 of the Revised Code. 77020

(17)(a)(i) Add five-sixths of the amount of depreciation 77021

expense allowed under subsection (k) of section 168 of the 77022
Internal Revenue Code, including a person's proportionate or 77023
distributive share of the amount of depreciation expense allowed 77024
by that subsection to any pass-through entity in which the person 77025
has direct or indirect ownership. 77026

(ii) Add five-sixths of the amount of qualifying section 179 77027
depreciation expense, including a person's proportionate or 77028
distributive share of the amount of qualifying section 179 77029
depreciation expense allowed to any pass-through entity in which 77030
the person has a direct or indirect ownership. For the purposes of 77031
this division, "qualifying section 179 depreciation expense" means 77032
the difference between (I) the amount of depreciation expense 77033
directly or indirectly allowed to the taxpayer under section 179 77034
of the Internal Revenue Code, and (II) the amount of depreciation 77035
expense directly or indirectly allowed to the taxpayer under 77036
section 179 of the Internal Revenue Code as that section existed 77037
on December 31, 2002. 77038

The tax commissioner, under procedures established by the 77039
commissioner, may waive the add-backs related to a pass-through 77040
entity if the person owns, directly or indirectly, less than five 77041
per cent of the pass-through entity. 77042

(b) Nothing in division (I)(17) of this section shall be 77043
construed to adjust or modify the adjusted basis of any asset. 77044

(c) To the extent the add-back is attributable to property 77045
generating income or loss allocable under section 5733.051 of the 77046
Revised Code, the add-back shall be allocated to the same location 77047
as the income or loss generated by that property. Otherwise, the 77048
add-back shall be apportioned, subject to division (B)(2)(d) of 77049
section 5733.05 of the Revised Code. 77050

(18)(a) If a person is required to make the add-back under 77051
division (I)(17)(a) of this section for a tax year, the person 77052

shall deduct one-fifth of the amount added back for each of the 77053
succeeding five tax years. 77054

(b) If the amount deducted under division (I)(18)(a) of this 77055
section is attributable to an add-back allocated under division 77056
(I)(17)(c) of this section, the amount deducted shall be allocated 77057
to the same location. Otherwise, the amount shall be apportioned 77058
using the apportionment factors for the taxable year in which the 77059
deduction is taken, subject to division (B)(2)(d) of section 77060
5733.05 of the Revised Code. 77061

(J) Except as otherwise expressly provided or clearly 77062
appearing from the context, any term used in this chapter has the 77063
same meaning as when used in a comparable context in the laws of 77064
the United States relating to federal income taxes. Any reference 77065
in this chapter to the Internal Revenue Code includes other laws 77066
of the United States relating to federal income taxes. 77067

(K) "Financial institution" has the meaning given by section 77068
5725.01 of the Revised Code but does not include a production 77069
credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091. 77070

(L)(1) A "qualifying holding company" is any corporation 77071
satisfying all of the following requirements: 77072

(a) Subject to divisions (L)(2) and (3) of this section, the 77073
net book value of the corporation's intangible assets is greater 77074
than or equal to ninety per cent of the net book value of all of 77075
its assets and at least fifty per cent of the net book value of 77076
all of its assets represents direct or indirect investments in the 77077
equity of, loans and advances to, and accounts receivable due from 77078
related members; 77079

(b) At least ninety per cent of the corporation's gross 77080
income for the taxable year is attributable to the following: 77081

(i) The maintenance, management, ownership, acquisition, use, 77082
and disposition of its intangible property, its aircraft the use 77083

of which is not subject to regulation under 14 C.F.R. part 121 or 77084
part 135, and any real property described in division (L)(2)(c) of 77085
this section; 77086

(ii) The collection and distribution of income from such 77087
property. 77088

(c) The corporation is not a financial institution on the 77089
last day of the taxable year ending prior to the first day of the 77090
tax year; 77091

(d) The corporation's related members make a good faith and 77092
reasonable effort to make timely and fully the adjustments 77093
required by division ~~(C)(2)~~(D) of section 5733.05 of the Revised 77094
Code and to pay timely and fully all uncontested taxes, interest, 77095
penalties, and other fees and charges imposed under this chapter; 77096

(e) Subject to division (L)(4) of this section, the 77097
corporation elects to be treated as a qualifying holding company 77098
for the tax year. 77099

A corporation otherwise satisfying divisions (L)(1)(a) to (e) 77100
of this section that does not elect to be a qualifying holding 77101
company is not a qualifying holding company for the purposes of 77102
this chapter. 77103

(2)(a)(i) For purposes of making the ninety per cent 77104
computation under division (L)(1)(a) of this section, the net book 77105
value of the corporation's assets shall not include the net book 77106
value of aircraft or real property described in division 77107
(L)(1)(b)(i) of this section. 77108

(ii) For purposes of making the fifty per cent computation 77109
under division (L)(1)(a) of this section, the net book value of 77110
assets shall include the net book value of aircraft or real 77111
property described in division (L)(1)(b)(i) of this section. 77112

(b)(i) As used in division (L) of this section, "intangible 77113

asset" includes, but is not limited to, the corporation's direct 77114
interest in each pass-through entity only if at all times during 77115
the corporation's taxable year ending prior to the first day of 77116
the tax year the corporation's and the corporation's related 77117
members' combined direct and indirect interests in the capital or 77118
profits of such pass-through entity do not exceed fifty per cent. 77119
If the corporation's interest in the pass-through entity is an 77120
intangible asset for that taxable year, then the distributive 77121
share of any income from the pass-through entity shall be income 77122
from an intangible asset for that taxable year. 77123

(ii) If a corporation's and the corporation's related 77124
members' combined direct and indirect interests in the capital or 77125
profits of a pass-through entity exceed fifty per cent at any time 77126
during the corporation's taxable year ending prior to the first 77127
day of the tax year, "intangible asset" does not include the 77128
corporation's direct interest in the pass-through entity, and the 77129
corporation shall include in its assets its proportionate share of 77130
the assets of any such pass-through entity and shall include in 77131
its gross income its distributive share of the gross income of 77132
such pass-through entity in the same form as was earned by the 77133
pass-through entity. 77134

(iii) A pass-through entity's direct or indirect 77135
proportionate share of any other pass-through entity's assets 77136
shall be included for the purpose of computing the corporation's 77137
proportionate share of the pass-through entity's assets under 77138
division (L)(2)(b)(ii) of this section, and such pass-through 77139
entity's distributive share of any other pass-through entity's 77140
gross income shall be included for purposes of computing the 77141
corporation's distributive share of the pass-through entity's 77142
gross income under division (L)(2)(b)(ii) of this section. 77143

(c) For the purposes of divisions (L)(1)(b)(i), (1)(b)(ii), 77144
(2)(a)(i), and (2)(a)(ii) of this section, real property is 77145

described in division (L)(2)(c) of this section only if all of the 77146
following conditions are present at all times during the taxable 77147
year ending prior to the first day of the tax year: 77148

(i) The real property serves as the headquarters of the 77149
corporation's trade or business, or is the place from which the 77150
corporation's trade or business is principally managed or 77151
directed; 77152

(ii) Not more than ten per cent of the value of the real 77153
property and not more than ten per cent of the square footage of 77154
the building or buildings that are part of the real property is 77155
used, made available, or occupied for the purpose of providing, 77156
acquiring, transferring, selling, or disposing of tangible 77157
property or services in the normal course of business to persons 77158
other than related members, the corporation's employees and their 77159
families, and such related members' employees and their families. 77160

(d) As used in division (L) of this section, "related member" 77161
has the same meaning as in division (A)(6) of section 5733.042 of 77162
the Revised Code without regard to division (B) of that section. 77163

(3) The percentages described in division (L)(1)(a) of this 77164
section shall be equal to the quarterly average of those 77165
percentages as calculated during the corporation's taxable year 77166
ending prior to the first day of the tax year. 77167

(4) With respect to the election described in division 77168
(L)(1)(e) of this section: 77169

(a) The election need not accompany a timely filed report; 77170

(b) The election need not accompany the report; rather, the 77171
election may accompany a subsequently filed but timely application 77172
for refund and timely amended report, or a subsequently filed but 77173
timely petition for reassessment; 77174

(c) The election is not irrevocable; 77175

(d) The election applies only to the tax year specified by the corporation; 77176
77177

(e) The corporation's related members comply with division (L)(1)(d) of this section. 77178
77179

Nothing in division (L)(4) of this section shall be construed to extend any statute of limitations set forth in this chapter. 77180
77181

(M) "Qualifying controlled group" means two or more corporations that satisfy the ownership and control requirements of division (A) of section 5733.052 of the Revised Code. 77182
77183
77184

(N) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state. 77185
77186
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(O) "Pass-through entity" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year under that code, or a partnership, limited liability company, or any other person, other than an individual, trust, or estate, if the partnership, limited liability company, or other person is not classified for federal income tax purposes as an association taxed as a corporation. 77188
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(P) "Electric company," "combined company," and "telephone company" have the same meanings as in section 5727.01 of the Revised Code. 77195
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(Q) "Business income" means income arising from transactions, activities, and sources in the regular course of a trade or business and includes income from real property, tangible personal property, and intangible personal property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other 77198
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disposition of goodwill. 77207

(R) "Nonbusiness income" means all income other than business 77208
income. 77209

Sec. 5733.58. (A) Terms used in this section have the same 77210
meaning as in section 5725.33 of the Revised Code. 77211

(B) There is hereby allowed a nonrefundable credit against 77212
the tax imposed by section 5733.06 of the Revised Code for a 77213
financial institution holding a qualified equity investment on the 77214
credit allowance date occurring in the calendar year immediately 77215
preceding the tax year for which the tax is due. The credit shall 77216
be computed in the same manner prescribed for the computation of 77217
credits allowed under section 5725.33 of the Revised Code. 77218

The credit shall be claimed in the order prescribed by 77219
section 5733.98 of the Revised Code. If the amount of the credit 77220
exceeds the amount of tax otherwise due after deducting all other 77221
credits in that order, the excess may be carried forward and 77222
applied to the tax due for not more than four ensuing tax years. 77223

(C) The total amount of qualified equity investments on the 77224
basis of which credits may be claimed under this section and 77225
sections 5725.33 and 5729.16 of the Revised Code is subject to the 77226
limitation of division (C) of section 5725.33 of the Revised Code. 77227

(D) The issuer of a qualified equity investment shall certify 77228
to the director of development the anticipated dollar amount of 77229
qualified low-income community investments to be made during the 77230
first twelve-month period following the initial credit allowance 77231
date. On the second credit allowance date, the director shall 77232
increase or decrease the credits allowed for such investments as 77233
necessary to account for differences between the actual dollar 77234
amount of such investments and the anticipated amount certified by 77235
the issuer. 77236

(E) If any amount of the federal tax credit allowed for a 77237
qualified equity investment for which a credit was received under 77238
this section is recaptured under section 45D of the Internal 77239
Revenue Code, or if the issuer of a qualified equity investment 77240
for which a credit was claimed under this section redeems or 77241
repays principal of the investment before the seventh anniversary 77242
of its issuance, all or a portion of the credit received on 77243
account of that investment shall be paid by the financial 77244
institution that received the credit to the tax commissioner. The 77245
amount to be recovered shall be determined by the director of 77246
development pursuant to rules adopted under section 5725.33 of the 77247
Revised Code. The director shall certify any amount due under this 77248
division to the tax commissioner, and the commissioner shall 77249
notify the financial institution of the amount due. The amount due 77250
is payable not later than thirty days after the day the 77251
commissioner issues the notice. The amount due shall be considered 77252
to be tax due under section 5733.06 of the Revised Code, and may 77253
be collected by assessment as prescribed by section 5733.11 of the 77254
Revised Code. All amounts collected under this division shall be 77255
credited as revenue from the tax levied under section 5733.06 of 77256
the Revised Code. 77257

Sec. 5733.59. (A) Any term used in this section has the same 77258
meaning as in section 122.85 of the Revised Code. 77259

(B) There is allowed a credit against the tax imposed by 77260
section 5733.06 of the Revised Code for any corporation that is 77261
the certificate owner of a tax credit certificate issued under 77262
section 122.85 of the Revised Code. The credit shall be claimed 77263
for the taxable year in which the certificate is issued by the 77264
director of development. The credit amount equals the amount 77265
stated in the certificate. The credit shall be claimed in the 77266
order required under section 5733.98 of the Revised Code. If the 77267
credit amount exceeds the tax otherwise due under section 5733.06 77268

of the Revised Code after deducting all other credits in that 77269
order, the excess shall be refunded. 77270

(C) If, pursuant to division (G) of section 5733.01 of the 77271
Revised Code, the corporation is not required to pay tax under 77272
this chapter, the corporation may file an annual report under 77273
section 5733.02 of the Revised Code and claim the credit 77274
authorized by this section. Nothing in this section allows a 77275
corporation to claim more than one credit per tax credit-eligible 77276
production. 77277

Sec. 5733.98. (A) To provide a uniform procedure for 77278
calculating the amount of tax imposed by section 5733.06 of the 77279
Revised Code that is due under this chapter, a taxpayer shall 77280
claim any credits to which it is entitled in the following order, 77281
except as otherwise provided in section 5733.058 of the Revised 77282
Code: 77283

(1) For tax year 2005, the credit for taxes paid by a 77284
qualifying pass-through entity allowed under section 5733.0611 of 77285
the Revised Code; 77286

(2) The credit allowed for financial institutions under 77287
section 5733.45 of the Revised Code; 77288

(3) The credit for qualifying affiliated groups under section 77289
5733.068 of the Revised Code; 77290

(4) The subsidiary corporation credit under section 5733.067 77291
of the Revised Code; 77292

(5) The savings and loan assessment credit under section 77293
5733.063 of the Revised Code; 77294

(6) The credit for recycling and litter prevention donations 77295
under section 5733.064 of the Revised Code; 77296

(7) The credit for employers that enter into agreements with 77297
child day-care centers under section 5733.36 of the Revised Code; 77298

(8) The credit for employers that reimburse employee child care expenses under section 5733.38 of the Revised Code;	77299 77300
(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;	77301 77302
(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	77303 77304
(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;	77305 77306
(12) The credit for tax years 2008 and 2009 for selling alternative fuel under section 5733.48 of the Revised Code;	77307 77308
(13) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	77309 77310
(14) The job training credit under section 5733.42 of the Revised Code;	77311 77312
(15) The credit for qualified research expenses under section 5733.351 of the Revised Code;	77313 77314
(16) The enterprise zone credit under section 5709.66 of the Revised Code;	77315 77316
(17) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	77317 77318
(18) The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code;	77319 77320
(19) The ethanol plant investment credit under section 5733.46 of the Revised Code;	77321 77322
(20) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	77323 77324
(21) The export sales credit under section 5733.069 of the Revised Code;	77325 77326
(22) The credit for research and development and technology	77327

transfer investors under section 5733.35 of the Revised Code;	77328
(23) The enterprise zone credits under section 5709.65 of the Revised Code;	77329 77330
(24) The credit for using Ohio coal under section 5733.39 of the Revised Code;	77331 77332
(25) <u>The credit for purchases of qualified low-income community investments under section 5733.58 of the Revised Code;</u>	77333 77334
(26) The credit for small telephone companies under section 5733.57 of the Revised Code;	77335 77336
(26) (27) The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;	77337 77338
(27) (28) For tax year 2005, the credit for providing programs to aid the communicatively impaired under division (A) of section 5733.56 of the Revised Code;	77339 77340 77341
(28) (29) The research and development credit under section 5733.352 of the Revised Code;	77342 77343
(29) (30) For tax years 2006 and subsequent tax years, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;	77344 77345 77346
(30) (31) The refundable credit for rehabilitating a historic building under section 5733.47 of the Revised Code;	77347 77348
(31) (32) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code;	77349 77350
(32) (33) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code;	77351 77352
(33) (34) The refundable credit under section 5733.49 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	77353 77354 77355
(34) (35) For tax years 2006, 2007, and 2008, the refundable	77356

credit allowable under division (B) of section 5733.56 of the Revised Code; 77357
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(36) The refundable motion picture production credit under section 5733.59 of the Revised Code. 77359
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(B) For any credit except the credits enumerated in divisions (A)~~(30)~~(31) to ~~(34)~~(36) of this section, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. 77361
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Sec. 5735.06. (A) On or before the last day of each month, each motor fuel dealer shall file with the tax commissioner a report for the preceding calendar month, on forms prescribed by or in a form acceptable to the tax commissioner. The report shall include the following information: 77368
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(1) An itemized statement of the number of gallons of all motor fuel received during the preceding calendar month by such motor fuel dealer, which has been produced, refined, prepared, distilled, manufactured, blended, or compounded by such motor fuel dealer in the state; 77373
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(2) An itemized statement of the number of gallons of all motor fuel received by such motor fuel dealer in the state from any source during the preceding calendar month, other than motor fuel included in division (A)(1) of this section, together with a statement showing the date of receipt of such motor fuel; the name of the person from whom purchased or received; the date of receipt of each shipment of motor fuel; the point of origin and the point of destination of each shipment; the quantity of each of said purchases or shipments; the name of the carrier; the number of gallons contained in each car if shipped by rail; the point of 77378
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origin, destination, and shipper if shipped by pipe line; or the 77388
name and owner of the boat, barge, or vessel if shipped by water; 77389

(3) An itemized statement of the number of gallons of motor 77390
fuel which such motor fuel dealer has during the preceding 77391
calendar month: 77392

(a) For motor fuel other than gasoline sold for use other 77393
than for operating motor vehicles on the public highways or on 77394
waters within the boundaries of this state; 77395

(b) Exported from this state to any other state or foreign 77396
country as provided in division (A)(4) of section 5735.05 of the 77397
Revised Code; 77398

(c) Sold to the United States government or any of its 77399
agencies; 77400

(d) Sold for delivery to motor fuel dealers; 77401

(e) Sold exclusively for use in the operation of aircraft; 77402

(4) Such other information incidental to the enforcement of 77403
the motor fuel laws of the state as the commissioner requires. 77404

(B) The report shall show the tax due, computed as follows: 77405

(1) The following deductions shall be made from the total 77406
number of gallons of motor fuel received by the motor fuel dealer 77407
within the state during the preceding calendar month: 77408

(a) The total number of gallons of motor fuel received by the 77409
motor fuel dealer within the state and sold or otherwise disposed 77410
of during the preceding calendar month as set forth in section 77411
5735.05 of the Revised Code; 77412

(b) The total number of gallons received during the preceding 77413
calendar month and sold or otherwise disposed of to another 77414
licensed motor fuel dealer pursuant to section 5735.05 of the 77415
Revised Code; 77416

(c) To cover the costs of the motor fuel dealer in compiling the report, and evaporation, shrinkage, or other unaccounted-for losses: 77417
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(i) If the report is timely filed ~~and~~ or the tax is timely paid, three per cent of the total number of gallons of motor fuel received by the motor fuel dealer within the state during the preceding calendar month less the total number of gallons deducted under divisions (B)(1)(a) and (b) of this section, less one per cent of the total number of gallons of motor fuel that were sold to a retail dealer during the preceding calendar month; 77420
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(ii) If the report required by division (A) of this section is not timely filed and the tax is not timely paid, no deduction shall be allowed; 77427
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(iii) If the report is incomplete, no deduction shall be allowed for any fuel on which the tax is not timely reported and paid; 77430
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(2) The number of gallons remaining after the deductions have been made shall be multiplied separately by each of the following amounts: 77433
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(a) The cents per gallon rate; 77436

(b) Two cents. 77437

The sum of the products obtained in divisions (B)(2)(a) and (b) of this section shall be the amount of motor fuel tax for the preceding calendar month. 77438
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(C) The report shall be filed together with payment of the tax shown on the report to be due, unless the motor fuel dealer is required by section 5735.062 of the Revised Code to pay the tax by electronic funds transfer, in which case the dealer shall file the report pursuant to this section and pay the tax pursuant to section 5735.062 of the Revised Code. The commissioner may extend 77441
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the time for filing reports and may remit all or part of penalties 77447
which may become due under sections 5735.01 to 5735.99 of the 77448
Revised Code. For purposes of this section and sections 5735.062 77449
and 5735.12 of the Revised Code, a report required to be filed 77450
under this section is considered filed when it is received by the 77451
tax commissioner, and remittance of the tax due is considered to 77452
be made when the remittance is received by the tax commissioner or 77453
when credited to an account designated by the treasurer of state 77454
and the tax commissioner for the receipt of tax remittances. The 77455
tax commissioner shall immediately forward to the treasurer of 77456
state all amounts received under this section. 77457

(D) The tax commissioner may require a motor fuel dealer to 77458
file a report for a period other than one month. Such a report, 77459
together with payment of the tax, shall be filed not later than 77460
thirty days after the last day of the prescribed reporting period. 77461

(E) No person required by this section to file a tax report 77462
shall file a false or fraudulent tax report or supporting 77463
schedule. 77464

Sec. 5735.142. (A)(1) Any person who uses any motor fuel, on 77465
which the tax imposed by sections 5735.05, 5735.25, and 5735.29 of 77466
the Revised Code has been paid, for the purpose of operating a 77467
transit bus shall be reimbursed in the amount of ~~the~~ such tax paid 77468
on motor fuel used by public transportation systems providing 77469
transit or paratransit service on a regular and continuing basis 77470
within the state; 77471

(2) A city, exempted village, joint vocational, or local 77472
school district or educational service center that purchases any 77473
motor fuel for school district or service center operations, on 77474
which any tax imposed by section 5735.29 of the Revised Code that 77475
became effective on or after July 1, 2003, has been paid, may, if 77476
an application is filed under this section, be reimbursed in the 77477

amount of all but two cents per gallon of the total tax imposed by 77478
such section and paid on motor fuel. 77479

(3) A county board of mental retardation and developmental 77480
disabilities that, on or after July 1, 2005, purchases any motor 77481
fuel for county board operations, on which any tax imposed by 77482
section 5735.29 of the Revised Code has been paid may, if an 77483
application is filed under this section, be reimbursed in the 77484
amount of all but two cents per gallon of the total tax imposed by 77485
such section and paid on motor fuel purchased on or after July 1, 77486
2005. 77487

(B) Such person, school district, educational service center, 77488
or county board shall file with the tax commissioner an 77489
application for refund within one year from the date of purchase, 77490
stating the quantity of fuel used for operating transit buses used 77491
by local transit systems in furnishing scheduled common carrier, 77492
public passenger land transportation service along regular routes 77493
primarily in one or more municipal corporations or for operating 77494
vehicles used for school district, service center, or county board 77495
operations. However, no claim shall be made for the tax on fewer 77496
than one hundred gallons of motor fuel. A school district, 77497
educational service center, or county board shall not apply for a 77498
refund for any tax paid on motor fuel that is sold by the 77499
district, service center, or county board. The application shall 77500
be accompanied by the statement described in section 5735.15 of 77501
the Revised Code showing the purchase, together with evidence of 77502
payment thereof. 77503

(C) After consideration of the application and statement, the 77504
commissioner shall determine the amount of refund to which the 77505
applicant is entitled. If the amount is not less than that 77506
claimed, the commissioner shall certify the amount to the director 77507
of budget and management and treasurer of state for payment from 77508
the tax refund fund created by section 5703.052 of the Revised 77509

Code. If the amount is less than that claimed, the commissioner 77510
shall proceed in accordance with section 5703.70 of the Revised 77511
Code. 77512

The commissioner may require that the application be 77513
supported by the affidavit of the claimant. No refund shall be 77514
authorized or ordered for any single claim for the tax on fewer 77515
than one hundred gallons of motor fuel. No refund shall be 77516
authorized or ordered on motor fuel that is sold by a school 77517
district, educational service center, or county board. 77518

(D) The refund authorized by this section or section 5703.70 77519
of the Revised Code shall be reduced by the cents per gallon 77520
amount of any qualified fuel credit received under section 77521
5735.145 of the Revised Code, as determined by the commissioner, 77522
for each gallon of qualified fuel included in the total gallonage 77523
of motor fuel upon which the refund is computed. 77524

(E) The right to receive any refund under this section or 77525
section 5703.70 of the Revised Code is not assignable. The payment 77526
of this refund shall not be made to any person or entity other 77527
than the person or entity originally entitled thereto who used the 77528
motor fuel upon which the claim for refund is based, except that 77529
the refund when allowed and certified, as provided in this 77530
section, may be paid to the executor, the administrator, the 77531
receiver, the trustee in bankruptcy, or the assignee in insolvency 77532
proceedings of the person. 77533

Sec. 5739.01. As used in this chapter: 77534

(A) "Person" includes individuals, receivers, assignees, 77535
trustees in bankruptcy, estates, firms, partnerships, 77536
associations, joint-stock companies, joint ventures, clubs, 77537
societies, corporations, the state and its political subdivisions, 77538
and combinations of individuals of any form. 77539

(B) "Sale" and "selling" include all of the following 77540
transactions for a consideration in any manner, whether absolutely 77541
or conditionally, whether for a price or rental, in money or by 77542
exchange, and by any means whatsoever: 77543

(1) All transactions by which title or possession, or both, 77544
of tangible personal property, is or is to be transferred, or a 77545
license to use or consume tangible personal property is or is to 77546
be granted; 77547

(2) All transactions by which lodging by a hotel is or is to 77548
be furnished to transient guests; 77549

(3) All transactions by which: 77550

(a) An item of tangible personal property is or is to be 77551
repaired, except property, the purchase of which would not be 77552
subject to the tax imposed by section 5739.02 of the Revised Code; 77553

(b) An item of tangible personal property is or is to be 77554
installed, except property, the purchase of which would not be 77555
subject to the tax imposed by section 5739.02 of the Revised Code 77556
or property that is or is to be incorporated into and will become 77557
a part of a production, transmission, transportation, or 77558
distribution system for the delivery of a public utility service; 77559

(c) The service of washing, cleaning, waxing, polishing, or 77560
painting a motor vehicle is or is to be furnished; 77561

(d) Until August 1, 2003, industrial laundry cleaning 77562
services are or are to be provided and, on and after August 1, 77563
2003, laundry and dry cleaning services are or are to be provided; 77564

(e) Automatic data processing, computer services, or 77565
electronic information services are or are to be provided for use 77566
in business when the true object of the transaction is the receipt 77567
by the consumer of automatic data processing, computer services, 77568
or electronic information services rather than the receipt of 77569

personal or professional services to which automatic data 77570
processing, computer services, or electronic information services 77571
are incidental or supplemental. Notwithstanding any other 77572
provision of this chapter, such transactions that occur between 77573
members of an affiliated group are not sales. An "affiliated 77574
group" means two or more persons related in such a way that one 77575
person owns or controls the business operation of another member 77576
of the group. In the case of corporations with stock, one 77577
corporation owns or controls another if it owns more than fifty 77578
per cent of the other corporation's common stock with voting 77579
rights. 77580

(f) Telecommunications service, including prepaid calling 77581
service, prepaid wireless calling service, or ancillary service, 77582
is or is to be provided, but not including coin-operated telephone 77583
service; 77584

(g) Landscaping and lawn care service is or is to be 77585
provided; 77586

(h) Private investigation and security service is or is to be 77587
provided; 77588

(i) Information services or tangible personal property is 77589
provided or ordered by means of a nine hundred telephone call; 77590

(j) Building maintenance and janitorial service is or is to 77591
be provided; 77592

(k) Employment service is or is to be provided; 77593

(l) Employment placement service is or is to be provided; 77594

(m) Exterminating service is or is to be provided; 77595

(n) Physical fitness facility service is or is to be 77596
provided; 77597

(o) Recreation and sports club service is or is to be 77598
provided; 77599

(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided; 77600
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(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair. 77602
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(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102; 77610
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(s) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle. 77618
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(t) On and after August 1, 2003, snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand dollars in sales of such service during the calendar year. 77622
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(u) Electronic publishing service is or is to be provided to a consumer for use in business, except that such transactions occurring between members of an affiliated group, as defined in 77628
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division (B)(3)(e) of this section, are not sales. 77631

(4) All transactions by which printed, imprinted, 77632
overprinted, lithographic, multilithic, blueprinted, photostatic, 77633
or other productions or reproductions of written or graphic matter 77634
are or are to be furnished or transferred; 77635

(5) The production or fabrication of tangible personal 77636
property for a consideration for consumers who furnish either 77637
directly or indirectly the materials used in the production of 77638
fabrication work; and include the furnishing, preparing, or 77639
serving for a consideration of any tangible personal property 77640
consumed on the premises of the person furnishing, preparing, or 77641
serving such tangible personal property. Except as provided in 77642
section 5739.03 of the Revised Code, a construction contract 77643
pursuant to which tangible personal property is or is to be 77644
incorporated into a structure or improvement on and becoming a 77645
part of real property is not a sale of such tangible personal 77646
property. The construction contractor is the consumer of such 77647
tangible personal property, provided that the sale and 77648
installation of carpeting, the sale and installation of 77649
agricultural land tile, the sale and erection or installation of 77650
portable grain bins, or the provision of landscaping and lawn care 77651
service and the transfer of property as part of such service is 77652
never a construction contract. 77653

As used in division (B)(5) of this section: 77654

(a) "Agricultural land tile" means fired clay or concrete 77655
tile, or flexible or rigid perforated plastic pipe or tubing, 77656
incorporated or to be incorporated into a subsurface drainage 77657
system appurtenant to land used or to be used directly in 77658
production by farming, agriculture, horticulture, or floriculture. 77659
The term does not include such materials when they are or are to 77660
be incorporated into a drainage system appurtenant to a building 77661
or structure even if the building or structure is used or to be 77662

used in such production. 77663

(b) "Portable grain bin" means a structure that is used or to 77664
be used by a person engaged in farming or agriculture to shelter 77665
the person's grain and that is designed to be disassembled without 77666
significant damage to its component parts. 77667

(6) All transactions in which all of the shares of stock of a 77668
closely held corporation are transferred, if the corporation is 77669
not engaging in business and its entire assets consist of boats, 77670
planes, motor vehicles, or other tangible personal property 77671
operated primarily for the use and enjoyment of the shareholders; 77672

(7) All transactions in which a warranty, maintenance or 77673
service contract, or similar agreement by which the vendor of the 77674
warranty, contract, or agreement agrees to repair or maintain the 77675
tangible personal property of the consumer is or is to be 77676
provided; 77677

(8) The transfer of copyrighted motion picture films used 77678
solely for advertising purposes, except that the transfer of such 77679
films for exhibition purposes is not a sale; 77680

(9) On and after August 1, 2003, all transactions by which 77681
tangible personal property is or is to be stored, except such 77682
property that the consumer of the storage holds for sale in the 77683
regular course of business; 77684

(10) All transactions in which "guaranteed auto protection" 77685
is provided whereby a person promises to pay to the consumer the 77686
difference between the amount the consumer receives from motor 77687
vehicle insurance and the amount the consumer owes to a person 77688
holding title to or a lien on the consumer's motor vehicle in the 77689
event the consumer's motor vehicle suffers a total loss under the 77690
terms of the motor vehicle insurance policy or is stolen and not 77691
recovered, if the protection and its price are included in the 77692
purchase or lease agreement; 77693

(11)(a) Except as provided in division (B)(11)(b) of this section, on and after September 1, 2009, all transactions by which health care services are paid for, reimbursed, provided, delivered, arranged for, or otherwise made available by a medicaid health insuring corporation pursuant to the corporation's contract with the state. 77694
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(b) If the centers for medicare and medicaid services of the United States department of health and human services determines that the taxation of transactions described in division (B)(11)(a) of this section constitutes an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as amended, and regulations adopted thereunder, the director of job and family services shall notify the tax commissioner of that determination. Beginning with the first day of the month following that notification, the transactions described in division (B)(11)(a) of this section are not sales for the purposes of this chapter or Chapter 5741. of the Revised Code. The tax commissioner shall order that the collection of taxes under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code shall cease for transactions occurring on or after that date. 77700
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Except as provided in this section, "sale" and "selling" do not include transfers of interest in leased property where the original lessee and the terms of the original lease agreement remain unchanged, or professional, insurance, or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made. 77715
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(C) "Vendor" means the person providing the service or by whom the transfer effected or license given by a sale is or is to be made or given and, for sales described in division (B)(3)(i) of this section, the telecommunications service vendor that provides 77722
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the nine hundred telephone service; if two or more persons are 77726
engaged in business at the same place of business under a single 77727
trade name in which all collections on account of sales by each 77728
are made, such persons shall constitute a single vendor. 77729

Physicians, dentists, hospitals, and veterinarians who are 77730
engaged in selling tangible personal property as received from 77731
others, such as eyeglasses, mouthwashes, dentifrices, or similar 77732
articles, are vendors. Veterinarians who are engaged in 77733
transferring to others for a consideration drugs, the dispensing 77734
of which does not require an order of a licensed veterinarian or 77735
physician under federal law, are vendors. 77736

(D)(1) "Consumer" means the person for whom the service is 77737
provided, to whom the transfer effected or license given by a sale 77738
is or is to be made or given, to whom the service described in 77739
division (B)(3)(f) or (i) of this section is charged, or to whom 77740
the admission is granted. 77741

(2) Physicians, dentists, hospitals, and blood banks operated 77742
by nonprofit institutions and persons licensed to practice 77743
veterinary medicine, surgery, and dentistry are consumers of all 77744
tangible personal property and services purchased by them in 77745
connection with the practice of medicine, dentistry, the rendition 77746
of hospital or blood bank service, or the practice of veterinary 77747
medicine, surgery, and dentistry. In addition to being consumers 77748
of drugs administered by them or by their assistants according to 77749
their direction, veterinarians also are consumers of drugs that 77750
under federal law may be dispensed only by or upon the order of a 77751
licensed veterinarian or physician, when transferred by them to 77752
others for a consideration to provide treatment to animals as 77753
directed by the veterinarian. 77754

(3) A person who performs a facility management, or similar 77755
service contract for a contractee is a consumer of all tangible 77756
personal property and services purchased for use in connection 77757

with the performance of such contract, regardless of whether title 77758
to any such property vests in the contractee. The purchase of such 77759
property and services is not subject to the exception for resale 77760
under division (E)(1) of this section. 77761

(4)(a) In the case of a person who purchases printed matter 77762
for the purpose of distributing it or having it distributed to the 77763
public or to a designated segment of the public, free of charge, 77764
that person is the consumer of that printed matter, and the 77765
purchase of that printed matter for that purpose is a sale. 77766

(b) In the case of a person who produces, rather than 77767
purchases, printed matter for the purpose of distributing it or 77768
having it distributed to the public or to a designated segment of 77769
the public, free of charge, that person is the consumer of all 77770
tangible personal property and services purchased for use or 77771
consumption in the production of that printed matter. That person 77772
is not entitled to claim exemption under division (B)(42)(f) of 77773
section 5739.02 of the Revised Code for any material incorporated 77774
into the printed matter or any equipment, supplies, or services 77775
primarily used to produce the printed matter. 77776

(c) The distribution of printed matter to the public or to a 77777
designated segment of the public, free of charge, is not a sale to 77778
the members of the public to whom the printed matter is 77779
distributed or to any persons who purchase space in the printed 77780
matter for advertising or other purposes. 77781

(5) A person who makes sales of any of the services listed in 77782
division (B)(3) of this section is the consumer of any tangible 77783
personal property used in performing the service. The purchase of 77784
that property is not subject to the resale exception under 77785
division (E)(1) of this section. 77786

(6) A person who engages in highway transportation for hire 77787
is the consumer of all packaging materials purchased by that 77788

person and used in performing the service, except for packaging 77789
materials sold by such person in a transaction separate from the 77790
service. 77791

(7) In the case of a transaction for health care services 77792
under division (B)(11) of this section, a medicaid health insuring 77793
corporation is the consumer of such services. The purchase of such 77794
services by a medicaid health insuring corporation is not subject 77795
to the exception for resale under division (E)(1) of this section 77796
or to the exemptions provided under divisions (B)(12), (18), (19), 77797
and (22) of section 5739.02 of the Revised Code. 77798

(E) "Retail sale" and "sales at retail" include all sales, 77799
except those in which the purpose of the consumer is to resell the 77800
thing transferred or benefit of the service provided, by a person 77801
engaging in business, in the form in which the same is, or is to 77802
be, received by the person. 77803

(F) "Business" includes any activity engaged in by any person 77804
with the object of gain, benefit, or advantage, either direct or 77805
indirect. "Business" does not include the activity of a person in 77806
managing and investing the person's own funds. 77807

(G) "Engaging in business" means commencing, conducting, or 77808
continuing in business, and liquidating a business when the 77809
liquidator thereof holds itself out to the public as conducting 77810
such business. Making a casual sale is not engaging in business. 77811

(H)(1)(a) "Price," except as provided in divisions (H)(2) 77812
~~and~~, (3), and (4) of this section, means the total amount of 77813
consideration, including cash, credit, property, and services, for 77814
which tangible personal property or services are sold, leased, or 77815
rented, valued in money, whether received in money or otherwise, 77816
without any deduction for any of the following: 77817

(i) The vendor's cost of the property sold; 77818

(ii) The cost of materials used, labor or service costs, 77819

interest, losses, all costs of transportation to the vendor, all 77820
taxes imposed on the vendor, including the tax imposed under 77821
Chapter 5751. of the Revised Code, and any other expense of the 77822
vendor; 77823

(iii) Charges by the vendor for any services necessary to 77824
complete the sale; 77825

(iv) On and after August 1, 2003, delivery charges. As used 77826
in this division, "delivery charges" means charges by the vendor 77827
for preparation and delivery to a location designated by the 77828
consumer of tangible personal property or a service, including 77829
transportation, shipping, postage, handling, crating, and packing. 77830

(v) Installation charges; 77831

(vi) Credit for any trade-in. 77832

(b) "Price" includes consideration received by the vendor 77833
from a third party, if the vendor actually receives the 77834
consideration from a party other than the consumer, and the 77835
consideration is directly related to a price reduction or discount 77836
on the sale; the vendor has an obligation to pass the price 77837
reduction or discount through to the consumer; the amount of the 77838
consideration attributable to the sale is fixed and determinable 77839
by the vendor at the time of the sale of the item to the consumer; 77840
and one of the following criteria is met: 77841

(i) The consumer presents a coupon, certificate, or other 77842
document to the vendor to claim a price reduction or discount 77843
where the coupon, certificate, or document is authorized, 77844
distributed, or granted by a third party with the understanding 77845
that the third party will reimburse any vendor to whom the coupon, 77846
certificate, or document is presented; 77847

(ii) The consumer identifies the consumer's self to the 77848
seller as a member of a group or organization entitled to a price 77849
reduction or discount. A preferred customer card that is available 77850

to any patron does not constitute membership in such a group or organization. 77851
77852

(iii) The price reduction or discount is identified as a 77853
third party price reduction or discount on the invoice received by 77854
the consumer, or on a coupon, certificate, or other document 77855
presented by the consumer. 77856

(c) "Price" does not include any of the following: 77857

(i) Discounts, including cash, term, or coupons that are not 77858
reimbursed by a third party that are allowed by a vendor and taken 77859
by a consumer on a sale; 77860

(ii) Interest, financing, and carrying charges from credit 77861
extended on the sale of tangible personal property or services, if 77862
the amount is separately stated on the invoice, bill of sale, or 77863
similar document given to the purchaser; 77864

(iii) Any taxes legally imposed directly on the consumer that 77865
are separately stated on the invoice, bill of sale, or similar 77866
document given to the consumer. For the purpose of this division, 77867
the tax imposed under Chapter 5751. of the Revised Code is not a 77868
tax directly on the consumer, even if the tax or a portion thereof 77869
is separately stated. 77870

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this 77871
section, any discount allowed by an automobile manufacturer to its 77872
employee, or to the employee of a supplier, on the purchase of a 77873
new motor vehicle from a new motor vehicle dealer in this state. 77874

(2) In the case of a sale of any new motor vehicle by a new 77875
motor vehicle dealer, as defined in section 4517.01 of the Revised 77876
Code, in which another motor vehicle is accepted by the dealer as 77877
part of the consideration received, "price" has the same meaning 77878
as in division (H)(1) of this section, reduced by the credit 77879
afforded the consumer by the dealer for the motor vehicle received 77880
in trade. 77881

(3) In the case of a sale of any watercraft or outboard motor 77882
by a watercraft dealer licensed in accordance with section 77883
1547.543 of the Revised Code, in which another watercraft, 77884
watercraft and trailer, or outboard motor is accepted by the 77885
dealer as part of the consideration received, "price" has the same 77886
meaning as in division (H)(1) of this section, reduced by the 77887
credit afforded the consumer by the dealer for the watercraft, 77888
watercraft and trailer, or outboard motor received in trade. As 77889
used in this division, "watercraft" includes an outdrive unit 77890
attached to the watercraft. 77891

(4) In the case of transactions for health care services 77892
under division (B)(11) of this section, "price" means the amount 77893
of managed care premiums received each month by a medicaid health 77894
insuring corporation. 77895

(I) "Receipts" means the total amount of the prices of the 77896
sales of vendors, provided that cash discounts allowed and taken 77897
on sales at the time they are consummated are not included, minus 77898
any amount deducted as a bad debt pursuant to section 5739.121 of 77899
the Revised Code. "Receipts" does not include the sale price of 77900
property returned or services rejected by consumers when the full 77901
sale price and tax are refunded either in cash or by credit. 77902

(J) "Place of business" means any location at which a person 77903
engages in business. 77904

(K) "Premises" includes any real property or portion thereof 77905
upon which any person engages in selling tangible personal 77906
property at retail or making retail sales and also includes any 77907
real property or portion thereof designated for, or devoted to, 77908
use in conjunction with the business engaged in by such person. 77909

(L) "Casual sale" means a sale of an item of tangible 77910
personal property that was obtained by the person making the sale, 77911
through purchase or otherwise, for the person's own use and was 77912

previously subject to any state's taxing jurisdiction on its sale 77913
or use, and includes such items acquired for the seller's use that 77914
are sold by an auctioneer employed directly by the person for such 77915
purpose, provided the location of such sales is not the 77916
auctioneer's permanent place of business. As used in this 77917
division, "permanent place of business" includes any location 77918
where such auctioneer has conducted more than two auctions during 77919
the year. 77920

(M) "Hotel" means every establishment kept, used, maintained, 77921
advertised, or held out to the public to be a place where sleeping 77922
accommodations are offered to guests, in which five or more rooms 77923
are used for the accommodation of such guests, whether the rooms 77924
are in one or several structures. 77925

(N) "Transient guests" means persons occupying a room or 77926
rooms for sleeping accommodations for less than thirty consecutive 77927
days. 77928

(O) "Making retail sales" means the effecting of transactions 77929
wherein one party is obligated to pay the price and the other 77930
party is obligated to provide a service or to transfer title to or 77931
possession of the item sold. "Making retail sales" does not 77932
include the preliminary acts of promoting or soliciting the retail 77933
sales, other than the distribution of printed matter which 77934
displays or describes and prices the item offered for sale, nor 77935
does it include delivery of a predetermined quantity of tangible 77936
personal property or transportation of property or personnel to or 77937
from a place where a service is performed, regardless of whether 77938
the vendor is a delivery vendor. 77939

(P) "Used directly in the rendition of a public utility 77940
service" means that property that is to be incorporated into and 77941
will become a part of the consumer's production, transmission, 77942
transportation, or distribution system and that retains its 77943
classification as tangible personal property after such 77944

incorporation; fuel or power used in the production, transmission, 77945
transportation, or distribution system; and tangible personal 77946
property used in the repair and maintenance of the production, 77947
transmission, transportation, or distribution system, including 77948
only such motor vehicles as are specially designed and equipped 77949
for such use. Tangible personal property and services used 77950
primarily in providing highway transportation for hire are not 77951
used directly in the rendition of a public utility service. In 77952
this definition, "public utility" includes a citizen of the United 77953
States holding, and required to hold, a certificate of public 77954
convenience and necessity issued under 49 U.S.C. 41102. 77955

(Q) "Refining" means removing or separating a desirable 77956
product from raw or contaminated materials by distillation or 77957
physical, mechanical, or chemical processes. 77958

(R) "Assembly" and "assembling" mean attaching or fitting 77959
together parts to form a product, but do not include packaging a 77960
product. 77961

(S) "Manufacturing operation" means a process in which 77962
materials are changed, converted, or transformed into a different 77963
state or form from which they previously existed and includes 77964
refining materials, assembling parts, and preparing raw materials 77965
and parts by mixing, measuring, blending, or otherwise committing 77966
such materials or parts to the manufacturing process. 77967
"Manufacturing operation" does not include packaging. 77968

(T) "Fiscal officer" means, with respect to a regional 77969
transit authority, the secretary-treasurer thereof, and with 77970
respect to a county that is a transit authority, the fiscal 77971
officer of the county transit board if one is appointed pursuant 77972
to section 306.03 of the Revised Code or the county auditor if the 77973
board of county commissioners operates the county transit system. 77974

(U) "Transit authority" means a regional transit authority 77975

created pursuant to section 306.31 of the Revised Code or a county 77976
in which a county transit system is created pursuant to section 77977
306.01 of the Revised Code. For the purposes of this chapter, a 77978
transit authority must extend to at least the entire area of a 77979
single county. A transit authority that includes territory in more 77980
than one county must include all the area of the most populous 77981
county that is a part of such transit authority. County population 77982
shall be measured by the most recent census taken by the United 77983
States census bureau. 77984

(V) "Legislative authority" means, with respect to a regional 77985
transit authority, the board of trustees thereof, and with respect 77986
to a county that is a transit authority, the board of county 77987
commissioners. 77988

(W) "Territory of the transit authority" means all of the 77989
area included within the territorial boundaries of a transit 77990
authority as they from time to time exist. Such territorial 77991
boundaries must at all times include all the area of a single 77992
county or all the area of the most populous county that is a part 77993
of such transit authority. County population shall be measured by 77994
the most recent census taken by the United States census bureau. 77995

(X) "Providing a service" means providing or furnishing 77996
anything described in division (B)(3) of this section for 77997
consideration. 77998

(Y)(1)(a) "Automatic data processing" means processing of 77999
others' data, including keypunching or similar data entry services 78000
together with verification thereof, or providing access to 78001
computer equipment for the purpose of processing data. 78002

(b) "Computer services" means providing services consisting 78003
of specifying computer hardware configurations and evaluating 78004
technical processing characteristics, computer programming, and 78005
training of computer programmers and operators, provided in 78006

conjunction with and to support the sale, lease, or operation of 78007
taxable computer equipment or systems. 78008

(c) "Electronic information services" means providing access 78009
to computer equipment by means of telecommunications equipment for 78010
the purpose of either of the following: 78011

(i) Examining or acquiring data stored in or accessible to 78012
the computer equipment; 78013

(ii) Placing data into the computer equipment to be retrieved 78014
by designated recipients with access to the computer equipment. 78015

For transactions occurring on or after the effective date of 78016
the amendment of this section by H.B. 157 of the 127th general 78017
assembly, December 21, 2007, "electronic information services" 78018
does not include electronic publishing as defined in division 78019
(LLL) of this section. 78020

(d) "Automatic data processing, computer services, or 78021
electronic information services" shall not include personal or 78022
professional services. 78023

(2) As used in divisions (B)(3)(e) and (Y)(1) of this 78024
section, "personal and professional services" means all services 78025
other than automatic data processing, computer services, or 78026
electronic information services, including but not limited to: 78027

(a) Accounting and legal services such as advice on tax 78028
matters, asset management, budgetary matters, quality control, 78029
information security, and auditing and any other situation where 78030
the service provider receives data or information and studies, 78031
alters, analyzes, interprets, or adjusts such material; 78032

(b) Analyzing business policies and procedures; 78033

(c) Identifying management information needs; 78034

(d) Feasibility studies, including economic and technical 78035
analysis of existing or potential computer hardware or software 78036

needs and alternatives; 78037

(e) Designing policies, procedures, and custom software for 78038
collecting business information, and determining how data should 78039
be summarized, sequenced, formatted, processed, controlled, and 78040
reported so that it will be meaningful to management; 78041

(f) Developing policies and procedures that document how 78042
business events and transactions are to be authorized, executed, 78043
and controlled; 78044

(g) Testing of business procedures; 78045

(h) Training personnel in business procedure applications; 78046

(i) Providing credit information to users of such information 78047
by a consumer reporting agency, as defined in the "Fair Credit 78048
Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or 78049
as hereafter amended, including but not limited to gathering, 78050
organizing, analyzing, recording, and furnishing such information 78051
by any oral, written, graphic, or electronic medium; 78052

(j) Providing debt collection services by any oral, written, 78053
graphic, or electronic means. 78054

The services listed in divisions (Y)(2)(a) to (j) of this 78055
section are not automatic data processing or computer services. 78056

(Z) "Highway transportation for hire" means the 78057
transportation of personal property belonging to others for 78058
consideration by any of the following: 78059

(1) The holder of a permit or certificate issued by this 78060
state or the United States authorizing the holder to engage in 78061
transportation of personal property belonging to others for 78062
consideration over or on highways, roadways, streets, or any 78063
similar public thoroughfare; 78064

(2) A person who engages in the transportation of personal 78065
property belonging to others for consideration over or on 78066

highways, roadways, streets, or any similar public thoroughfare 78067
but who could not have engaged in such transportation on December 78068
11, 1985, unless the person was the holder of a permit or 78069
certificate of the types described in division (Z)(1) of this 78070
section; 78071

(3) A person who leases a motor vehicle to and operates it 78072
for a person described by division (Z)(1) or (2) of this section. 78073

(AA)(1) "Telecommunications service" means the electronic 78074
transmission, conveyance, or routing of voice, data, audio, video, 78075
or any other information or signals to a point, or between or 78076
among points. "Telecommunications service" includes such 78077
transmission, conveyance, or routing in which computer processing 78078
applications are used to act on the form, code, or protocol of the 78079
content for purposes of transmission, conveyance, or routing 78080
without regard to whether the service is referred to as voice-over 78081
internet protocol service or is classified by the federal 78082
communications commission as enhanced or value-added. 78083
"Telecommunications service" does not include any of the 78084
following: 78085

(a) Data processing and information services that allow data 78086
to be generated, acquired, stored, processed, or retrieved and 78087
delivered by an electronic transmission to a consumer where the 78088
consumer's primary purpose for the underlying transaction is the 78089
processed data or information; 78090

(b) Installation or maintenance of wiring or equipment on a 78091
customer's premises; 78092

(c) Tangible personal property; 78093

(d) Advertising, including directory advertising; 78094

(e) Billing and collection services provided to third 78095
parties; 78096

(f) Internet access service;	78097
(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;	78098 78099 78100 78101 78102 78103 78104 78105
(h) Ancillary service;	78106
(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.	78107 78108
(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:	78109 78110 78111 78112 78113
(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.	78114 78115 78116 78117 78118
(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.	78119 78120 78121
(c) "Directory assistance" means an ancillary service of providing telephone number or address information.	78122 78123
(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow	78124 78125 78126

customers to identify callers and manage multiple calls and call connections, including conference bridging service. 78127
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(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. 78129
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"Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service. 78131
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(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900" service and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer. 78134
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(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units of dollars of which the number declines with use in a known amount. 78143
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(5) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile telecommunications service as well as other non-telecommunications services, including the download of digital products delivered electronically, and content and ancillary services, that must be paid for in advance and that is sold in predetermined units of dollars of which the number declines with use in a known amount. 78149
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(6) "Value-added non-voice data service" means a 78157

telecommunications service in which computer processing 78158
applications are used to act on the form, content, code, or 78159
protocol of the information or data primarily for a purpose other 78160
than transmission, conveyance, or routing. 78161

(7) "Coin-operated telephone service" means a 78162
telecommunications service paid for by inserting money into a 78163
telephone accepting direct deposits of money to operate. 78164

(8) "Customer" has the same meaning as in section 5739.034 of 78165
the Revised Code. 78166

(BB) "Laundry and dry cleaning services" means removing soil 78167
or dirt from towels, linens, articles of clothing, or other fabric 78168
items that belong to others and supplying towels, linens, articles 78169
of clothing, or other fabric items. "Laundry and dry cleaning 78170
services" does not include the provision of self-service 78171
facilities for use by consumers to remove soil or dirt from 78172
towels, linens, articles of clothing, or other fabric items. 78173

(CC) "Magazines distributed as controlled circulation 78174
publications" means magazines containing at least twenty-four 78175
pages, at least twenty-five per cent editorial content, issued at 78176
regular intervals four or more times a year, and circulated 78177
without charge to the recipient, provided that such magazines are 78178
not owned or controlled by individuals or business concerns which 78179
conduct such publications as an auxiliary to, and essentially for 78180
the advancement of the main business or calling of, those who own 78181
or control them. 78182

(DD) "Landscaping and lawn care service" means the services 78183
of planting, seeding, sodding, removing, cutting, trimming, 78184
pruning, mulching, aerating, applying chemicals, watering, 78185
fertilizing, and providing similar services to establish, promote, 78186
or control the growth of trees, shrubs, flowers, grass, ground 78187
cover, and other flora, or otherwise maintaining a lawn or 78188

landscape grown or maintained by the owner for ornamentation or 78189
other nonagricultural purpose. However, "landscaping and lawn care 78190
service" does not include the providing of such services by a 78191
person who has less than five thousand dollars in sales of such 78192
services during the calendar year. 78193

(EE) "Private investigation and security service" means the 78194
performance of any activity for which the provider of such service 78195
is required to be licensed pursuant to Chapter 4749. of the 78196
Revised Code, or would be required to be so licensed in performing 78197
such services in this state, and also includes the services of 78198
conducting polygraph examinations and of monitoring or overseeing 78199
the activities on or in, or the condition of, the consumer's home, 78200
business, or other facility by means of electronic or similar 78201
monitoring devices. "Private investigation and security service" 78202
does not include special duty services provided by off-duty police 78203
officers, deputy sheriffs, and other peace officers regularly 78204
employed by the state or a political subdivision. 78205

(FF) "Information services" means providing conversation, 78206
giving consultation or advice, playing or making a voice or other 78207
recording, making or keeping a record of the number of callers, 78208
and any other service provided to a consumer by means of a nine 78209
hundred telephone call, except when the nine hundred telephone 78210
call is the means by which the consumer makes a contribution to a 78211
recognized charity. 78212

(GG) "Research and development" means designing, creating, or 78213
formulating new or enhanced products, equipment, or manufacturing 78214
processes, and also means conducting scientific or technological 78215
inquiry and experimentation in the physical sciences with the goal 78216
of increasing scientific knowledge which may reveal the bases for 78217
new or enhanced products, equipment, or manufacturing processes. 78218

(HH) "Qualified research and development equipment" means 78219
capitalized tangible personal property, and leased personal 78220

property that would be capitalized if purchased, used by a person 78221
primarily to perform research and development. Tangible personal 78222
property primarily used in testing, as defined in division (A)(4) 78223
of section 5739.011 of the Revised Code, or used for recording or 78224
storing test results, is not qualified research and development 78225
equipment unless such property is primarily used by the consumer 78226
in testing the product, equipment, or manufacturing process being 78227
created, designed, or formulated by the consumer in the research 78228
and development activity or in recording or storing such test 78229
results. 78230

(II) "Building maintenance and janitorial service" means 78231
cleaning the interior or exterior of a building and any tangible 78232
personal property located therein or thereon, including any 78233
services incidental to such cleaning for which no separate charge 78234
is made. However, "building maintenance and janitorial service" 78235
does not include the providing of such service by a person who has 78236
less than five thousand dollars in sales of such service during 78237
the calendar year. 78238

(JJ) "Employment service" means providing or supplying 78239
personnel, on a temporary or long-term basis, to perform work or 78240
labor under the supervision or control of another, when the 78241
personnel so provided or supplied receive their wages, salary, or 78242
other compensation from the provider or supplier of the employment 78243
service or from a third party that provided or supplied the 78244
personnel to the provider or supplier. "Employment service" does 78245
not include: 78246

(1) Acting as a contractor or subcontractor, where the 78247
personnel performing the work are not under the direct control of 78248
the purchaser. 78249

(2) Medical and health care services. 78250

(3) Supplying personnel to a purchaser pursuant to a contract 78251

of at least one year between the service provider and the 78252
purchaser that specifies that each employee covered under the 78253
contract is assigned to the purchaser on a permanent basis. 78254

(4) Transactions between members of an affiliated group, as 78255
defined in division (B)(3)(e) of this section. 78256

(5) Transactions where the personnel so provided or supplied 78257
by a provider or supplier to a purchaser of an employment service 78258
are then provided or supplied by that purchaser to a third party 78259
as an employment service, except "employment service" does include 78260
the transaction between that purchaser and the third party. 78261

(KK) "Employment placement service" means locating or finding 78262
employment for a person or finding or locating an employee to fill 78263
an available position. 78264

(LL) "Exterminating service" means eradicating or attempting 78265
to eradicate vermin infestations from a building or structure, or 78266
the area surrounding a building or structure, and includes 78267
activities to inspect, detect, or prevent vermin infestation of a 78268
building or structure. 78269

(MM) "Physical fitness facility service" means all 78270
transactions by which a membership is granted, maintained, or 78271
renewed, including initiation fees, membership dues, renewal fees, 78272
monthly minimum fees, and other similar fees and dues, by a 78273
physical fitness facility such as an athletic club, health spa, or 78274
gymnasium, which entitles the member to use the facility for 78275
physical exercise. 78276

(NN) "Recreation and sports club service" means all 78277
transactions by which a membership is granted, maintained, or 78278
renewed, including initiation fees, membership dues, renewal fees, 78279
monthly minimum fees, and other similar fees and dues, by a 78280
recreation and sports club, which entitles the member to use the 78281
facilities of the organization. "Recreation and sports club" means 78282

an organization that has ownership of, or controls or leases on a 78283
continuing, long-term basis, the facilities used by its members 78284
and includes an aviation club, gun or shooting club, yacht club, 78285
card club, swimming club, tennis club, golf club, country club, 78286
riding club, amateur sports club, or similar organization. 78287

(OO) "Livestock" means farm animals commonly raised for food 78288
or food production, and includes but is not limited to cattle, 78289
sheep, goats, swine, and poultry. "Livestock" does not include 78290
invertebrates, fish, amphibians, reptiles, horses, domestic pets, 78291
animals for use in laboratories or for exhibition, or other 78292
animals not commonly raised for food or food production. 78293

(PP) "Livestock structure" means a building or structure used 78294
exclusively for the housing, raising, feeding, or sheltering of 78295
livestock, and includes feed storage or handling structures and 78296
structures for livestock waste handling. 78297

(QQ) "Horticulture" means the growing, cultivation, and 78298
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 78299
and nursery stock. As used in this division, "nursery stock" has 78300
the same meaning as in section 927.51 of the Revised Code. 78301

(RR) "Horticulture structure" means a building or structure 78302
used exclusively for the commercial growing, raising, or 78303
overwintering of horticultural products, and includes the area 78304
used for stocking, storing, and packing horticultural products 78305
when done in conjunction with the production of those products. 78306

(SS) "Newspaper" means an unbound publication bearing a title 78307
or name that is regularly published, at least as frequently as 78308
biweekly, and distributed from a fixed place of business to the 78309
public in a specific geographic area, and that contains a 78310
substantial amount of news matter of international, national, or 78311
local events of interest to the general public. 78312

(TT) "Professional racing team" means a person that employs 78313

at least twenty full-time employees for the purpose of conducting 78314
a motor vehicle racing business for profit. The person must 78315
conduct the business with the purpose of racing one or more motor 78316
racing vehicles in at least ten competitive professional racing 78317
events each year that comprise all or part of a motor racing 78318
series sanctioned by one or more motor racing sanctioning 78319
organizations. A "motor racing vehicle" means a vehicle for which 78320
the chassis, engine, and parts are designed exclusively for motor 78321
racing, and does not include a stock or production model vehicle 78322
that may be modified for use in racing. For the purposes of this 78323
division: 78324

(1) A "competitive professional racing event" is a motor 78325
vehicle racing event sanctioned by one or more motor racing 78326
sanctioning organizations, at which aggregate cash prizes in 78327
excess of eight hundred thousand dollars are awarded to the 78328
competitors. 78329

(2) "Full-time employee" means an individual who is employed 78330
for consideration for thirty-five or more hours a week, or who 78331
renders any other standard of service generally accepted by custom 78332
or specified by contract as full-time employment. 78333

(UU)(1) "Lease" or "rental" means any transfer of the 78334
possession or control of tangible personal property for a fixed or 78335
indefinite term, for consideration. "Lease" or "rental" includes 78336
future options to purchase or extend, and agreements described in 78337
26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where 78338
the amount of consideration may be increased or decreased by 78339
reference to the amount realized upon the sale or disposition of 78340
the property. "Lease" or "rental" does not include: 78341

(a) A transfer of possession or control of tangible personal 78342
property under a security agreement or a deferred payment plan 78343
that requires the transfer of title upon completion of the 78344
required payments; 78345

(b) A transfer of possession or control of tangible personal property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments;

(c) Providing tangible personal property along with an operator for a fixed or indefinite period of time, if the operator is necessary for the property to perform as designed. For purposes of this division, the operator must do more than maintain, inspect, or set-up the tangible personal property.

(2) "Lease" and "rental," as defined in division (UU) of this section, shall not apply to leases or rentals that exist before June 26, 2003.

(3) "Lease" and "rental" have the same meaning as in division (UU)(1) of this section regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws.

(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling.

(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground

receiving or distribution equipment, except the subscriber's 78377
receiving equipment or equipment used in the uplink process to the 78378
satellite, and includes all service and rental charges, premium 78379
channels or other special services, installation and repair 78380
service charges, and any other charges having any connection with 78381
the provision of the satellite broadcasting service. 78382

(YY) "Tangible personal property" means personal property 78383
that can be seen, weighed, measured, felt, or touched, or that is 78384
in any other manner perceptible to the senses. For purposes of 78385
this chapter and Chapter 5741. of the Revised Code, "tangible 78386
personal property" includes motor vehicles, electricity, water, 78387
gas, steam, and prewritten computer software. 78388

(ZZ) "Direct mail" means printed material delivered or 78389
distributed by United States mail or other delivery service to a 78390
mass audience or to addressees on a mailing list provided by the 78391
consumer or at the direction of the consumer when the cost of the 78392
items are not billed directly to the recipients. "Direct mail" 78393
includes tangible personal property supplied directly or 78394
indirectly by the consumer to the direct mail vendor for inclusion 78395
in the package containing the printed material. "Direct mail" does 78396
not include multiple items of printed material delivered to a 78397
single address. 78398

(AAA) "Computer" means an electronic device that accepts 78399
information in digital or similar form and manipulates it for a 78400
result based on a sequence of instructions. 78401

(BBB) "Computer software" means a set of coded instructions 78402
designed to cause a computer or automatic data processing 78403
equipment to perform a task. 78404

(CCC) "Delivered electronically" means delivery of computer 78405
software from the seller to the purchaser by means other than 78406
tangible storage media. 78407

(DDD) "Prewritten computer software" means computer software, 78408
including prewritten upgrades, that is not designed and developed 78409
by the author or other creator to the specifications of a specific 78410
purchaser. The combining of two or more prewritten computer 78411
software programs or prewritten portions thereof does not cause 78412
the combination to be other than prewritten computer software. 78413
"Prewritten computer software" includes software designed and 78414
developed by the author or other creator to the specifications of 78415
a specific purchaser when it is sold to a person other than the 78416
purchaser. If a person modifies or enhances computer software of 78417
which the person is not the author or creator, the person shall be 78418
deemed to be the author or creator only of such person's 78419
modifications or enhancements. Prewritten computer software or a 78420
prewritten portion thereof that is modified or enhanced to any 78421
degree, where such modification or enhancement is designed and 78422
developed to the specifications of a specific purchaser, remains 78423
prewritten computer software; provided, however, that where there 78424
is a reasonable, separately stated charge or an invoice or other 78425
statement of the price given to the purchaser for the modification 78426
or enhancement, the modification or enhancement shall not 78427
constitute prewritten computer software. 78428

(EEE)(1) "Food" means substances, whether in liquid, 78429
concentrated, solid, frozen, dried, or dehydrated form, that are 78430
sold for ingestion or chewing by humans and are consumed for their 78431
taste or nutritional value. "Food" does not include alcoholic 78432
beverages, dietary supplements, soft drinks, or tobacco. 78433

(2) As used in division (EEE)(1) of this section: 78434

(a) "Alcoholic beverages" means beverages that are suitable 78435
for human consumption and contain one-half of one per cent or more 78436
of alcohol by volume. 78437

(b) "Dietary supplements" means any product, other than 78438
tobacco, that is intended to supplement the diet and that is 78439

intended for ingestion in tablet, capsule, powder, softgel, 78440
gelcap, or liquid form, or, if not intended for ingestion in such 78441
a form, is not represented as conventional food for use as a sole 78442
item of a meal or of the diet; that is required to be labeled as a 78443
dietary supplement, identifiable by the "supplement facts" box 78444
found on the label, as required by 21 C.F.R. 101.36; and that 78445
contains one or more of the following dietary ingredients: 78446

(i) A vitamin; 78447

(ii) A mineral; 78448

(iii) An herb or other botanical; 78449

(iv) An amino acid; 78450

(v) A dietary substance for use by humans to supplement the 78451
diet by increasing the total dietary intake; 78452

(vi) A concentrate, metabolite, constituent, extract, or 78453
combination of any ingredient described in divisions 78454
(EEE)(2)(b)(i) to (v) of this section. 78455

(c) "Soft drinks" means nonalcoholic beverages that contain 78456
natural or artificial sweeteners. "Soft drinks" does not include 78457
beverages that contain milk or milk products, soy, rice, or 78458
similar milk substitutes, or that contains greater than fifty per 78459
cent vegetable or fruit juice by volume. 78460

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 78461
tobacco, or any other item that contains tobacco. 78462

(FFF) "Drug" means a compound, substance, or preparation, and 78463
any component of a compound, substance, or preparation, other than 78464
food, dietary supplements, or alcoholic beverages that is 78465
recognized in the official United States pharmacopoeia, official 78466
homeopathic pharmacopoeia of the United States, or official 78467
national formulary, and supplements to them; is intended for use 78468
in the diagnosis, cure, mitigation, treatment, or prevention of 78469

disease; or is intended to affect the structure or any function of the body. 78470
78471

(GGG) "Prescription" means an order, formula, or recipe 78472
issued in any form of oral, written, electronic, or other means of 78473
transmission by a duly licensed practitioner authorized by the 78474
laws of this state to issue a prescription. 78475

(HHH) "Durable medical equipment" means equipment, including 78476
repair and replacement parts for such equipment, that can 78477
withstand repeated use, is primarily and customarily used to serve 78478
a medical purpose, generally is not useful to a person in the 78479
absence of illness or injury, and is not worn in or on the body. 78480
"Durable medical equipment" does not include mobility enhancing 78481
equipment. 78482

(III) "Mobility enhancing equipment" means equipment, 78483
including repair and replacement parts for such equipment, that is 78484
primarily and customarily used to provide or increase the ability 78485
to move from one place to another and is appropriate for use 78486
either in a home or a motor vehicle, that is not generally used by 78487
persons with normal mobility, and that does not include any motor 78488
vehicle or equipment on a motor vehicle normally provided by a 78489
motor vehicle manufacturer. "Mobility enhancing equipment" does 78490
not include durable medical equipment. 78491

(JJJ) "Prosthetic device" means a replacement, corrective, or 78492
supportive device, including repair and replacement parts for the 78493
device, worn on or in the human body to artificially replace a 78494
missing portion of the body, prevent or correct physical deformity 78495
or malfunction, or support a weak or deformed portion of the body. 78496
As used in this division, "prosthetic device" does not include 78497
corrective eyeglasses, contact lenses, or dental prosthesis. 78498

(KKK)(1) "Fractional aircraft ownership program" means a 78499
program in which persons within an affiliated group sell and 78500

manage fractional ownership program aircraft, provided that at 78501
least one hundred airworthy aircraft are operated in the program 78502
and the program meets all of the following criteria: 78503

(a) Management services are provided by at least one program 78504
manager within an affiliated group on behalf of the fractional 78505
owners. 78506

(b) Each program aircraft is owned or possessed by at least 78507
one fractional owner. 78508

(c) Each fractional owner owns or possesses at least a 78509
one-sixteenth interest in at least one fixed-wing program 78510
aircraft. 78511

(d) A dry-lease aircraft interchange arrangement is in effect 78512
among all of the fractional owners. 78513

(e) Multi-year program agreements are in effect regarding the 78514
fractional ownership, management services, and dry-lease aircraft 78515
interchange arrangement aspects of the program. 78516

(2) As used in division (KKK)(1) of this section: 78517

(a) "Affiliated group" has the same meaning as in division 78518
(B)(3)(e) of this section. 78519

(b) "Fractional owner" means a person that owns or possesses 78520
at least a one-sixteenth interest in a program aircraft and has 78521
entered into the agreements described in division (KKK)(1)(e) of 78522
this section. 78523

(c) "Fractional ownership program aircraft" or "program 78524
aircraft" means a turbojet aircraft that is owned or possessed by 78525
a fractional owner and that has been included in a dry-lease 78526
aircraft interchange arrangement and agreement under divisions 78527
(KKK)(1)(d) and (e) of this section, or an aircraft a program 78528
manager owns or possesses primarily for use in a fractional 78529
aircraft ownership program. 78530

(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.

(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK)(1)(e) of this section.

(LLL) "Electronic publishing" means providing access to one or more of the following primarily for business customers, including the federal government or a state government or a political subdivision thereof, to conduct research: news; business, financial, legal, consumer, or credit materials; editorials, columns, reader commentary, or features; photos or images; archival or research material; legal notices, identity verification, or public records; scientific, educational, instructional, technical, professional, trade, or other literary materials; or other similar information which has been gathered and made available by the provider to the consumer in an electronic format. Providing electronic publishing includes the functions necessary for the acquisition, formatting, editing, storage, and dissemination of data or information that is the subject of a sale.

(MMM) "Medicaid health insuring corporation" means a health

insuring corporation that holds a certificate of authority under 78563
Chapter 1751. of the Revised Code and is under contract with the 78564
department of job and family services pursuant to section 5111.17 78565
of the Revised Code. 78566

(NNN) "Managed care premium" means any premium, capitation, 78567
or other payment a medicaid health insuring corporation receives 78568
for providing or arranging for the provision of health care 78569
services to its members or enrollees residing in this state. 78570

Sec. 5739.02. For the purpose of providing revenue with which 78571
to meet the needs of the state, for the use of the general revenue 78572
fund of the state, for the purpose of securing a thorough and 78573
efficient system of common schools throughout the state, for the 78574
purpose of affording revenues, in addition to those from general 78575
property taxes, permitted under constitutional limitations, and 78576
from other sources, for the support of local governmental 78577
functions, and for the purpose of reimbursing the state for the 78578
expense of administering this chapter, an excise tax is hereby 78579
levied on each retail sale made in this state. 78580

(A)(1) The tax shall be collected as provided in section 78581
5739.025 of the Revised Code. The rate of the tax shall be five 78582
and one-half per cent. The tax applies and is collectible when the 78583
sale is made, regardless of the time when the price is paid or 78584
delivered. 78585

(2) In the case of the lease or rental, with a fixed term of 78586
more than thirty days or an indefinite term with a minimum period 78587
of more than thirty days, of any motor vehicles designed by the 78588
manufacturer to carry a load of not more than one ton, watercraft, 78589
outboard motor, or aircraft, or of any tangible personal property, 78590
other than motor vehicles designed by the manufacturer to carry a 78591
load of more than one ton, to be used by the lessee or renter 78592
primarily for business purposes, the tax shall be collected by the 78593

vendor at the time the lease or rental is consummated and shall be 78594
calculated by the vendor on the basis of the total amount to be 78595
paid by the lessee or renter under the lease agreement. If the 78596
total amount of the consideration for the lease or rental includes 78597
amounts that are not calculated at the time the lease or rental is 78598
executed, the tax shall be calculated and collected by the vendor 78599
at the time such amounts are billed to the lessee or renter. In 78600
the case of an open-end lease or rental, the tax shall be 78601
calculated by the vendor on the basis of the total amount to be 78602
paid during the initial fixed term of the lease or rental, and for 78603
each subsequent renewal period as it comes due. As used in this 78604
division, "motor vehicle" has the same meaning as in section 78605
4501.01 of the Revised Code, and "watercraft" includes an outdrive 78606
unit attached to the watercraft. 78607

A lease with a renewal clause and a termination penalty or 78608
similar provision that applies if the renewal clause is not 78609
exercised is presumed to be a sham transaction. In such a case, 78610
the tax shall be calculated and paid on the basis of the entire 78611
length of the lease period, including any renewal periods, until 78612
the termination penalty or similar provision no longer applies. 78613
The taxpayer shall bear the burden, by a preponderance of the 78614
evidence, that the transaction or series of transactions is not a 78615
sham transaction. 78616

(3) Except as provided in division (A)(2) of this section, in 78617
the case of a sale, the price of which consists in whole or in 78618
part of the lease or rental of tangible personal property, the tax 78619
shall be measured by the installments of that lease or rental. 78620

(4) In the case of a sale of a physical fitness facility 78621
service or recreation and sports club service, the price of which 78622
consists in whole or in part of a membership for the receipt of 78623
the benefit of the service, the tax applicable to the sale shall 78624
be measured by the installments thereof. 78625

- (B) The tax does not apply to the following: 78626
- (1) Sales to the state or any of its political subdivisions, 78627
or to any other state or its political subdivisions if the laws of 78628
that state exempt from taxation sales made to this state and its 78629
political subdivisions; 78630
- (2) Sales of food for human consumption off the premises 78631
where sold; 78632
- (3) Sales of food sold to students only in a cafeteria, 78633
dormitory, fraternity, or sorority maintained in a private, 78634
public, or parochial school, college, or university; 78635
- (4) Sales of newspapers and of magazine subscriptions and 78636
sales or transfers of magazines distributed as controlled 78637
circulation publications; 78638
- (5) The furnishing, preparing, or serving of meals without 78639
charge by an employer to an employee provided the employer records 78640
the meals as part compensation for services performed or work 78641
done; 78642
- (6) Sales of motor fuel upon receipt, use, distribution, or 78643
sale of which in this state a tax is imposed by the law of this 78644
state, but this exemption shall not apply to the sale of motor 78645
fuel on which a refund of the tax is allowable under division (A) 78646
of section 5735.14 of the Revised Code; and the tax commissioner 78647
may deduct the amount of tax levied by this section applicable to 78648
the price of motor fuel when granting a refund of motor fuel tax 78649
pursuant to division (A) of section 5735.14 of the Revised Code 78650
and shall cause the amount deducted to be paid into the general 78651
revenue fund of this state; 78652
- (7) Sales of natural gas by a natural gas company, of water 78653
by a water-works company, or of steam by a heating company, if in 78654
each case the thing sold is delivered to consumers through pipes 78655
or conduits, and all sales of communications services by a 78656

telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year, except as otherwise provided in division (B)(9)(b) of this section. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization.

(b) The limitation on the number of days on which tax-exempt sales may be made by a church or organization under division (B)(9)(a) of this section does not apply to sales made by student clubs and other groups of students of a primary or secondary school, or a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school.

(c) Divisions (B)(9)(a) and (b) of this section do not apply 78689
to sales by a noncommercial educational radio or television 78690
broadcasting station. 78691

(10) Sales not within the taxing power of this state under 78692
the Constitution of the United States; 78693

(11) Except for transactions that are sales under division 78694
(B)(3)(r) of section 5739.01 of the Revised Code, the 78695
transportation of persons or property, unless the transportation 78696
is by a private investigation and security service; 78697

(12) Sales of tangible personal property or services to 78698
churches, to organizations exempt from taxation under section 78699
501(c)(3) of the Internal Revenue Code of 1986, and to any other 78700
nonprofit organizations operated exclusively for charitable 78701
purposes in this state, no part of the net income of which inures 78702
to the benefit of any private shareholder or individual, and no 78703
substantial part of the activities of which consists of carrying 78704
on propaganda or otherwise attempting to influence legislation; 78705
sales to offices administering one or more homes for the aged or 78706
one or more hospital facilities exempt under section 140.08 of the 78707
Revised Code; and sales to organizations described in division (D) 78708
of section 5709.12 of the Revised Code. 78709

"Charitable purposes" means the relief of poverty; the 78710
improvement of health through the alleviation of illness, disease, 78711
or injury; the operation of an organization exclusively for the 78712
provision of professional, laundry, printing, and purchasing 78713
services to hospitals or charitable institutions; the operation of 78714
a home for the aged, as defined in section 5701.13 of the Revised 78715
Code; the operation of a radio or television broadcasting station 78716
that is licensed by the federal communications commission as a 78717
noncommercial educational radio or television station; the 78718
operation of a nonprofit animal adoption service or a county 78719
humane society; the promotion of education by an institution of 78720

learning that maintains a faculty of qualified instructors, 78721
teaches regular continuous courses of study, and confers a 78722
recognized diploma upon completion of a specific curriculum; the 78723
operation of a parent-teacher association, booster group, or 78724
similar organization primarily engaged in the promotion and 78725
support of the curricular or extracurricular activities of a 78726
primary or secondary school; the operation of a community or area 78727
center in which presentations in music, dramatics, the arts, and 78728
related fields are made in order to foster public interest and 78729
education therein; the production of performances in music, 78730
dramatics, and the arts; or the promotion of education by an 78731
organization engaged in carrying on research in, or the 78732
dissemination of, scientific and technological knowledge and 78733
information primarily for the public. 78734

Nothing in this division shall be deemed to exempt sales to 78735
any organization for use in the operation or carrying on of a 78736
trade or business, or sales to a home for the aged for use in the 78737
operation of independent living facilities as defined in division 78738
(A) of section 5709.12 of the Revised Code. 78739

(13) Building and construction materials and services sold to 78740
construction contractors for incorporation into a structure or 78741
improvement to real property under a construction contract with 78742
this state or a political subdivision of this state, or with the 78743
United States government or any of its agencies; building and 78744
construction materials and services sold to construction 78745
contractors for incorporation into a structure or improvement to 78746
real property that are accepted for ownership by this state or any 78747
of its political subdivisions, or by the United States government 78748
or any of its agencies at the time of completion of the structures 78749
or improvements; building and construction materials sold to 78750
construction contractors for incorporation into a horticulture 78751
structure or livestock structure for a person engaged in the 78752

business of horticulture or producing livestock; building 78753
materials and services sold to a construction contractor for 78754
incorporation into a house of public worship or religious 78755
education, or a building used exclusively for charitable purposes 78756
under a construction contract with an organization whose purpose 78757
is as described in division (B)(12) of this section; building 78758
materials and services sold to a construction contractor for 78759
incorporation into a building under a construction contract with 78760
an organization exempt from taxation under section 501(c)(3) of 78761
the Internal Revenue Code of 1986 when the building is to be used 78762
exclusively for the organization's exempt purposes; building and 78763
construction materials sold for incorporation into the original 78764
construction of a sports facility under section 307.696 of the 78765
Revised Code; and building and construction materials and services 78766
sold to a construction contractor for incorporation into real 78767
property outside this state if such materials and services, when 78768
sold to a construction contractor in the state in which the real 78769
property is located for incorporation into real property in that 78770
state, would be exempt from a tax on sales levied by that state; 78771

(14) Sales of ships or vessels or rail rolling stock used or 78772
to be used principally in interstate or foreign commerce, and 78773
repairs, alterations, fuel, and lubricants for such ships or 78774
vessels or rail rolling stock; 78775

(15) Sales to persons primarily engaged in any of the 78776
activities mentioned in division (B)(42)(a) or (g) of this 78777
section, to persons engaged in making retail sales, or to persons 78778
who purchase for sale from a manufacturer tangible personal 78779
property that was produced by the manufacturer in accordance with 78780
specific designs provided by the purchaser, of packages, including 78781
material, labels, and parts for packages, and of machinery, 78782
equipment, and material for use primarily in packaging tangible 78783
personal property produced for sale, including any machinery, 78784

equipment, and supplies used to make labels or packages, to 78785
prepare packages or products for labeling, or to label packages or 78786
products, by or on the order of the person doing the packaging, or 78787
sold at retail. "Packages" includes bags, baskets, cartons, 78788
crates, boxes, cans, bottles, bindings, wrappings, and other 78789
similar devices and containers, but does not include motor 78790
vehicles or bulk tanks, trailers, or similar devices attached to 78791
motor vehicles. "Packaging" means placing in a package. Division 78792
(B)(15) of this section does not apply to persons engaged in 78793
highway transportation for hire. 78794

(16) Sales of food to persons using ~~food stamp~~ supplemental 78795
nutrition assistance program benefits to purchase the food. As 78796
used in this division, "food" has the same meaning as in ~~the "Food~~ 78797
~~Stamp Act of 1977," 91 Stat. 958,~~ 7 U.S.C. 2012, ~~as amended,~~ and 78798
federal regulations adopted pursuant to ~~that act~~ the Food and 78799
Nutrition Act of 2008. 78800

(17) Sales to persons engaged in farming, agriculture, 78801
horticulture, or floriculture, of tangible personal property for 78802
use or consumption directly in the production by farming, 78803
agriculture, horticulture, or floriculture of other tangible 78804
personal property for use or consumption directly in the 78805
production of tangible personal property for sale by farming, 78806
agriculture, horticulture, or floriculture; or material and parts 78807
for incorporation into any such tangible personal property for use 78808
or consumption in production; and of tangible personal property 78809
for such use or consumption in the conditioning or holding of 78810
products produced by and for such use, consumption, or sale by 78811
persons engaged in farming, agriculture, horticulture, or 78812
floriculture, except where such property is incorporated into real 78813
property; 78814

(18) Sales of drugs for a human being that may be dispensed 78815
only pursuant to a prescription; insulin as recognized in the 78816

official United States pharmacopoeia; urine and blood testing 78817
materials when used by diabetics or persons with hypoglycemia to 78818
test for glucose or acetone; hypodermic syringes and needles when 78819
used by diabetics for insulin injections; epoetin alfa when 78820
purchased for use in the treatment of persons with medical 78821
disease; hospital beds when purchased by hospitals, nursing homes, 78822
or other medical facilities; and medical oxygen and medical 78823
oxygen-dispensing equipment when purchased by hospitals, nursing 78824
homes, or other medical facilities; 78825

(19) Sales of prosthetic devices, durable medical equipment 78826
for home use, or mobility enhancing equipment, when made pursuant 78827
to a prescription and when such devices or equipment are for use 78828
by a human being. 78829

(20) Sales of emergency and fire protection vehicles and 78830
equipment to nonprofit organizations for use solely in providing 78831
fire protection and emergency services, including trauma care and 78832
emergency medical services, for political subdivisions of the 78833
state; 78834

(21) Sales of tangible personal property manufactured in this 78835
state, if sold by the manufacturer in this state to a retailer for 78836
use in the retail business of the retailer outside of this state 78837
and if possession is taken from the manufacturer by the purchaser 78838
within this state for the sole purpose of immediately removing the 78839
same from this state in a vehicle owned by the purchaser; 78840

(22) Sales of services provided by the state or any of its 78841
political subdivisions, agencies, instrumentalities, institutions, 78842
or authorities, or by governmental entities of the state or any of 78843
its political subdivisions, agencies, instrumentalities, 78844
institutions, or authorities; 78845

(23) Sales of motor vehicles to nonresidents of this state 78846
under the circumstances described in division (B) of section 78847

5739.029 of the Revised Code; 78848

(24) Sales to persons engaged in the preparation of eggs for 78849
sale of tangible personal property used or consumed directly in 78850
such preparation, including such tangible personal property used 78851
for cleaning, sanitizing, preserving, grading, sorting, and 78852
classifying by size; packages, including material and parts for 78853
packages, and machinery, equipment, and material for use in 78854
packaging eggs for sale; and handling and transportation equipment 78855
and parts therefor, except motor vehicles licensed to operate on 78856
public highways, used in intraplant or interplant transfers or 78857
shipment of eggs in the process of preparation for sale, when the 78858
plant or plants within or between which such transfers or 78859
shipments occur are operated by the same person. "Packages" 78860
includes containers, cases, baskets, flats, fillers, filler flats, 78861
cartons, closure materials, labels, and labeling materials, and 78862
"packaging" means placing therein. 78863

(25)(a) Sales of water to a consumer for residential use, 78864
except the sale of bottled water, distilled water, mineral water, 78865
carbonated water, or ice; 78866

(b) Sales of water by a nonprofit corporation engaged 78867
exclusively in the treatment, distribution, and sale of water to 78868
consumers, if such water is delivered to consumers through pipes 78869
or tubing. 78870

(26) Fees charged for inspection or reinspection of motor 78871
vehicles under section 3704.14 of the Revised Code; 78872

(27) Sales to persons licensed to conduct a food service 78873
operation pursuant to section 3717.43 of the Revised Code, of 78874
tangible personal property primarily used directly for the 78875
following: 78876

(a) To prepare food for human consumption for sale; 78877

(b) To preserve food that has been or will be prepared for 78878

human consumption for sale by the food service operator, not	78879
including tangible personal property used to display food for	78880
selection by the consumer;	78881
(c) To clean tangible personal property used to prepare or	78882
serve food for human consumption for sale.	78883
(28) Sales of animals by nonprofit animal adoption services	78884
or county humane societies;	78885
(29) Sales of services to a corporation described in division	78886
(A) of section 5709.72 of the Revised Code, and sales of tangible	78887
personal property that qualifies for exemption from taxation under	78888
section 5709.72 of the Revised Code;	78889
(30) Sales and installation of agricultural land tile, as	78890
defined in division (B)(5)(a) of section 5739.01 of the Revised	78891
Code;	78892
(31) Sales and erection or installation of portable grain	78893
bins, as defined in division (B)(5)(b) of section 5739.01 of the	78894
Revised Code;	78895
(32) The sale, lease, repair, and maintenance of, parts for,	78896
or items attached to or incorporated in, motor vehicles that are	78897
primarily used for transporting tangible personal property	78898
belonging to others by a person engaged in highway transportation	78899
for hire, except for packages and packaging used for the	78900
transportation of tangible personal property;	78901
(33) Sales to the state headquarters of any veterans'	78902
organization in this state that is either incorporated and issued	78903
a charter by the congress of the United States or is recognized by	78904
the United States veterans administration, for use by the	78905
headquarters;	78906
(34) Sales to a telecommunications service vendor, mobile	78907
telecommunications service vendor, or satellite broadcasting	78908

service vendor of tangible personal property and services used 78909
directly and primarily in transmitting, receiving, switching, or 78910
recording any interactive, one- or two-way electromagnetic 78911
communications, including voice, image, data, and information, 78912
through the use of any medium, including, but not limited to, 78913
poles, wires, cables, switching equipment, computers, and record 78914
storage devices and media, and component parts for the tangible 78915
personal property. The exemption provided in this division shall 78916
be in lieu of all other exemptions under division (B)(42)(a) of 78917
this section to which the vendor may otherwise be entitled, based 78918
upon the use of the thing purchased in providing the 78919
telecommunications, mobile telecommunications, or satellite 78920
broadcasting service. 78921

(35)(a) Sales where the purpose of the consumer is to use or 78922
consume the things transferred in making retail sales and 78923
consisting of newspaper inserts, catalogues, coupons, flyers, gift 78924
certificates, or other advertising material that prices and 78925
describes tangible personal property offered for retail sale. 78926

(b) Sales to direct marketing vendors of preliminary 78927
materials such as photographs, artwork, and typesetting that will 78928
be used in printing advertising material; of printed matter that 78929
offers free merchandise or chances to win sweepstake prizes and 78930
that is mailed to potential customers with advertising material 78931
described in division (B)(35)(a) of this section; and of equipment 78932
such as telephones, computers, facsimile machines, and similar 78933
tangible personal property primarily used to accept orders for 78934
direct marketing retail sales. 78935

(c) Sales of automatic food vending machines that preserve 78936
food with a shelf life of forty-five days or less by refrigeration 78937
and dispense it to the consumer. 78938

For purposes of division (B)(35) of this section, "direct 78939
marketing" means the method of selling where consumers order 78940

tangible personal property by United States mail, delivery 78941
service, or telecommunication and the vendor delivers or ships the 78942
tangible personal property sold to the consumer from a warehouse, 78943
catalogue distribution center, or similar fulfillment facility by 78944
means of the United States mail, delivery service, or common 78945
carrier. 78946

(36) Sales to a person engaged in the business of 78947
horticulture or producing livestock of materials to be 78948
incorporated into a horticulture structure or livestock structure; 78949

(37) Sales of personal computers, computer monitors, computer 78950
keyboards, modems, and other peripheral computer equipment to an 78951
individual who is licensed or certified to teach in an elementary 78952
or a secondary school in this state for use by that individual in 78953
preparation for teaching elementary or secondary school students; 78954

(38) Sales to a professional racing team of any of the 78955
following: 78956

(a) Motor racing vehicles; 78957

(b) Repair services for motor racing vehicles; 78958

(c) Items of property that are attached to or incorporated in 78959
motor racing vehicles, including engines, chassis, and all other 78960
components of the vehicles, and all spare, replacement, and 78961
rebuilt parts or components of the vehicles; except not including 78962
tires, consumable fluids, paint, and accessories consisting of 78963
instrumentation sensors and related items added to the vehicle to 78964
collect and transmit data by means of telemetry and other forms of 78965
communication. 78966

(39) Sales of used manufactured homes and used mobile homes, 78967
as defined in section 5739.0210 of the Revised Code, made on or 78968
after January 1, 2000; 78969

(40) Sales of tangible personal property and services to a 78970

provider of electricity used or consumed directly and primarily in 78971
generating, transmitting, or distributing electricity for use by 78972
others, including property that is or is to be incorporated into 78973
and will become a part of the consumer's production, transmission, 78974
or distribution system and that retains its classification as 78975
tangible personal property after incorporation; fuel or power used 78976
in the production, transmission, or distribution of electricity; 78977
and tangible personal property and services used in the repair and 78978
maintenance of the production, transmission, or distribution 78979
system, including only those motor vehicles as are specially 78980
designed and equipped for such use. The exemption provided in this 78981
division shall be in lieu of all other exemptions in division 78982
(B)(42)(a) of this section to which a provider of electricity may 78983
otherwise be entitled based on the use of the tangible personal 78984
property or service purchased in generating, transmitting, or 78985
distributing electricity. 78986

(41) Sales to a person providing services under division 78987
(B)(3)(r) of section 5739.01 of the Revised Code of tangible 78988
personal property and services used directly and primarily in 78989
providing taxable services under that section. 78990

(42) Sales where the purpose of the purchaser is to do any of 78991
the following: 78992

(a) To incorporate the thing transferred as a material or a 78993
part into tangible personal property to be produced for sale by 78994
manufacturing, assembling, processing, or refining; or to use or 78995
consume the thing transferred directly in producing tangible 78996
personal property for sale by mining, including, without 78997
limitation, the extraction from the earth of all substances that 78998
are classed geologically as minerals, production of crude oil and 78999
natural gas, farming, agriculture, horticulture, or floriculture, 79000
or directly in the rendition of a public utility service, except 79001
that the sales tax levied by this section shall be collected upon 79002

all meals, drinks, and food for human consumption sold when 79003
transporting persons. Persons engaged in rendering farming, 79004
agricultural, horticultural, or floricultural services, and 79005
services in the exploration for, and production of, crude oil and 79006
natural gas, for others are deemed engaged directly in farming, 79007
agriculture, horticulture, and floriculture, or exploration for, 79008
and production of, crude oil and natural gas. This paragraph does 79009
not exempt from "retail sale" or "sales at retail" the sale of 79010
tangible personal property that is to be incorporated into a 79011
structure or improvement to real property. 79012

(b) To hold the thing transferred as security for the 79013
performance of an obligation of the vendor; 79014

(c) To resell, hold, use, or consume the thing transferred as 79015
evidence of a contract of insurance; 79016

(d) To use or consume the thing directly in commercial 79017
fishing; 79018

(e) To incorporate the thing transferred as a material or a 79019
part into, or to use or consume the thing transferred directly in 79020
the production of, magazines distributed as controlled circulation 79021
publications; 79022

(f) To use or consume the thing transferred in the production 79023
and preparation in suitable condition for market and sale of 79024
printed, imprinted, overprinted, lithographic, multilithic, 79025
blueprinted, photostatic, or other productions or reproductions of 79026
written or graphic matter; 79027

(g) To use the thing transferred, as described in section 79028
5739.011 of the Revised Code, primarily in a manufacturing 79029
operation to produce tangible personal property for sale; 79030

(h) To use the benefit of a warranty, maintenance or service 79031
contract, or similar agreement, as described in division (B)(7) of 79032
section 5739.01 of the Revised Code, to repair or maintain 79033

tangible personal property, if all of the property that is the 79034
subject of the warranty, contract, or agreement would not be 79035
subject to the tax imposed by this section; 79036

(i) To use the thing transferred as qualified research and 79037
development equipment; 79038

(j) To use or consume the thing transferred primarily in 79039
storing, transporting, mailing, or otherwise handling purchased 79040
sales inventory in a warehouse, distribution center, or similar 79041
facility when the inventory is primarily distributed outside this 79042
state to retail stores of the person who owns or controls the 79043
warehouse, distribution center, or similar facility, to retail 79044
stores of an affiliated group of which that person is a member, or 79045
by means of direct marketing. This division does not apply to 79046
motor vehicles registered for operation on the public highways. As 79047
used in this division, "affiliated group" has the same meaning as 79048
in division (B)(3)(e) of section 5739.01 of the Revised Code and 79049
"direct marketing" has the same meaning as in division (B)(35) of 79050
this section. 79051

(k) To use or consume the thing transferred to fulfill a 79052
contractual obligation incurred by a warrantor pursuant to a 79053
warranty provided as a part of the price of the tangible personal 79054
property sold or by a vendor of a warranty, maintenance or service 79055
contract, or similar agreement the provision of which is defined 79056
as a sale under division (B)(7) of section 5739.01 of the Revised 79057
Code; 79058

(l) To use or consume the thing transferred in the production 79059
of a newspaper for distribution to the public; 79060

(m) To use tangible personal property to perform a service 79061
listed in division (B)(3) of section 5739.01 of the Revised Code, 79062
if the property is or is to be permanently transferred to the 79063
consumer of the service as an integral part of the performance of 79064

the service; 79065

(n) To use or consume the thing transferred in acquiring, 79066
formatting, editing, storing, and disseminating data or 79067
information by electronic publishing. 79068

As used in division (B)(42) of this section, "thing" includes 79069
all transactions included in divisions (B)(3)(a), (b), and (e) of 79070
section 5739.01 of the Revised Code. 79071

(43) Sales conducted through a coin operated device that 79072
activates vacuum equipment or equipment that dispenses water, 79073
whether or not in combination with soap or other cleaning agents 79074
or wax, to the consumer for the consumer's use on the premises in 79075
washing, cleaning, or waxing a motor vehicle, provided no other 79076
personal property or personal service is provided as part of the 79077
transaction. 79078

(44) Sales of replacement and modification parts for engines, 79079
airframes, instruments, and interiors in, and paint for, aircraft 79080
used primarily in a fractional aircraft ownership program, and 79081
sales of services for the repair, modification, and maintenance of 79082
such aircraft, and machinery, equipment, and supplies primarily 79083
used to provide those services. 79084

(45) Sales of telecommunications service that is used 79085
directly and primarily to perform the functions of a call center. 79086
As used in this division, "call center" means any physical 79087
location where telephone calls are placed or received in high 79088
volume for the purpose of making sales, marketing, customer 79089
service, technical support, or other specialized business 79090
activity, and that employs at least fifty individuals that engage 79091
in call center activities on a full-time basis, or sufficient 79092
individuals to fill fifty full-time equivalent positions. 79093

(46) Sales by a telecommunications service vendor of 900 79094
service to a subscriber. This division does not apply to 79095

information services, as defined in division (FF) of section 79096
5739.01 of the Revised Code. 79097

(47) Sales of value-added non-voice data service. This 79098
division does not apply to any similar service that is not 79099
otherwise a telecommunications service. 79100

(48)(a) Sales of machinery, equipment, and software to a 79101
qualified direct selling entity for use in a warehouse or 79102
distribution center primarily for storing, transporting, or 79103
otherwise handling inventory that is held for sale to independent 79104
salespersons who operate as direct sellers and that is held 79105
primarily for distribution outside this state; 79106

(b) As used in division (B)(48)(a) of this section: 79107

(i) "Direct seller" means a person selling consumer products 79108
to individuals for personal or household use and not from a fixed 79109
retail location, including selling such product at in-home product 79110
demonstrations, parties, and other one-on-one selling. 79111

(ii) "Qualified direct selling entity" means an entity 79112
selling to direct sellers at the time the entity enters into a tax 79113
credit agreement with the tax credit authority pursuant to section 79114
122.17 of the Revised Code, provided that the agreement was 79115
entered into on or after January 1, 2007. Neither contingencies 79116
relevant to the granting of, nor later developments with respect 79117
to, the tax credit shall impair the status of the qualified direct 79118
selling entity under division (B)(48) of this section after 79119
execution of the tax credit agreement by the tax credit authority. 79120

(c) Division (B)(48) of this section is limited to machinery, 79121
equipment, and software first stored, used, or consumed in this 79122
state within the period commencing June 24, 2008, and ending on 79123
the date that is five years after that date. 79124

(49) Sales of materials, parts, equipment, or engines used in 79125
the repair or maintenance of aircraft or avionics systems of such 79126

aircraft, and sales of repair, remodeling, replacement, or 79127
maintenance services in this state performed on aircraft or on an 79128
aircraft's avionics, engine, or component materials or parts. As 79129
used in division (B)(49) of this section, "aircraft" means 79130
aircraft of more than six thousand pounds maximum certified 79131
takeoff weight or used exclusively in general aviation. 79132

(50) Sales of full flight simulators that are used for pilot 79133
or flight-crew training, sales of repair or replacement parts or 79134
components, and sales of repair or maintenance services for such 79135
full flight simulators. "Full flight simulator" means a replica of 79136
a specific type, or make, model, and series of aircraft cockpit. 79137
It includes the assemblage of equipment and computer programs 79138
necessary to represent aircraft operations in ground and flight 79139
conditions, a visual system providing an out-of-the-cockpit view, 79140
and a system that provides cues at least equivalent to those of a 79141
three-degree-of-freedom motion system, and has the full range of 79142
capabilities of the systems installed in the device as described 79143
in appendices A and B of part 60 of chapter 1 of title 14 of the 79144
Code of Federal Regulations. 79145

(C) For the purpose of the proper administration of this 79147
chapter, and to prevent the evasion of the tax, it is presumed 79148
that all sales made in this state are subject to the tax until the 79149
contrary is established. 79150

(D) The levy of this tax on retail sales of recreation and 79151
sports club service shall not prevent a municipal corporation from 79152
levying any tax on recreation and sports club dues or on any 79153
income generated by recreation and sports club dues. 79154

(E) The tax collected by the vendor from the consumer under 79155
this chapter is not part of the price, but is a tax collection for 79156
the benefit of the state, and of counties levying an additional 79157
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 79158

Code and of transit authorities levying an additional sales tax 79159
pursuant to section 5739.023 of the Revised Code. Except for the 79160
discount authorized under section 5739.12 of the Revised Code and 79161
the effects of any rounding pursuant to section 5703.055 of the 79162
Revised Code, no person other than the state or such a county or 79163
transit authority shall derive any benefit from the collection or 79164
payment of the tax levied by this section or section 5739.021, 79165
5739.023, or 5739.026 of the Revised Code. 79166

Sec. 5739.03. (A) Except as provided in section 5739.05 or 79167
section 5739.051 of the Revised Code, the tax imposed by or 79168
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 79169
the Revised Code shall be paid by the consumer to the vendor, and 79170
each vendor shall collect from the consumer, as a trustee for the 79171
state of Ohio, the full and exact amount of the tax payable on 79172
each taxable sale, in the manner and at the times provided as 79173
follows: 79174

(1) If the price is, at or prior to the provision of the 79175
service or the delivery of possession of the thing sold to the 79176
consumer, paid in currency passed from hand to hand by the 79177
consumer or the consumer's agent to the vendor or the vendor's 79178
agent, the vendor or the vendor's agent shall collect the tax with 79179
and at the same time as the price; 79180

(2) If the price is otherwise paid or to be paid, the vendor 79181
or the vendor's agent shall, at or prior to the provision of the 79182
service or the delivery of possession of the thing sold to the 79183
consumer, charge the tax imposed by or pursuant to section 79184
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to 79185
the account of the consumer, which amount shall be collected by 79186
the vendor from the consumer in addition to the price. Such sale 79187
shall be reported on and the amount of the tax applicable thereto 79188
shall be remitted with the return for the period in which the sale 79189

is made, and the amount of the tax shall become a legal charge in favor of the vendor and against the consumer.

(B)(1)(a) If any sale is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the consumer must provide to the vendor, and the vendor must obtain from the consumer, a certificate specifying the reason that the sale is not legally subject to the tax. The certificate shall be in such form, and shall be provided either in a hard copy form or electronic form, as the tax commissioner prescribes.

(b) A vendor that obtains a fully completed exemption certificate from a consumer is relieved of liability for collecting and remitting tax on any sale covered by that certificate. If it is determined the exemption was improperly claimed, the consumer shall be liable for any tax due on that sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or Chapter 5741. of the Revised Code. Relief under this division from liability does not apply to any of the following:

(i) A vendor that fraudulently fails to collect tax;

(ii) A vendor that solicits consumers to participate in the unlawful claim of an exemption;

(iii) A vendor that accepts an exemption certificate from a consumer that claims an exemption based on who purchases or who sells property or a service, when the subject of the transaction sought to be covered by the exemption certificate is actually received by the consumer at a location operated by the vendor in this state, and this state has posted to its web site an exemption certificate form that clearly and affirmatively indicates that the claimed exemption is not available in this state;

(iv) A vendor that accepts an exemption certificate from a

consumer who claims a multiple points of use exemption under 79221
division (D) of section 5739.033 of the Revised Code, if the item 79222
purchased is tangible personal property, other than prewritten 79223
computer software. 79224

(2) The vendor shall maintain records, including exemption 79225
certificates, of all sales on which a consumer has claimed an 79226
exemption, and provide them to the tax commissioner on request. 79227

(3) The tax commissioner may establish an identification 79228
system whereby the commissioner issues an identification number to 79229
a consumer that is exempt from payment of the tax. The consumer 79230
must present the number to the vendor, if any sale is claimed to 79231
be exempt as provided in this section. 79232

(4) If no certificate is provided or obtained within ninety 79233
days after the date on which such sale is consummated, it shall be 79234
presumed that the tax applies. Failure to have so provided or 79235
obtained a certificate shall not preclude a vendor, within one 79236
hundred twenty days after the tax commissioner gives written 79237
notice of intent to levy an assessment, from either establishing 79238
that the sale is not subject to the tax, or obtaining, in good 79239
faith, a fully completed exemption certificate. 79240

(5) Certificates need not be obtained nor provided where the 79241
identity of the consumer is such that the transaction is never 79242
subject to the tax imposed or where the item of tangible personal 79243
property sold or the service provided is never subject to the tax 79244
imposed, regardless of use, or when the sale is in interstate 79245
commerce. 79246

(6) If a transaction is claimed to be exempt under division 79247
(B)(13) of section 5739.02 of the Revised Code, the contractor 79248
shall obtain certification of the claimed exemption from the 79249
contractee. This certification shall be in addition to an 79250
exemption certificate provided by the contractor to the vendor. A 79251

contractee that provides a certification under this division shall 79252
be deemed to be the consumer of all items purchased by the 79253
contractor under the claim of exemption, if it is subsequently 79254
determined that the exemption is not properly claimed. The 79255
certification shall be in such form as the tax commissioner 79256
prescribes. 79257

(C) As used in this division, "contractee" means a person who 79258
seeks to enter or enters into a contract or agreement with a 79259
contractor or vendor for the construction of real property or for 79260
the sale and installation onto real property of tangible personal 79261
property. 79262

Any contractor or vendor may request from any contractee a 79263
certification of what portion of the property to be transferred 79264
under such contract or agreement is to be incorporated into the 79265
realty and what portion will retain its status as tangible 79266
personal property after installation is completed. The contractor 79267
or vendor shall request the certification by certified mail 79268
delivered to the contractee, return receipt requested. Upon 79269
receipt of such request and prior to entering into the contract or 79270
agreement, the contractee shall provide to the contractor or 79271
vendor a certification sufficiently detailed to enable the 79272
contractor or vendor to ascertain the resulting classification of 79273
all materials purchased or fabricated by the contractor or vendor 79274
and transferred to the contractee. This requirement applies to a 79275
contractee regardless of whether the contractee holds a direct 79276
payment permit under section 5739.031 of the Revised Code or 79277
provides to the contractor or vendor an exemption certificate as 79278
provided under this section. 79279

For the purposes of the taxes levied by this chapter and 79280
Chapter 5741. of the Revised Code, the contractor or vendor may in 79281
good faith rely on the contractee's certification. Notwithstanding 79282
division (B) of section 5739.01 of the Revised Code, if the tax 79283

commissioner determines that certain property certified by the 79284
contractee as tangible personal property pursuant to this division 79285
is, in fact, real property, the contractee shall be considered to 79286
be the consumer of all materials so incorporated into that real 79287
property and shall be liable for the applicable tax, and the 79288
contractor or vendor shall be excused from any liability on those 79289
materials. 79290

If a contractee fails to provide such certification upon the 79291
request of the contractor or vendor, the contractor or vendor 79292
shall comply with the provisions of this chapter and Chapter 5741. 79293
of the Revised Code without the certification. If the tax 79294
commissioner determines that such compliance has been performed in 79295
good faith and that certain property treated as tangible personal 79296
property by the contractor or vendor is, in fact, real property, 79297
the contractee shall be considered to be the consumer of all 79298
materials so incorporated into that real property and shall be 79299
liable for the applicable tax, and the construction contractor or 79300
vendor shall be excused from any liability on those materials. 79301

This division does not apply to any contract or agreement 79302
where the tax commissioner determines as a fact that a 79303
certification under this division was made solely on the decision 79304
or advice of the contractor or vendor. 79305

(D) Notwithstanding division (B) of section 5739.01 of the 79306
Revised Code, whenever the total rate of tax imposed under this 79307
chapter is increased after the date after a construction contract 79308
is entered into, the contractee shall reimburse the construction 79309
contractor for any additional tax paid on tangible property 79310
consumed or services received pursuant to the contract. 79311

(E) A vendor who files a petition for reassessment contesting 79312
the assessment of tax on sales for which the vendor obtained no 79313
valid exemption certificates and for which the vendor failed to 79314
establish that the sales were properly not subject to the tax 79315

during the one-hundred-twenty-day period allowed under division 79316
(B) of this section, may present to the tax commissioner 79317
additional evidence to prove that the sales were properly subject 79318
to a claim of exception or exemption. The vendor shall file such 79319
evidence within ninety days of the receipt by the vendor of the 79320
notice of assessment, except that, upon application and for 79321
reasonable cause, the period for submitting such evidence shall be 79322
extended thirty days. 79323

The commissioner shall consider such additional evidence in 79324
reaching the final determination on the assessment and petition 79325
for reassessment. 79326

(F) Whenever a vendor refunds the price, minus any separately 79327
stated delivery charge, of an item of tangible personal property 79328
on which the tax imposed under this chapter has been paid, the 79329
vendor shall also refund the amount of tax paid, minus the amount 79330
of tax attributable to the delivery charge. 79331

Sec. 5739.033. (A) Except as provided in division (B) of this 79332
section, divisions (C) to (I) of this section apply to sales made 79333
on and after January 1, 2008. Any vendor previously required to 79334
comply with divisions (C) to (I) of this section and any vendor 79335
that irrevocably elects to comply with divisions (C) to (I) of 79336
this section for all of the vendor's sales and places of business 79337
in this state shall continue to source its sales under those 79338
divisions. 79339

The amount of tax due pursuant to sections 5739.02, 5739.021, 79340
5739.023, and 5739.026 of the Revised Code is the sum of the taxes 79341
imposed pursuant to those sections at the sourcing location of the 79342
sale as determined under this section or, if applicable, under 79343
division (C) of section 5739.031 or section 5739.034 of the 79344
Revised Code, or at the situs of the sale as determined under 79345
section 5739.035 of the Revised Code. This section applies only to 79346

a vendor's or seller's obligation to collect and remit sales taxes 79347
under section 5739.02, 5739.021, 5739.023, or 5739.026 of the 79348
Revised Code or use taxes under section 5741.02, 5741.021, 79349
5741.022, or 5741.023 of the Revised Code. Division (A) of this 79350
section does not apply in determining the jurisdiction for which 79351
sellers are required to collect the use tax under section 5741.05 79352
of the Revised Code. This section does not affect the obligation 79353
of a consumer to remit use taxes on the storage, use, or other 79354
consumption of tangible personal property or on the benefit 79355
realized of any service provided, to the jurisdiction of that 79356
storage, use, or consumption, or benefit realized. 79357

(B)(1) As used in this division: 79358

(a) "Delivery sale" means the taxable sale of tangible 79359
personal property or a service that is received by a consumer, or 79360
a donee designated by the consumer, in a taxing jurisdiction that 79361
is not the taxing jurisdiction in which the vendor has a fixed 79362
place of business. 79363

(b) "Agreement" has the same meaning as in section 5740.01 of 79364
the Revised Code. 79365

(c) "Governing board" has the same meaning as in section 79366
5740.02 of the Revised Code. 79367

(2) If the tax commissioner does not make the certification 79368
under section 5740.10 of the Revised Code, a vendor that is not 79369
required by division (A) of this section to situs sales under 79370
divisions (C) to (I) of this section on the date of the 79371
commissioner's certification may continue after that date to situs 79372
its sales under section 5739.035 of the Revised Code unless it is 79373
required, under division (B)(5) of this section, to situs its 79374
sales under divisions (C) to (I) of this section. 79375

(3) Except as otherwise provided in divisions (B)(4) and (5) 79376
of this section, a vendor with total delivery sales within this 79377

state in prior calendar years, beginning with calendar year 2007, 79378
of less than five hundred thousand dollars may situs its sales 79379
under section 5739.035 of the Revised Code. 79380

(4) Once a vendor has total delivery sales in this state of 79381
five hundred thousand dollars or more for a prior calendar year, 79382
the vendor shall source its sales under divisions (C) to (I) of 79383
this section and shall continue to source its sales under those 79384
divisions regardless of the amount of the vendor's total delivery 79385
sales in future years. 79386

(5) A vendor permitted under division (B)(3) of this section 79387
to situs its sales under section 5739.035 of the Revised Code that 79388
fails to provide, absent a clerical error, the notices required 79389
under division (I)(1) of section 5739.035 of the Revised Code 79390
shall situs all subsequent sales as required under divisions (C) 79391
to (I) of this section. 79392

(C) Except for sales, other than leases, of titled motor 79393
vehicles, titled watercraft, or titled outboard motors as provided 79394
in section 5741.05 of the Revised Code, or as otherwise provided 79395
in this section and section 5739.034 of the Revised Code, all 79396
sales shall be sourced as follows: 79397

(1) If the consumer or a donee designated by the consumer 79398
receives tangible personal property or a service at a vendor's 79399
place of business, the sale shall be sourced to that place of 79400
business. 79401

(2) When the tangible personal property or service is not 79402
received at a vendor's place of business, the sale shall be 79403
sourced to the location known to the vendor where the consumer or 79404
the donee designated by the consumer receives the tangible 79405
personal property or service, including the location indicated by 79406
instructions for delivery to the consumer or the consumer's donee. 79407

(3) If divisions (C)(1) and (2) of this section do not apply, 79408

the sale shall be sourced to the location indicated by an address 79409
for the consumer that is available from the vendor's business 79410
records that are maintained in the ordinary course of the vendor's 79411
business, when use of that address does not constitute bad faith. 79412
79413

(4) If divisions (C)(1), (2), and (3) of this section do not 79414
apply, the sale shall be sourced to the location indicated by an 79415
address for the consumer obtained during the consummation of the 79416
sale, including the address associated with the consumer's payment 79417
instrument, if no other address is available, when use of that 79418
address does not constitute bad faith. 79419

(5) If divisions (C)(1), (2), (3), and (4) of this section do 79420
not apply, including in the circumstance where the vendor is 79421
without sufficient information to apply any of those divisions, 79422
the sale shall be sourced to the address from which tangible 79423
personal property was shipped, or from which the service was 79424
provided, disregarding any location that merely provided the 79425
electronic transfer of the property sold or service provided. 79426

(6) As used in division (C) of this section, "receive" means 79427
taking possession of tangible personal property or making first 79428
use of a service. "Receive" does not include possession by a 79429
shipping company on behalf of a consumer. 79430

(D)(1)(a) Notwithstanding divisions (C)(1) to (5) of this 79431
section, a business consumer that is not a holder of a direct 79432
payment permit granted under section 5739.031 of the Revised Code, 79433
that purchases a digital good, computer software, except computer 79434
software received in person by a business consumer at a vendor's 79435
place of business, or a service, and that knows at the time of 79436
purchase that such digital good, software, or service will be 79437
concurrently available for use in more than one taxing 79438
jurisdiction shall deliver to the vendor in conjunction with its 79439
purchase an exemption certificate claiming multiple points of use, 79440

or shall meet the requirements of division (D)(2) of this section. 79441
On receipt of the exemption certificate claiming multiple points 79442
of use, the vendor is relieved of its obligation to collect, pay, 79443
or remit the tax due, and the business consumer must pay the tax 79444
directly to the state. 79445

(b) A business consumer that delivers the exemption 79446
certificate claiming multiple points of use to a vendor may use 79447
any reasonable, consistent, and uniform method of apportioning the 79448
tax due on the digital good, computer software, or service that is 79449
supported by the consumer's business records as they existed at 79450
the time of the sale. The business consumer shall report and pay 79451
the appropriate tax to each jurisdiction where concurrent use 79452
occurs. The tax due shall be calculated as if the apportioned 79453
amount of the digital good, computer software, or service had been 79454
delivered to each jurisdiction to which the sale is apportioned 79455
under this division. 79456

(c) The exemption certificate claiming multiple points of use 79457
shall remain in effect for all future sales by the vendor to the 79458
business consumer until it is revoked in writing by the business 79459
consumer, except as to the business consumer's specific 79460
apportionment of a subsequent sale under division (D)(1)(b) of 79461
this section and the facts existing at the time of the sale. 79462

(2) When the vendor knows that a digital good, computer 79463
software, or service sold will be concurrently available for use 79464
by the business consumer in more than one jurisdiction, but the 79465
business consumer does not provide an exemption certificate 79466
claiming multiple points of use as required by division (D)(1) of 79467
this section, the vendor may work with the business consumer to 79468
produce the correct apportionment. Governed by the principles of 79469
division (D)(1)(b) of this section, the vendor and business 79470
consumer may use any reasonable, but consistent and uniform, 79471
method of apportionment that is supported by the vendor's and 79472

business consumer's books and records as they exist at the time 79473
the sale is reported for purposes of the taxes levied under this 79474
chapter. If the business consumer certifies to the accuracy of the 79475
apportionment and the vendor accepts the certification, the vendor 79476
shall collect and remit the tax accordingly. In the absence of bad 79477
faith, the vendor is relieved of any further obligation to collect 79478
tax on any transaction where the vendor has collected tax pursuant 79479
to the information certified by the business consumer. 79480

(3) When the vendor knows that the digital good, computer 79481
software, or service will be concurrently available for use in 79482
more than one jurisdiction, and the business consumer does not 79483
have a direct pay permit and does not provide to the vendor an 79484
exemption certificate claiming multiple points of use as required 79485
in division (D)(1) of this section, or certification pursuant to 79486
division (D)(2) of this section, the vendor shall collect and 79487
remit the tax based on division (C) of this section. 79488

(4) Nothing in this section shall limit a person's obligation 79489
for sales or use tax to any state in which a digital good, 79490
computer software, or service is concurrently available for use, 79491
nor limit a person's ability under local, state, or federal law, 79492
to claim a credit for sales or use taxes legally due and paid to 79493
other jurisdictions. 79494

(E) A person who holds a direct payment permit issued under 79495
section 5739.031 of the Revised Code is not required to deliver an 79496
exemption certificate claiming multiple points of use to a vendor. 79497
But such permit holder shall comply with division (D)(2) of this 79498
section in apportioning the tax due on a digital good, computer 79499
software, or a service for use in business that will be 79500
concurrently available for use in more than one taxing 79501
jurisdiction. 79502

(F)(1) Notwithstanding divisions (C)(1) to (5) of this 79503
section, the consumer of direct mail that is not a holder of a 79504

direct payment permit shall provide to the vendor in conjunction 79505
with the sale either an exemption certificate claiming direct mail 79506
prescribed by the tax commissioner, or information to show the 79507
jurisdictions to which the direct mail is delivered to recipients. 79508

(2) Upon receipt of such exemption certificate, the vendor is 79509
relieved of all obligations to collect, pay, or remit the 79510
applicable tax and the consumer is obligated to pay that tax on a 79511
direct pay basis. An exemption certificate claiming direct mail 79512
shall remain in effect for all future sales of direct mail by the 79513
vendor to the consumer until it is revoked in writing. 79514

(3) Upon receipt of information from the consumer showing the 79515
jurisdictions to which the direct mail is delivered to recipients, 79516
the vendor shall collect the tax according to the delivery 79517
information provided by the consumer. In the absence of bad faith, 79518
the vendor is relieved of any further obligation to collect tax on 79519
any transaction where the vendor has collected tax pursuant to the 79520
delivery information provided by the consumer. 79521

(4) If the consumer of direct mail does not have a direct 79522
payment permit and does not provide the vendor with either an 79523
exemption certificate claiming direct mail or delivery information 79524
as required by division (F)(1) of this section, the vendor shall 79525
collect the tax according to division (C)(5) of this section. 79526
Nothing in division (F)(4) of this section shall limit a 79527
consumer's obligation to pay sales or use tax to any state to 79528
which the direct mail is delivered. 79529

(5) If a consumer of direct mail provides the vendor with 79530
documentation of direct payment authority, the consumer shall not 79531
be required to provide an exemption certificate claiming direct 79532
mail or delivery information to the vendor. 79533

(G) If the vendor provides lodging to transient guests as 79534
specified in division (B)(2) of section 5739.01 of the Revised 79535

Code, the sale shall be sourced to the location where the lodging
is located. 79536
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(H)(1) As used in this division and division (I) of this
section, "transportation equipment" means any of the following: 79538
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(a) Locomotives and railcars that are utilized for the
carriage of persons or property in interstate commerce. 79540
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(b) Trucks and truck-tractors with a gross vehicle weight
rating of greater than ten thousand pounds, trailers,
semi-trailers, or passenger buses that are registered through the
international registration plan and are operated under authority
of a carrier authorized and certificated by the United States
department of transportation or another federal authority to
engage in the carriage of persons or property in interstate
commerce. 79542
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(c) Aircraft that are operated by air carriers authorized and
certificated by the United States department of transportation or
another federal authority to engage in the carriage of persons or
property in interstate or foreign commerce. 79550
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(d) Containers designed for use on and component parts
attached to or secured on the items set forth in division
(H)(1)(a), (b), or (c) of this section. 79554
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(2) A sale, lease, or rental of transportation equipment
shall be sourced pursuant to division (C) of this section. 79557
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(I)(1) A lease or rental of tangible personal property that
does not require recurring periodic payments shall be sourced
pursuant to division (C) of this section. 79559
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(2) A lease or rental of tangible personal property that
requires recurring periodic payments shall be sourced as follows: 79562
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(a) In the case of a motor vehicle, other than a motor
vehicle that is transportation equipment, or an aircraft, other 79564
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than an aircraft that is transportation equipment, such lease or 79566
rental shall be sourced as follows: 79567

(i) An accelerated tax payment on a lease or rental taxed 79568
pursuant to division (A)(2) of section 5739.02 of the Revised Code 79569
shall be sourced to the primary property location at the time the 79570
lease or rental is consummated. Any subsequent taxable charges on 79571
the lease or rental shall be sourced to the primary property 79572
location for the period in which the charges are incurred. 79573

(ii) For a lease or rental taxed pursuant to division (A)(3) 79574
of section 5739.02 of the Revised Code, each lease or rental 79575
installment shall be sourced to the primary property location for 79576
the period covered by the installment. 79577

(b) In the case of a lease or rental of all other tangible 79578
personal property, other than transportation equipment, such lease 79579
or rental shall be sourced as follows: 79580

(i) An accelerated tax payment on a lease or rental that is 79581
taxed pursuant to division (A)(2) of section 5739.02 of the 79582
Revised Code shall be sourced pursuant to division (C) of this 79583
section at the time the lease or rental is consummated. Any 79584
subsequent taxable charges on the lease or rental shall be sourced 79585
to the primary property location for the period in which the 79586
charges are incurred. 79587

(ii) For a lease or rental that is taxed pursuant to division 79588
(A)(3) of section 5739.02 of the Revised Code, the initial lease 79589
or rental installment shall be sourced pursuant to division (C) of 79590
this section. Each subsequent installment shall be sourced to the 79591
primary property location for the period covered by the 79592
installment. 79593

(3) As used in division (I) of this section, "primary 79594
property location" means an address for tangible personal property 79595
provided by the lessee or renter that is available to the lessor 79596

or owner from its records maintained in the ordinary course of 79597
business, when use of that address does not constitute bad faith. 79598

(J) If the vendor provides a service specified in division 79599
(B)(11) of section 5739.01 of the Revised Code, the situs of the 79600
sale is the location of the enrollee for whom a medicaid health 79601
insurance corporation receives managed care premiums. Such sales 79602
shall be sourced to the locations of the enrollees in the same 79603
proportion as the managed care premiums received by the medicaid 79604
health insuring corporation on behalf of enrollees located in a 79605
particular taxing jurisdiction in Ohio as compared to all managed 79606
care premiums received by the medicaid health insuring 79607
corporation. 79608

Sec. 5739.051. (A) The tax commissioner shall issue a direct 79609
payment permit to a medicaid health insuring corporation that 79610
authorizes the medicaid health insuring corporation to pay all 79611
taxes due on sales described in division (B)(11) of section 79612
5739.01 of the Revised Code directly to the state. Each medicaid 79613
health insuring corporation shall pay pursuant to such direct 79614
payment authority all sales tax levied on such sales by sections 79615
5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code and 79616
all use tax levied on such sales pursuant to sections 5741.02, 79617
5741.021, 5741.022, and 5741.023 of the Revised Code, unless 79618
division (B)(11)(b) of section 5739.01 of the Revised Code 79619
applies. 79620

(B) Each medicaid health insuring corporation shall, on or 79621
before the twenty-third day of each month, file a return for the 79622
preceding month on a form prescribed by the tax commissioner and 79623
shall pay the tax shown on the return to be due, unless division 79624
(B)(11)(b) of section 5739.01 of the Revised Code applies. The 79625
return shall show the amount of tax due from the medicaid health 79626
care insuring corporation for the period covered by the return and 79627

other such information as the commissioner deems necessary. Upon 79628
written request, the commissioner may extend the time for filing 79629
the return and paying the tax. The commissioner may require each 79630
medicaid health insuring corporation to file returns and remit 79631
payment by electronic means as provided in section 5739.032 of the 79632
Revised Code. 79633

Sec. 5739.12. (A)(1) Each person who has or is required to 79634
have a vendor's license, on or before the twenty-third day of each 79635
month, shall make and file a return for the preceding month in the 79636
form prescribed by the tax commissioner, and shall pay the tax 79637
shown on the return to be due. The return shall be filed 79638
electronically using the Ohio business gateway, as defined in 79639
section 718.051 of the Revised Code, the Ohio telefile system, or 79640
any other electronic means prescribed by the commissioner. Payment 79641
of the tax shown on the return to be due shall be made 79642
electronically in a manner approved by the commissioner. The 79643
commissioner may require a vendor that operates from multiple 79644
locations or has multiple vendor's licenses to report all tax 79645
liabilities on one consolidated return. The return shall show the 79646
amount of tax due from the vendor to the state for the period 79647
covered by the return and such other information as the 79648
commissioner deems necessary for the proper administration of this 79649
chapter. The commissioner may extend the time for making and 79650
filing returns and paying the tax, and may require that the return 79651
for the last month of any annual or semiannual period, as 79652
determined by the commissioner, be a reconciliation return 79653
detailing the vendor's sales activity for the preceding annual or 79654
semiannual period. The reconciliation return shall be filed by the 79655
last day of the month following the last month of the annual or 79656
semiannual period. The commissioner may remit all or any part of 79657
amounts or penalties that may become due under this chapter and 79658
may adopt rules relating thereto. Such return shall be filed 79659

electronically as directed by the tax commissioner, and payment of 79660
the amount of tax shown to be due thereon, after deduction of any 79661
discount provided for under this section, shall be made 79662
electronically in a manner approved by the tax commissioner. 79663

(2) Any person required to file returns and make payments 79664
electronically under division (A)(1) of this section may apply to 79665
the tax commissioner on a form prescribed by the commissioner to 79666
be excused from that requirement. For good cause shown, the 79667
commissioner may excuse the person from that requirement and may 79668
permit the person to file the returns and make the payments 79669
required by this section by nonelectronic means. 79670

(B)(1) If the return is filed and the amount of tax shown 79671
thereon to be due is paid on or before the date such return is 79672
required to be filed, the vendor shall be entitled to a discount 79673
~~of~~ in the following amount: 79674

(a) On or before July 31, 2009, three-fourths of one per cent 79675
of the amount shown to be due on the return; 79676

(b) On or after August 1, 2009, one per cent of the amount 79677
shown to be due on the return, except that the discount allowed 79678
for each return shall not exceed one hundred dollars. 79679

(2) A vendor that has selected a certified service provider 79680
as its agent shall not be entitled to the discount if the 79681
certified service provider receives a monetary allowance pursuant 79682
to section 5739.06 of the Revised Code for performing the vendor's 79683
sales and use tax functions in this state. Amounts paid to the 79684
clerk of courts pursuant to section 4505.06 of the Revised Code 79685
shall be subject to the applicable discount. The discount shall be 79686
in consideration for prompt payment to the clerk of courts and for 79687
other services performed by the vendor in the collection of the 79688
tax. 79689

(3) When computing the discount allowed under division (B)(1) 79690

of this section, vendors of watercraft or outboard motors required 79691
to be titled under section 1548.06 of the Revised Code, dealers of 79692
motor vehicles required to be titled under section 4505.06 of the 79693
Revised Code, and dealers of off-highway motorcycles or 79694
all-purpose vehicles required to be titled under section 4519.55 79695
of the Revised Code that submit to the clerk of the court of 79696
common pleas payment of the tax collected on such sales may 79697
include those sales on the return for the period in which the 79698
sales were made. If the tax reported to be due on the return is 79699
less than the discount allowed under this section, a vendor or 79700
dealer may file a claim for a refund of any unused discount under 79701
section 5739.07 of the Revised Code, provided that such refund 79702
claims may not be filed more than twice per year by a vendor or 79703
dealer. 79704

(C)(1) Upon application to the tax commissioner, a vendor who 79705
is required to file monthly returns may be relieved of the 79706
requirement to report and pay the actual tax due, provided that 79707
the vendor agrees to remit to the commissioner payment of not less 79708
than an amount determined by the commissioner to be the average 79709
monthly tax liability of the vendor, based upon a review of the 79710
returns or other information pertaining to such vendor for a 79711
period of not less than six months nor more than two years 79712
immediately preceding the filing of the application. Vendors who 79713
agree to the above conditions shall make and file an annual or 79714
semiannual reconciliation return, as prescribed by the 79715
commissioner. The reconciliation return shall be filed 79716
electronically as directed by the tax commissioner, and payment of 79717
the amount of tax shown to be due thereon, after deduction of any 79718
discount provided in this section, shall be made electronically in 79719
a manner approved by the commissioner. Failure of a vendor to 79720
comply with any of the above conditions may result in immediate 79721
reinstatement of the requirement of reporting and paying the 79722
actual tax liability on each monthly return, and the commissioner 79723

may at the commissioner's discretion deny the vendor the right to report and pay based upon the average monthly liability for a period not to exceed two years. The amount ascertained by the commissioner to be the average monthly tax liability of a vendor may be adjusted, based upon a review of the returns or other information pertaining to the vendor for a period of not less than six months nor more than two years preceding such adjustment.

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(2) The commissioner may authorize vendors whose tax liability is not such as to merit monthly returns, as ascertained by the commissioner upon the basis of administrative costs to the state, to make and file returns at less frequent intervals. When returns are filed at less frequent intervals in accordance with such authorization, the vendor shall be allowed the discount provided in this section in consideration for prompt payment with the return, provided the return is filed and payment is made of the amount of tax shown to be due thereon, at the time specified by the commissioner, but a vendor that has selected a certified service provider as its agent shall not be entitled to the discount.

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(D) Any vendor who fails to file a return or to pay the full amount of the tax shown on the return to be due in the manner prescribed under this section and the rules of the commissioner may, for each such return, be required to forfeit and pay into the state treasury an additional charge not exceeding fifty dollars or ten per cent of the tax required to be paid for the reporting period, whichever is greater, as revenue arising from the tax imposed by this chapter, and such sum may be collected by assessment in the manner provided in section 5739.13 of the Revised Code. The commissioner may remit all or a portion of the additional charge and may adopt rules relating to the imposition and remission of the additional charge.

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(E) If the amount required to be collected by a vendor from consumers is in excess of the applicable percentage of the vendor's receipts from sales that are taxable under section 5739.02 of the Revised Code, or in the case of sales subject to a tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, in excess of the percentage equal to the aggregate rate of such taxes and the tax levied by section 5739.02 of the Revised Code, such excess shall be remitted along with the remittance of the amount of tax due under section 5739.10 of the Revised Code.

(F) The commissioner, if the commissioner deems it necessary in order to insure the payment of the tax imposed by this chapter, may require returns and payments to be made for other than monthly periods.

(G) Any vendor required to file a return and pay the tax under this section whose total payment for a year equals or exceeds the amount shown in division (A) of section 5739.122 of the Revised Code is subject to the accelerated tax payment requirements in divisions (B) and (C) of that section. For a vendor that operates from multiple locations or has multiple vendor's licenses, in determining whether the vendor's total payment equals or exceeds the amount shown in division (A) of that section, the vendor's total payment amount shall be the amount of the vendor's total tax liability for the previous calendar year for all of the vendor's locations or licenses.

Sec. 5739.131. Any nonresident of this state who accepts the privilege extended by the laws of this state to nonresidents of engaging in the business of selling in this state, as defined in section 5741.01 of the Revised Code, and any resident of this state who is required by sections 5739.17 and 5739.31 of the Revised Code to have a vendor's license and subsequently becomes a

nonresident or conceals ~~his~~ the person's whereabouts, makes the 79787
secretary of state ~~his~~ the person's agent for the service of 79788
process or notice in any assessment, action, or proceedings 79789
instituted in this state against such person under sections 79790
5739.01 to 5739.31 and 5741.01 to 5741.22 of the Revised Code. 79791

Such process or notice shall be served, ~~by the officer to~~ 79792
~~whom the same is directed or by the tax commissioner, or by the~~ 79793
~~sheriff of Franklin county, who may be deputized for such purpose~~ 79794
~~by the officer to whom the service is directed, upon the secretary~~ 79795
~~of state by leaving at the office of the secretary of state, at~~ 79796
~~least fifteen days before the return day of such process or~~ 79797
~~notice, a true and attested copy thereof, and by sending to the~~ 79798
~~defendant by certified mail, postage prepaid, a like and true~~ 79799
~~attested copy, with an endorsement thereon of the service upon the~~ 79800
~~secretary of state, addressed to such defendant at his last known~~ 79801
~~address as provided under section 5703.37 of the Revised Code.~~ 79802

Sec. 5743.15. (A) No person shall engage in this state in the 79803
wholesale or retail business of trafficking in cigarettes or in 79804
the business of a manufacturer or importer of cigarettes without 79805
having a license to conduct each such activity issued by a county 79806
auditor under division (B) of this section or the tax commissioner 79807
under division (E) of this section, except that on dissolution of 79808
a partnership by death, the surviving partner may operate under 79809
the license of the partnership until expiration of the license, 79810
and the heirs or legal representatives of deceased persons, and 79811
receivers and trustees in bankruptcy appointed by any competent 79812
authority, may operate under the license of the person succeeded 79813
in possession by such heir, representative, receiver, or trustee 79814
in bankruptcy. 79815

(B) Each applicant for a license to engage in the wholesale 79816
or retail business of trafficking in cigarettes under this 79817

section, annually, on or before the fourth Monday of May, shall 79818
make and deliver to the county auditor of the county in which the 79819
applicant desires to engage in the wholesale or retail business of 79820
trafficking in cigarettes, upon a blank furnished by such auditor 79821
for that purpose, a statement showing the name of the applicant, 79822
each place in the county where the applicant's business is 79823
conducted, the nature of the business, and any other information 79824
the tax commissioner requires in the form of statement prescribed 79825
by the commissioner. If the applicant is a firm, partnership, or 79826
association other than a corporation, the application shall state 79827
the name and address of each of its members. If the applicant is a 79828
corporation, the application shall state the name and address of 79829
each of its officers. At the time of making the application 79830
required by this section, every person desiring to engage in the 79831
wholesale business of trafficking in cigarettes shall pay into the 79832
county treasury a license tax in the sum of ~~two hundred one~~ 79833
thousand dollars, or if desiring to engage in the retail business 79834
of trafficking in cigarettes, a license tax in the sum of ~~thirty~~ 79835
one hundred twenty-five dollars ~~for each of the first five places~~ 79836
~~where the person proposes to carry on such business and~~ 79837
~~twenty five dollars for each additional place.~~ Each place of 79838
business shall be deemed such space, under lease or license to, or 79839
under the control of, or under the supervision of the applicant, 79840
as is contained in one or more contiguous, adjacent, or adjoining 79841
buildings constituting an industrial plant or a place of business 79842
operated by, or under the control of, one person, or under one 79843
roof and connected by doors, halls, stairways, or elevators, which 79844
space may contain any number of points at which cigarettes are 79845
offered for sale, provided that each additional point at which 79846
cigarettes are offered for sale shall be listed in the 79847
application. 79848

Upon receipt of the application and exhibition of the county 79849
treasurer's receipt showing the payment of the tax, the county 79850

auditor shall issue to the applicant a license for each place of 79851
business designated in the application, authorizing the applicant 79852
to engage in such business at such place for one year commencing 79853
on the fourth Monday of May. Companies operating club or dining 79854
cars or other cars upon which cigarettes are sold shall obtain 79855
licenses at railroad terminals within the state, under such rules 79856
as are prescribed by the commissioner. The form of the license 79857
shall be prescribed by the commissioner. A duplicate license may 79858
be obtained from the county auditor upon payment of a fifty cent 79859
fee if the original license is lost, destroyed, or defaced. When 79860
an application is filed after the fourth Monday of May, the 79861
license tax required to be paid shall be proportioned in amount to 79862
the remainder of the license year, except that it shall not be 79863
less than one-fifth of the whole amount in any one year. 79864

The holder of a wholesale or retail dealer's cigarette 79865
license may transfer the license to a place of business within the 79866
same county other than that designated on the license ~~or may~~ 79867
~~assign the license to another person for use in the same county on~~ 79868
~~condition that the licensee or assignee, whichever is applicable,~~ 79869
make application to the county auditor therefor, upon forms 79870
approved by the commissioner and the payment of a fee of one 79871
dollar into the county treasury. 79872

(C)(1) The wholesale cigarette license tax revenue collected 79873
under this section shall be ~~distributed as follows:~~ 79874

~~(a) Thirty seven and one half per cent shall be paid upon the~~ 79875
~~warrant of the county auditor into the treasury of the municipal~~ 79876
~~corporation or township in which the place of business for which~~ 79877
~~the tax revenue was received is located;~~ 79878

~~(b) Fifteen per cent shall be credited to the general fund of~~ 79879
~~the county;~~ 79880

~~(c) Forty seven and one half per cent shall be paid into the~~ 79881

cigarette tax enforcement fund created by division ~~(C)~~(D) of this section. 79882
79883

(2) The retail cigarette license tax revenue collected ~~from~~ 79884
~~the thirty dollar tax imposed upon the first five places of~~ 79885
~~business of a person engaged in the retail business of trafficking~~ 79886
~~in cigarettes~~ under this section shall be distributed as follows: 79887

(a) ~~Sixty two and one half~~ Thirty per cent shall be paid upon 79888
the warrant of the county auditor into the treasury of the 79889
municipal corporation or township in which the places of business 79890
for which the tax revenue was received are located; 79891

(b) ~~Twenty two and one half~~ Ten per cent shall be credited to 79892
the general fund of the county; 79893

(c) ~~Fifteen~~ Sixty per cent shall be paid into the cigarette 79894
tax enforcement fund created by division ~~(C)~~(D) of this section. 79895

(3) The remainder of the revenues and fines collected under 79896
this section and the penal laws relating to cigarettes shall be 79897
distributed as follows: 79898

(a) Three-fourths shall be paid upon the warrant of the 79899
county auditor into the treasury of the municipal corporation or 79900
township in which the place of business, on account of which the 79901
revenues and fines were received, is located; 79902

(b) One-fourth shall be credited to the general fund of the 79903
county. 79904

(D) There is hereby created within the state treasury the 79905
cigarette tax enforcement fund for the purpose of providing funds 79906
to assist in paying the costs of enforcing sections 1333.11 to 79907
1333.21 and Chapter 5743. of the Revised Code. 79908

The portion of cigarette license tax revenues received by a 79909
county auditor during the annual application period that ends 79910
before the fourth Monday in May which is required to be deposited 79911

in the cigarette tax enforcement fund shall be sent to the 79912
treasurer of state by the thirtieth day of June each year. The 79913
portion of license tax money received by each county auditor after 79914
the fourth Monday in May which is required to be deposited in the 79915
cigarette tax enforcement fund shall be sent to the treasurer of 79916
state by the thirty-first day of December. 79917

(E)(1) Every person who desires to engage in the business of 79918
a manufacturer or importer of cigarettes shall, annually, on or 79919
before the fourth Monday of May, make and deliver to the tax 79920
commissioner, upon a blank furnished by the commissioner for that 79921
purpose, a statement showing the name of the applicant, the nature 79922
of the applicant's business, and any other information required by 79923
the commissioner. If the applicant is a firm, partnership, or 79924
association other than a corporation, the applicant shall state 79925
the name and address of each of its members. If the applicant is a 79926
corporation, the applicant shall state the name and address of 79927
each of its officers. 79928

Upon receipt of the application, the commissioner shall issue 79929
to the applicant a license authorizing the applicant to engage in 79930
the business of manufacturer or importer, whichever the case may 79931
be, for one year commencing on the fourth Monday of May. 79932

(2) The issuing of a license under division (E)(1) of this 79933
section to a manufacturer does not excuse a manufacturer from the 79934
certification process required under section 1346.05 of the 79935
Revised Code. A manufacturer who is issued a license under 79936
division (E)(1) of this section and who is not listed on the 79937
directory required under section 1346.05 of the Revised Code shall 79938
not be permitted to sell cigarettes in this state other than to a 79939
licensed cigarette wholesaler for sale outside this state. Such a 79940
manufacturer shall provide documentation to the commissioner 79941
evidencing that the cigarettes are legal for sale in another 79942
state. 79943

(3) The tax commissioner may adopt rules necessary to administer division (E) of this section.

Sec. 5743.61. (A) No distributor shall engage in the business of distributing tobacco products within this state without having a license issued by the department of taxation to engage in that business, except that on dissolution of a partnership by death, the surviving partner may operate under the license of the partnership until the expiration of the license, and the heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy appointed by any competent authority, may operate under the license of the person succeeded in possession by the heir, representative, receiver, or trustee in bankruptcy.

(B)(1) Each applicant for a license to engage in the business of distributing tobacco products, annually, on or before the first day of February, shall make and deliver to the tax commissioner, upon a form furnished by the commissioner for that purpose, a statement showing the name of the applicant, each place from which the applicant distributes to distributors, retail dealers, or wholesale dealers, and any other information the commissioner considers necessary for the administration of sections 5743.51 to 5743.66 of the Revised Code.

(2) At the time of making the license application, the applicant shall pay a license fee of one ~~hundred~~ thousand dollars for each place listed in the application where ~~he~~ the applicant proposes to carry on that business. The fee charged for the license shall accompany the application and shall be made payable to the treasurer of state for deposit into the cigarette tax enforcement fund.

(3) Upon receipt of the application and payment of any licensing fee required by this section the commissioner shall

issue to the applicant a license for each place of distribution 79975
designated in the application authorizing the applicant to engage 79976
in business at that location for one year commencing on the first 79977
day of February. For licenses issued after the first day of 79978
February, the licensing fee shall be reduced proportionately by 79979
the remainder of the twelve-month period for which the license is 79980
issued, except that the application fee required to be paid under 79981
this section shall be not less than two hundred dollars. If the 79982
original license is lost, destroyed, or defaced, a duplicate 79983
license may be obtained from the commissioner. 79984

(C) The holder of a tobacco products license may transfer the 79985
license to a place of business or may assign the license to 79986
another person for use, on condition that the licensee or assignee 79987
applies to the commissioner for the transfer, upon forms issued by 79988
the commissioner. 79989

(D) If a distributor fails to file the returns as required 79990
under section 5743.52 of the Revised Code, or pay the tax due 79991
thereon, on two consecutive months or three months during any 79992
twelve-month period, the commissioner may suspend the license 79993
issued to the distributor under this section. The suspension is 79994
effective ten days after the commissioner notifies the distributor 79995
of the suspension in writing personally or by certified mail. The 79996
commissioner shall lift the suspension when the distributor files 79997
the delinquent returns and pays the tax due including any 79998
penalties, interest, and additional charges. The commissioner may 79999
refuse to issue the annual renewal of the license required by this 80000
section and may refuse to issue a new license for the same 80001
location until all delinquent returns are filed and outstanding 80002
taxes are paid. This division does not apply to any unpaid or 80003
underpaid tax liability that is the subject of a ~~petition~~ 80004
petition or appeal filed pursuant to section 5743.56, 5717.02, or 80005
5717.04 of the Revised Code. 80006

Sec. 5747.01. Except as otherwise expressly provided or 80007
clearly appearing from the context, any term used in this chapter 80008
that is not otherwise defined in this section has the same meaning 80009
as when used in a comparable context in the laws of the United 80010
States relating to federal income taxes or if not used in a 80011
comparable context in those laws, has the same meaning as in 80012
section 5733.40 of the Revised Code. Any reference in this chapter 80013
to the Internal Revenue Code includes other laws of the United 80014
States relating to federal income taxes. 80015

As used in this chapter: 80016

(A) "Adjusted gross income" or "Ohio adjusted gross income" 80017
means federal adjusted gross income, as defined and used in the 80018
Internal Revenue Code, adjusted as provided in this section: 80019

(1) Add interest or dividends on obligations or securities of 80020
any state or of any political subdivision or authority of any 80021
state, other than this state and its subdivisions and authorities. 80022

(2) Add interest or dividends on obligations of any 80023
authority, commission, instrumentality, territory, or possession 80024
of the United States to the extent that the interest or dividends 80025
are exempt from federal income taxes but not from state income 80026
taxes. 80027

(3) Deduct interest or dividends on obligations of the United 80028
States and its territories and possessions or of any authority, 80029
commission, or instrumentality of the United States to the extent 80030
that the interest or dividends are included in federal adjusted 80031
gross income but exempt from state income taxes under the laws of 80032
the United States. 80033

(4) Deduct disability and survivor's benefits to the extent 80034
included in federal adjusted gross income. 80035

(5) Deduct benefits under Title II of the Social Security Act 80036

and tier 1 railroad retirement benefits to the extent included in 80037
federal adjusted gross income under section 86 of the Internal 80038
Revenue Code. 80039

(6) In the case of a taxpayer who is a beneficiary of a trust 80040
that makes an accumulation distribution as defined in section 665 80041
of the Internal Revenue Code, add, for the beneficiary's taxable 80042
years beginning before 2002, the portion, if any, of such 80043
distribution that does not exceed the undistributed net income of 80044
the trust for the three taxable years preceding the taxable year 80045
in which the distribution is made to the extent that the portion 80046
was not included in the trust's taxable income for any of the 80047
trust's taxable years beginning in 2002 or thereafter. 80048

"Undistributed net income of a trust" means the taxable income of 80049
the trust increased by (a)(i) the additions to adjusted gross 80050
income required under division (A) of this section and (ii) the 80051
personal exemptions allowed to the trust pursuant to section 80052
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 80053
deductions to adjusted gross income required under division (A) of 80054
this section, (ii) the amount of federal income taxes attributable 80055
to such income, and (iii) the amount of taxable income that has 80056
been included in the adjusted gross income of a beneficiary by 80057
reason of a prior accumulation distribution. Any undistributed net 80058
income included in the adjusted gross income of a beneficiary 80059
shall reduce the undistributed net income of the trust commencing 80060
with the earliest years of the accumulation period. 80061

(7) Deduct the amount of wages and salaries, if any, not 80062
otherwise allowable as a deduction but that would have been 80063
allowable as a deduction in computing federal adjusted gross 80064
income for the taxable year, had the targeted jobs credit allowed 80065
and determined under sections 38, 51, and 52 of the Internal 80066
Revenue Code not been in effect. 80067

(8) Deduct any interest or interest equivalent on public 80068

obligations and purchase obligations to the extent that the 80069
interest or interest equivalent is included in federal adjusted 80070
gross income. 80071

(9) Add any loss or deduct any gain resulting from the sale, 80072
exchange, or other disposition of public obligations to the extent 80073
that the loss has been deducted or the gain has been included in 80074
computing federal adjusted gross income. 80075

(10) Deduct or add amounts, as provided under section 5747.70 80076
of the Revised Code, related to contributions to variable college 80077
savings program accounts made or tuition units purchased pursuant 80078
to Chapter 3334. of the Revised Code. 80079

(11)(a) Deduct, to the extent not otherwise allowable as a 80080
deduction or exclusion in computing federal or Ohio adjusted gross 80081
income for the taxable year, the amount the taxpayer paid during 80082
the taxable year for medical care insurance and qualified 80083
long-term care insurance for the taxpayer, the taxpayer's spouse, 80084
and dependents. No deduction for medical care insurance under 80085
division (A)(11) of this section shall be allowed either to any 80086
taxpayer who is eligible to participate in any subsidized health 80087
plan maintained by any employer of the taxpayer or of the 80088
taxpayer's spouse, or to any taxpayer who is entitled to, or on 80089
application would be entitled to, benefits under part A of Title 80090
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 80091
301, as amended. For the purposes of division (A)(11)(a) of this 80092
section, "subsidized health plan" means a health plan for which 80093
the employer pays any portion of the plan's cost. The deduction 80094
allowed under division (A)(11)(a) of this section shall be the net 80095
of any related premium refunds, related premium reimbursements, or 80096
related insurance premium dividends received during the taxable 80097
year. 80098

(b) Deduct, to the extent not otherwise deducted or excluded 80099
in computing federal or Ohio adjusted gross income during the 80100

taxable year, the amount the taxpayer paid during the taxable 80101
year, not compensated for by any insurance or otherwise, for 80102
medical care of the taxpayer, the taxpayer's spouse, and 80103
dependents, to the extent the expenses exceed seven and one-half 80104
per cent of the taxpayer's federal adjusted gross income. 80105

(c) Deduct, to the extent not otherwise deducted or excluded 80106
in computing federal or Ohio adjusted gross income, any amount 80107
included in federal adjusted gross income under section 105 or not 80108
excluded under section 106 of the Internal Revenue Code solely 80109
because it relates to an accident and health plan for a person who 80110
otherwise would be a "qualifying relative" and thus a "dependent" 80111
under section 152 of the Internal Revenue Code but for the fact 80112
that the person fails to meet the income and support limitations 80113
under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 80114

(d) For purposes of division (A)(11) of this section, 80115
"medical care" has the meaning given in section 213 of the 80116
Internal Revenue Code, subject to the special rules, limitations, 80117
and exclusions set forth therein, and "qualified long-term care" 80118
has the same meaning given in section 7702B(c) of the Internal 80119
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 80120
of this section, "dependent" includes a person who otherwise would 80121
be a "qualifying relative" and thus a "dependent" under section 80122
152 of the Internal Revenue Code but for the fact that the person 80123
fails to meet the income and support limitations under section 80124
152(d)(1)(B) and (C) of the Internal Revenue Code. 80125

(12)(a) Deduct any amount included in federal adjusted gross 80126
income solely because the amount represents a reimbursement or 80127
refund of expenses that in any year the taxpayer had deducted as 80128
an itemized deduction pursuant to section 63 of the Internal 80129
Revenue Code and applicable United States department of the 80130
treasury regulations. The deduction otherwise allowed under 80131
division (A)(12)(a) of this section shall be reduced to the extent 80132

the reimbursement is attributable to an amount the taxpayer 80133
deducted under this section in any taxable year. 80134

(b) Add any amount not otherwise included in Ohio adjusted 80135
gross income for any taxable year to the extent that the amount is 80136
attributable to the recovery during the taxable year of any amount 80137
deducted or excluded in computing federal or Ohio adjusted gross 80138
income in any taxable year. 80139

(13) Deduct any portion of the deduction described in section 80140
1341(a)(2) of the Internal Revenue Code, for repaying previously 80141
reported income received under a claim of right, that meets both 80142
of the following requirements: 80143

(a) It is allowable for repayment of an item that was 80144
included in the taxpayer's adjusted gross income for a prior 80145
taxable year and did not qualify for a credit under division (A) 80146
or (B) of section 5747.05 of the Revised Code for that year; 80147

(b) It does not otherwise reduce the taxpayer's adjusted 80148
gross income for the current or any other taxable year. 80149

(14) Deduct an amount equal to the deposits made to, and net 80150
investment earnings of, a medical savings account during the 80151
taxable year, in accordance with section 3924.66 of the Revised 80152
Code. The deduction allowed by division (A)(14) of this section 80153
does not apply to medical savings account deposits and earnings 80154
otherwise deducted or excluded for the current or any other 80155
taxable year from the taxpayer's federal adjusted gross income. 80156

(15)(a) Add an amount equal to the funds withdrawn from a 80157
medical savings account during the taxable year, and the net 80158
investment earnings on those funds, when the funds withdrawn were 80159
used for any purpose other than to reimburse an account holder 80160
for, or to pay, eligible medical expenses, in accordance with 80161
section 3924.66 of the Revised Code; 80162

(b) Add the amounts distributed from a medical savings 80163

account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year. 80164
80165

(16) Add any amount claimed as a credit under section 80166
5747.059 of the Revised Code to the extent that such amount 80167
satisfies either of the following: 80168

(a) The amount was deducted or excluded from the computation 80169
of the taxpayer's federal adjusted gross income as required to be 80170
reported for the taxpayer's taxable year under the Internal 80171
Revenue Code; 80172

(b) The amount resulted in a reduction of the taxpayer's 80173
federal adjusted gross income as required to be reported for any 80174
of the taxpayer's taxable years under the Internal Revenue Code. 80175

(17) Deduct the amount contributed by the taxpayer to an 80176
individual development account program established by a county 80177
department of job and family services pursuant to sections 329.11 80178
to 329.14 of the Revised Code for the purpose of matching funds 80179
deposited by program participants. On request of the tax 80180
commissioner, the taxpayer shall provide any information that, in 80181
the tax commissioner's opinion, is necessary to establish the 80182
amount deducted under division (A)(17) of this section. 80183

(18) Beginning in taxable year 2001 but not for any taxable 80184
year beginning after December 31, 2005, if the taxpayer is married 80185
and files a joint return and the combined federal adjusted gross 80186
income of the taxpayer and the taxpayer's spouse for the taxable 80187
year does not exceed one hundred thousand dollars, or if the 80188
taxpayer is single and has a federal adjusted gross income for the 80189
taxable year not exceeding fifty thousand dollars, deduct amounts 80190
paid during the taxable year for qualified tuition and fees paid 80191
to an eligible institution for the taxpayer, the taxpayer's 80192
spouse, or any dependent of the taxpayer, who is a resident of 80193
this state and is enrolled in or attending a program that 80194

culminates in a degree or diploma at an eligible institution. The 80195
deduction may be claimed only to the extent that qualified tuition 80196
and fees are not otherwise deducted or excluded for any taxable 80197
year from federal or Ohio adjusted gross income. The deduction may 80198
not be claimed for educational expenses for which the taxpayer 80199
claims a credit under section 5747.27 of the Revised Code. 80200

(19) Add any reimbursement received during the taxable year 80201
of any amount the taxpayer deducted under division (A)(18) of this 80202
section in any previous taxable year to the extent the amount is 80203
not otherwise included in Ohio adjusted gross income. 80204

(20)(a)(i) Add five-sixths of the amount of depreciation 80205
expense allowed by subsection (k) of section 168 of the Internal 80206
Revenue Code, including the taxpayer's proportionate or 80207
distributive share of the amount of depreciation expense allowed 80208
by that subsection to a pass-through entity in which the taxpayer 80209
has a direct or indirect ownership interest. 80210

(ii) Add five-sixths of the amount of qualifying section 179 80211
depreciation expense, including a person's proportionate or 80212
distributive share of the amount of qualifying section 179 80213
depreciation expense allowed to any pass-through entity in which 80214
the person has a direct or indirect ownership. For the purposes of 80215
this division, "qualifying section 179 depreciation expense" means 80216
the difference between (I) the amount of depreciation expense 80217
directly or indirectly allowed to the taxpayer under section 179 80218
of the Internal Revenue Code, and (II) the amount of depreciation 80219
expense directly or indirectly allowed to the taxpayer under 80220
section 179 of the Internal Revenue Code as that section existed 80221
on December 31, 2002. 80222

The tax commissioner, under procedures established by the 80223
commissioner, may waive the add-backs related to a pass-through 80224
entity if the taxpayer owns, directly or indirectly, less than 80225
five per cent of the pass-through entity. 80226

(b) Nothing in division (A)(20) of this section shall be 80227
construed to adjust or modify the adjusted basis of any asset. 80228

(c) To the extent the add-back required under division 80229
(A)(20)(a) of this section is attributable to property generating 80230
nonbusiness income or loss allocated under section 5747.20 of the 80231
Revised Code, the add-back shall be situated to the same location 80232
as the nonbusiness income or loss generated by the property for 80233
the purpose of determining the credit under division (A) of 80234
section 5747.05 of the Revised Code. Otherwise, the add-back shall 80235
be apportioned, subject to one or more of the four alternative 80236
methods of apportionment enumerated in section 5747.21 of the 80237
Revised Code. 80238

(d) For the purposes of division (A) of this section, net 80239
operating loss carryback and carryforward shall not include 80240
five-sixths of the allowance of any net operating loss deduction 80241
carryback or carryforward to the taxable year to the extent such 80242
loss resulted from depreciation allowed by section 168(k) of the 80243
Internal Revenue Code and by the qualifying section 179 80244
depreciation expense amount. 80245

(21)(a) If the taxpayer was required to add an amount under 80246
division (A)(20)(a) of this section for a taxable year, deduct 80247
one-fifth of the amount so added for each of the five succeeding 80248
taxable years. 80249

(b) If the amount deducted under division (A)(21)(a) of this 80250
section is attributable to an add-back allocated under division 80251
(A)(20)(c) of this section, the amount deducted shall be situated 80252
to the same location. Otherwise, the add-back shall be apportioned 80253
using the apportionment factors for the taxable year in which the 80254
deduction is taken, subject to one or more of the four alternative 80255
methods of apportionment enumerated in section 5747.21 of the 80256
Revised Code. 80257

(c) No deduction is available under division (A)(21)(a) of 80258
this section with regard to any depreciation allowed by section 80259
168(k) of the Internal Revenue Code and by the qualifying section 80260
179 depreciation expense amount to the extent that such 80261
depreciation resulted in or increased a federal net operating loss 80262
carryback or carryforward to a taxable year to which division 80263
(A)(20)(d) of this section does not apply. 80264

(22) Deduct, to the extent not otherwise deducted or excluded 80265
in computing federal or Ohio adjusted gross income for the taxable 80266
year, the amount the taxpayer received during the taxable year as 80267
reimbursement for life insurance premiums under section 5919.31 of 80268
the Revised Code. 80269

(23) Deduct, to the extent not otherwise deducted or excluded 80270
in computing federal or Ohio adjusted gross income for the taxable 80271
year, the amount the taxpayer received during the taxable year as 80272
a death benefit paid by the adjutant general under section 5919.33 80273
of the Revised Code. 80274

(24) Deduct, to the extent included in federal adjusted gross 80275
income and not otherwise allowable as a deduction or exclusion in 80276
computing federal or Ohio adjusted gross income for the taxable 80277
year, military pay and allowances received by the taxpayer during 80278
the taxable year for active duty service in the United States 80279
army, air force, navy, marine corps, or coast guard or reserve 80280
components thereof or the national guard. The deduction may not be 80281
claimed for military pay and allowances received by the taxpayer 80282
while the taxpayer is stationed in this state. 80283

(25) Deduct, to the extent not otherwise allowable as a 80284
deduction or exclusion in computing federal or Ohio adjusted gross 80285
income for the taxable year and not otherwise compensated for by 80286
any other source, the amount of qualified organ donation expenses 80287
incurred by the taxpayer during the taxable year, not to exceed 80288
ten thousand dollars. A taxpayer may deduct qualified organ 80289

donation expenses only once for all taxable years beginning with 80290
taxable years beginning in 2007. 80291

For the purposes of division (A)(25) of this section: 80292

(a) "Human organ" means all or any portion of a human liver, 80293
pancreas, kidney, intestine, or lung, and any portion of human 80294
bone marrow. 80295

(b) "Qualified organ donation expenses" means travel 80296
expenses, lodging expenses, and wages and salary forgone by a 80297
taxpayer in connection with the taxpayer's donation, while living, 80298
of one or more of the taxpayer's human organs to another human 80299
being. 80300

(26) Deduct, to the extent not otherwise deducted or excluded 80301
in computing federal or Ohio adjusted gross income for the taxable 80302
year, amounts received by the taxpayer as retired military 80303
personnel pay for service in the United States army, navy, air 80304
force, coast guard, or marine corps or reserve components thereof, 80305
or the national guard, or received by the surviving spouse or 80306
former spouse of such a taxpayer under the survivor benefit plan 80307
on account of such a taxpayer's death. If the taxpayer receives 80308
income on account of retirement paid under the federal civil 80309
service retirement system or federal employees retirement system, 80310
or under any successor retirement program enacted by the congress 80311
of the United States that is established and maintained for 80312
retired employees of the United States government, and such 80313
retirement income is based, in whole or in part, on credit for the 80314
taxpayer's military service, the deduction allowed under this 80315
division shall include only that portion of such retirement income 80316
that is attributable to the taxpayer's military service, to the 80317
extent that portion of such retirement income is otherwise 80318
included in federal adjusted gross income and is not otherwise 80319
deducted under this section. Any amount deducted under division 80320
(A)(26) of this section is not included in a taxpayer's adjusted 80321

gross income for the purposes of section 5747.055 of the Revised Code. No amount may be deducted under division (A)(26) of this section on the basis of which a credit was claimed under section 5747.055 of the Revised Code.

(27) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year from the military injury relief fund created in section 5101.98 of the Revised Code.

(B) "Business income" means income, including gain or loss, arising from transactions, activities, and sources in the regular course of a trade or business and includes income, gain, or loss from real property, tangible property, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.

(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.

(D) "Compensation" means any form of remuneration paid to an employee for personal services.

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person. 80353

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 80354
80355

(I) "Resident" means any of the following, provided that 80356
division (I)(3) of this section applies only to taxable years of a 80357
trust beginning in 2002 or thereafter: 80358

(1) An individual who is domiciled in this state, subject to 80359
section 5747.24 of the Revised Code; 80360

(2) The estate of a decedent who at the time of death was 80361
domiciled in this state. The domicile tests of section 5747.24 of 80362
the Revised Code are not controlling for purposes of division 80363
(I)(2) of this section. 80364

(3) A trust that, in whole or part, resides in this state. If 80365
only part of a trust resides in this state, the trust is a 80366
resident only with respect to that part. 80367

For the purposes of division (I)(3) of this section: 80368

(a) A trust resides in this state for the trust's current 80369
taxable year to the extent, as described in division (I)(3)(d) of 80370
this section, that the trust consists directly or indirectly, in 80371
whole or in part, of assets, net of any related liabilities, that 80372
were transferred, or caused to be transferred, directly or 80373
indirectly, to the trust by any of the following: 80374

(i) A person, a court, or a governmental entity or 80375
instrumentality on account of the death of a decedent, but only if 80376
the trust is described in division (I)(3)(e)(i) or (ii) of this 80377
section; 80378

(ii) A person who was domiciled in this state for the 80379
purposes of this chapter when the person directly or indirectly 80380
transferred assets to an irrevocable trust, but only if at least 80381
one of the trust's qualifying beneficiaries is domiciled in this 80382

state for the purposes of this chapter during all or some portion 80383
of the trust's current taxable year; 80384

(iii) A person who was domiciled in this state for the 80385
purposes of this chapter when the trust document or instrument or 80386
part of the trust document or instrument became irrevocable, but 80387
only if at least one of the trust's qualifying beneficiaries is a 80388
resident domiciled in this state for the purposes of this chapter 80389
during all or some portion of the trust's current taxable year. If 80390
a trust document or instrument became irrevocable upon the death 80391
of a person who at the time of death was domiciled in this state 80392
for purposes of this chapter, that person is a person described in 80393
division (I)(3)(a)(iii) of this section. 80394

(b) A trust is irrevocable to the extent that the transferor 80395
is not considered to be the owner of the net assets of the trust 80396
under sections 671 to 678 of the Internal Revenue Code. 80397

(c) With respect to a trust other than a charitable lead 80398
trust, "qualifying beneficiary" has the same meaning as "potential 80399
current beneficiary" as defined in section 1361(e)(2) of the 80400
Internal Revenue Code, and with respect to a charitable lead trust 80401
"qualifying beneficiary" is any current, future, or contingent 80402
beneficiary, but with respect to any trust "qualifying 80403
beneficiary" excludes a person or a governmental entity or 80404
instrumentality to any of which a contribution would qualify for 80405
the charitable deduction under section 170 of the Internal Revenue 80406
Code. 80407

(d) For the purposes of division (I)(3)(a) of this section, 80408
the extent to which a trust consists directly or indirectly, in 80409
whole or in part, of assets, net of any related liabilities, that 80410
were transferred directly or indirectly, in whole or part, to the 80411
trust by any of the sources enumerated in that division shall be 80412
ascertained by multiplying the fair market value of the trust's 80413
assets, net of related liabilities, by the qualifying ratio, which 80414

shall be computed as follows: 80415

(i) The first time the trust receives assets, the numerator 80416
of the qualifying ratio is the fair market value of those assets 80417
at that time, net of any related liabilities, from sources 80418
enumerated in division (I)(3)(a) of this section. The denominator 80419
of the qualifying ratio is the fair market value of all the 80420
trust's assets at that time, net of any related liabilities. 80421

(ii) Each subsequent time the trust receives assets, a 80422
revised qualifying ratio shall be computed. The numerator of the 80423
revised qualifying ratio is the sum of (1) the fair market value 80424
of the trust's assets immediately prior to the subsequent 80425
transfer, net of any related liabilities, multiplied by the 80426
qualifying ratio last computed without regard to the subsequent 80427
transfer, and (2) the fair market value of the subsequently 80428
transferred assets at the time transferred, net of any related 80429
liabilities, from sources enumerated in division (I)(3)(a) of this 80430
section. The denominator of the revised qualifying ratio is the 80431
fair market value of all the trust's assets immediately after the 80432
subsequent transfer, net of any related liabilities. 80433

(iii) Whether a transfer to the trust is by or from any of 80434
the sources enumerated in division (I)(3)(a) of this section shall 80435
be ascertained without regard to the domicile of the trust's 80436
beneficiaries. 80437

(e) For the purposes of division (I)(3)(a)(i) of this 80438
section: 80439

(i) A trust is described in division (I)(3)(e)(i) of this 80440
section if the trust is a testamentary trust and the testator of 80441
that testamentary trust was domiciled in this state at the time of 80442
the testator's death for purposes of the taxes levied under 80443
Chapter 5731. of the Revised Code. 80444

(ii) A trust is described in division (I)(3)(e)(ii) of this 80445

section if the transfer is a qualifying transfer described in any 80446
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 80447
irrevocable inter vivos trust, and at least one of the trust's 80448
qualifying beneficiaries is domiciled in this state for purposes 80449
of this chapter during all or some portion of the trust's current 80450
taxable year. 80451

(f) For the purposes of division (I)(3)(e)(ii) of this 80452
section, a "qualifying transfer" is a transfer of assets, net of 80453
any related liabilities, directly or indirectly to a trust, if the 80454
transfer is described in any of the following: 80455

(i) The transfer is made to a trust, created by the decedent 80456
before the decedent's death and while the decedent was domiciled 80457
in this state for the purposes of this chapter, and, prior to the 80458
death of the decedent, the trust became irrevocable while the 80459
decedent was domiciled in this state for the purposes of this 80460
chapter. 80461

(ii) The transfer is made to a trust to which the decedent, 80462
prior to the decedent's death, had directly or indirectly 80463
transferred assets, net of any related liabilities, while the 80464
decedent was domiciled in this state for the purposes of this 80465
chapter, and prior to the death of the decedent the trust became 80466
irrevocable while the decedent was domiciled in this state for the 80467
purposes of this chapter. 80468

(iii) The transfer is made on account of a contractual 80469
relationship existing directly or indirectly between the 80470
transferor and either the decedent or the estate of the decedent 80471
at any time prior to the date of the decedent's death, and the 80472
decedent was domiciled in this state at the time of death for 80473
purposes of the taxes levied under Chapter 5731. of the Revised 80474
Code. 80475

(iv) The transfer is made to a trust on account of a 80476

contractual relationship existing directly or indirectly between 80477
the transferor and another person who at the time of the 80478
decedent's death was domiciled in this state for purposes of this 80479
chapter. 80480

(v) The transfer is made to a trust on account of the will of 80481
a testator. 80482

(vi) The transfer is made to a trust created by or caused to 80483
be created by a court, and the trust was directly or indirectly 80484
created in connection with or as a result of the death of an 80485
individual who, for purposes of the taxes levied under Chapter 80486
5731. of the Revised Code, was domiciled in this state at the time 80487
of the individual's death. 80488

(g) The tax commissioner may adopt rules to ascertain the 80489
part of a trust residing in this state. 80490

(J) "Nonresident" means an individual or estate that is not a 80491
resident. An individual who is a resident for only part of a 80492
taxable year is a nonresident for the remainder of that taxable 80493
year. 80494

(K) "Pass-through entity" has the same meaning as in section 80495
5733.04 of the Revised Code. 80496

(L) "Return" means the notifications and reports required to 80497
be filed pursuant to this chapter for the purpose of reporting the 80498
tax due and includes declarations of estimated tax when so 80499
required. 80500

(M) "Taxable year" means the calendar year or the taxpayer's 80501
fiscal year ending during the calendar year, or fractional part 80502
thereof, upon which the adjusted gross income is calculated 80503
pursuant to this chapter. 80504

(N) "Taxpayer" means any person subject to the tax imposed by 80505
section 5747.02 of the Revised Code or any pass-through entity 80506

that makes the election under division (D) of section 5747.08 of the Revised Code. 80507
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(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return. 80509
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(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed. 80514
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(Q) As used in sections 5747.50 to 5747.55 of the Revised Code: 80519
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(1) "Subdivision" means any county, municipal corporation, park district, or township. 80521
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(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution. 80523
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(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax. 80527
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(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows: 80529
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(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, but only to the extent 80532
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that such net amount is not otherwise includible in Ohio taxable 80537
income and is described in either division (S)(1)(a) or (b) of 80538
this section: 80539

(a) The net amount is not attributable to the S portion of an 80540
electing small business trust and has not been distributed to 80541
beneficiaries for the taxable year; 80542

(b) The net amount is attributable to the S portion of an 80543
electing small business trust for the taxable year. 80544

(2) Add interest or dividends, net of ordinary, necessary, 80545
and reasonable expenses not deducted in computing federal taxable 80546
income, on obligations of any authority, commission, 80547
instrumentality, territory, or possession of the United States to 80548
the extent that the interest or dividends are exempt from federal 80549
income taxes but not from state income taxes, but only to the 80550
extent that such net amount is not otherwise includible in Ohio 80551
taxable income and is described in either division (S)(1)(a) or 80552
(b) of this section; 80553

(3) Add the amount of personal exemption allowed to the 80554
estate pursuant to section 642(b) of the Internal Revenue Code; 80555

(4) Deduct interest or dividends, net of related expenses 80556
deducted in computing federal taxable income, on obligations of 80557
the United States and its territories and possessions or of any 80558
authority, commission, or instrumentality of the United States to 80559
the extent that the interest or dividends are exempt from state 80560
taxes under the laws of the United States, but only to the extent 80561
that such amount is included in federal taxable income and is 80562
described in either division (S)(1)(a) or (b) of this section; 80563

(5) Deduct the amount of wages and salaries, if any, not 80564
otherwise allowable as a deduction but that would have been 80565
allowable as a deduction in computing federal taxable income for 80566
the taxable year, had the targeted jobs credit allowed under 80567

sections 38, 51, and 52 of the Internal Revenue Code not been in 80568
effect, but only to the extent such amount relates either to 80569
income included in federal taxable income for the taxable year or 80570
to income of the S portion of an electing small business trust for 80571
the taxable year; 80572

(6) Deduct any interest or interest equivalent, net of 80573
related expenses deducted in computing federal taxable income, on 80574
public obligations and purchase obligations, but only to the 80575
extent that such net amount relates either to income included in 80576
federal taxable income for the taxable year or to income of the S 80577
portion of an electing small business trust for the taxable year; 80578

(7) Add any loss or deduct any gain resulting from sale, 80579
exchange, or other disposition of public obligations to the extent 80580
that such loss has been deducted or such gain has been included in 80581
computing either federal taxable income or income of the S portion 80582
of an electing small business trust for the taxable year; 80583

(8) Except in the case of the final return of an estate, add 80584
any amount deducted by the taxpayer on both its Ohio estate tax 80585
return pursuant to section 5731.14 of the Revised Code, and on its 80586
federal income tax return in determining federal taxable income; 80587

(9)(a) Deduct any amount included in federal taxable income 80588
solely because the amount represents a reimbursement or refund of 80589
expenses that in a previous year the decedent had deducted as an 80590
itemized deduction pursuant to section 63 of the Internal Revenue 80591
Code and applicable treasury regulations. The deduction otherwise 80592
allowed under division (S)(9)(a) of this section shall be reduced 80593
to the extent the reimbursement is attributable to an amount the 80594
taxpayer or decedent deducted under this section in any taxable 80595
year. 80596

(b) Add any amount not otherwise included in Ohio taxable 80597
income for any taxable year to the extent that the amount is 80598

attributable to the recovery during the taxable year of any amount 80599
deducted or excluded in computing federal or Ohio taxable income 80600
in any taxable year, but only to the extent such amount has not 80601
been distributed to beneficiaries for the taxable year. 80602

(10) Deduct any portion of the deduction described in section 80603
1341(a)(2) of the Internal Revenue Code, for repaying previously 80604
reported income received under a claim of right, that meets both 80605
of the following requirements: 80606

(a) It is allowable for repayment of an item that was 80607
included in the taxpayer's taxable income or the decedent's 80608
adjusted gross income for a prior taxable year and did not qualify 80609
for a credit under division (A) or (B) of section 5747.05 of the 80610
Revised Code for that year. 80611

(b) It does not otherwise reduce the taxpayer's taxable 80612
income or the decedent's adjusted gross income for the current or 80613
any other taxable year. 80614

(11) Add any amount claimed as a credit under section 80615
5747.059 of the Revised Code to the extent that the amount 80616
satisfies either of the following: 80617

(a) The amount was deducted or excluded from the computation 80618
of the taxpayer's federal taxable income as required to be 80619
reported for the taxpayer's taxable year under the Internal 80620
Revenue Code; 80621

(b) The amount resulted in a reduction in the taxpayer's 80622
federal taxable income as required to be reported for any of the 80623
taxpayer's taxable years under the Internal Revenue Code. 80624

(12) Deduct any amount, net of related expenses deducted in 80625
computing federal taxable income, that a trust is required to 80626
report as farm income on its federal income tax return, but only 80627
if the assets of the trust include at least ten acres of land 80628
satisfying the definition of "land devoted exclusively to 80629

agricultural use" under section 5713.30 of the Revised Code, 80630
regardless of whether the land is valued for tax purposes as such 80631
land under sections 5713.30 to 5713.38 of the Revised Code. If the 80632
trust is a pass-through entity investor, section 5747.231 of the 80633
Revised Code applies in ascertaining if the trust is eligible to 80634
claim the deduction provided by division (S)(12) of this section 80635
in connection with the pass-through entity's farm income. 80636

Except for farm income attributable to the S portion of an 80637
electing small business trust, the deduction provided by division 80638
(S)(12) of this section is allowed only to the extent that the 80639
trust has not distributed such farm income. Division (S)(12) of 80640
this section applies only to taxable years of a trust beginning in 80641
2002 or thereafter. 80642

(13) Add the net amount of income described in section 641(c) 80643
of the Internal Revenue Code to the extent that amount is not 80644
included in federal taxable income. 80645

(14) Add or deduct the amount the taxpayer would be required 80646
to add or deduct under division (A)(20) or (21) of this section if 80647
the taxpayer's Ohio taxable income were computed in the same 80648
manner as an individual's Ohio adjusted gross income is computed 80649
under this section. In the case of a trust, division (S)(14) of 80650
this section applies only to any of the trust's taxable years 80651
beginning in 2002 or thereafter. 80652

(T) "School district income" and "school district income tax" 80653
have the same meanings as in section 5748.01 of the Revised Code. 80654

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 80655
of this section, "public obligations," "purchase obligations," and 80656
"interest or interest equivalent" have the same meanings as in 80657
section 5709.76 of the Revised Code. 80658

(V) "Limited liability company" means any limited liability 80659
company formed under Chapter 1705. of the Revised Code or under 80660

the laws of any other state. 80661

(W) "Pass-through entity investor" means any person who, 80662
during any portion of a taxable year of a pass-through entity, is 80663
a partner, member, shareholder, or equity investor in that 80664
pass-through entity. 80665

(X) "Banking day" has the same meaning as in section 1304.01 80666
of the Revised Code. 80667

(Y) "Month" means a calendar month. 80668

(Z) "Quarter" means the first three months, the second three 80669
months, the third three months, or the last three months of the 80670
taxpayer's taxable year. 80671

(AA)(1) "Eligible institution" means a state university or 80672
state institution of higher education as defined in section 80673
3345.011 of the Revised Code, or a private, nonprofit college, 80674
university, or other post-secondary institution located in this 80675
state that possesses a certificate of authorization issued by the 80676
Ohio board of regents pursuant to Chapter 1713. of the Revised 80677
Code or a certificate of registration issued by the state board of 80678
career colleges and schools under Chapter 3332. of the Revised 80679
Code. 80680

(2) "Qualified tuition and fees" means tuition and fees 80681
imposed by an eligible institution as a condition of enrollment or 80682
attendance, not exceeding two thousand five hundred dollars in 80683
each of the individual's first two years of post-secondary 80684
education. If the individual is a part-time student, "qualified 80685
tuition and fees" includes tuition and fees paid for the academic 80686
equivalent of the first two years of post-secondary education 80687
during a maximum of five taxable years, not exceeding a total of 80688
five thousand dollars. "Qualified tuition and fees" does not 80689
include: 80690

(a) Expenses for any course or activity involving sports, 80691

games, or hobbies unless the course or activity is part of the 80692
individual's degree or diploma program; 80693

(b) The cost of books, room and board, student activity fees, 80694
athletic fees, insurance expenses, or other expenses unrelated to 80695
the individual's academic course of instruction; 80696

(c) Tuition, fees, or other expenses paid or reimbursed 80697
through an employer, scholarship, grant in aid, or other 80698
educational benefit program. 80699

(BB)(1) "Modified business income" means the business income 80700
included in a trust's Ohio taxable income after such taxable 80701
income is first reduced by the qualifying trust amount, if any. 80702

(2) "Qualifying trust amount" of a trust means capital gains 80703
and losses from the sale, exchange, or other disposition of equity 80704
or ownership interests in, or debt obligations of, a qualifying 80705
investee to the extent included in the trust's Ohio taxable 80706
income, but only if the following requirements are satisfied: 80707

(a) The book value of the qualifying investee's physical 80708
assets in this state and everywhere, as of the last day of the 80709
qualifying investee's fiscal or calendar year ending immediately 80710
prior to the date on which the trust recognizes the gain or loss, 80711
is available to the trust. 80712

(b) The requirements of section 5747.011 of the Revised Code 80713
are satisfied for the trust's taxable year in which the trust 80714
recognizes the gain or loss. 80715

Any gain or loss that is not a qualifying trust amount is 80716
modified business income, qualifying investment income, or 80717
modified nonbusiness income, as the case may be. 80718

(3) "Modified nonbusiness income" means a trust's Ohio 80719
taxable income other than modified business income, other than the 80720
qualifying trust amount, and other than qualifying investment 80721

income, as defined in section 5747.012 of the Revised Code, to the 80722
extent such qualifying investment income is not otherwise part of 80723
modified business income. 80724

(4) "Modified Ohio taxable income" applies only to trusts, 80725
and means the sum of the amounts described in divisions (BB)(4)(a) 80726
to (c) of this section: 80727

(a) The fraction, calculated under section 5747.013, and 80728
applying section 5747.231 of the Revised Code, multiplied by the 80729
sum of the following amounts: 80730

(i) The trust's modified business income; 80731

(ii) The trust's qualifying investment income, as defined in 80732
section 5747.012 of the Revised Code, but only to the extent the 80733
qualifying investment income does not otherwise constitute 80734
modified business income and does not otherwise constitute a 80735
qualifying trust amount. 80736

(b) The qualifying trust amount multiplied by a fraction, the 80737
numerator of which is the sum of the book value of the qualifying 80738
investee's physical assets in this state on the last day of the 80739
qualifying investee's fiscal or calendar year ending immediately 80740
prior to the day on which the trust recognizes the qualifying 80741
trust amount, and the denominator of which is the sum of the book 80742
value of the qualifying investee's total physical assets 80743
everywhere on the last day of the qualifying investee's fiscal or 80744
calendar year ending immediately prior to the day on which the 80745
trust recognizes the qualifying trust amount. If, for a taxable 80746
year, the trust recognizes a qualifying trust amount with respect 80747
to more than one qualifying investee, the amount described in 80748
division (BB)(4)(b) of this section shall equal the sum of the 80749
products so computed for each such qualifying investee. 80750

(c)(i) With respect to a trust or portion of a trust that is 80751
a resident as ascertained in accordance with division (I)(3)(d) of 80752

this section, its modified nonbusiness income. 80753

(ii) With respect to a trust or portion of a trust that is 80754
not a resident as ascertained in accordance with division 80755
(I)(3)(d) of this section, the amount of its modified nonbusiness 80756
income satisfying the descriptions in divisions (B)(2) to (5) of 80757
section 5747.20 of the Revised Code, except as otherwise provided 80758
in division (BB)(4)(c)(ii) of this section. With respect to a 80759
trust or portion of a trust that is not a resident as ascertained 80760
in accordance with division (I)(3)(d) of this section, the trust's 80761
portion of modified nonbusiness income recognized from the sale, 80762
exchange, or other disposition of a debt interest in or equity 80763
interest in a section 5747.212 entity, as defined in section 80764
5747.212 of the Revised Code, without regard to division (A) of 80765
that section, shall not be allocated to this state in accordance 80766
with section 5747.20 of the Revised Code but shall be apportioned 80767
to this state in accordance with division (B) of section 5747.212 80768
of the Revised Code without regard to division (A) of that 80769
section. 80770

If the allocation and apportionment of a trust's income under 80771
divisions (BB)(4)(a) and (c) of this section do not fairly 80772
represent the modified Ohio taxable income of the trust in this 80773
state, the alternative methods described in division (C) of 80774
section 5747.21 of the Revised Code may be applied in the manner 80775
and to the same extent provided in that section. 80776

(5)(a) Except as set forth in division (BB)(5)(b) of this 80777
section, "qualifying investee" means a person in which a trust has 80778
an equity or ownership interest, or a person or unit of government 80779
the debt obligations of either of which are owned by a trust. For 80780
the purposes of division (BB)(2)(a) of this section and for the 80781
purpose of computing the fraction described in division (BB)(4)(b) 80782
of this section, all of the following apply: 80783

(i) If the qualifying investee is a member of a qualifying 80784

controlled group on the last day of the qualifying investee's 80785
fiscal or calendar year ending immediately prior to the date on 80786
which the trust recognizes the gain or loss, then "qualifying 80787
investee" includes all persons in the qualifying controlled group 80788
on such last day. 80789

(ii) If the qualifying investee, or if the qualifying 80790
investee and any members of the qualifying controlled group of 80791
which the qualifying investee is a member on the last day of the 80792
qualifying investee's fiscal or calendar year ending immediately 80793
prior to the date on which the trust recognizes the gain or loss, 80794
separately or cumulatively own, directly or indirectly, on the 80795
last day of the qualifying investee's fiscal or calendar year 80796
ending immediately prior to the date on which the trust recognizes 80797
the qualifying trust amount, more than fifty per cent of the 80798
equity of a pass-through entity, then the qualifying investee and 80799
the other members are deemed to own the proportionate share of the 80800
pass-through entity's physical assets which the pass-through 80801
entity directly or indirectly owns on the last day of the 80802
pass-through entity's calendar or fiscal year ending within or 80803
with the last day of the qualifying investee's fiscal or calendar 80804
year ending immediately prior to the date on which the trust 80805
recognizes the qualifying trust amount. 80806

(iii) For the purposes of division (BB)(5)(a)(iii) of this 80807
section, "upper level pass-through entity" means a pass-through 80808
entity directly or indirectly owning any equity of another 80809
pass-through entity, and "lower level pass-through entity" means 80810
that other pass-through entity. 80811

An upper level pass-through entity, whether or not it is also 80812
a qualifying investee, is deemed to own, on the last day of the 80813
upper level pass-through entity's calendar or fiscal year, the 80814
proportionate share of the lower level pass-through entity's 80815
physical assets that the lower level pass-through entity directly 80816

or indirectly owns on the last day of the lower level pass-through 80817
entity's calendar or fiscal year ending within or with the last 80818
day of the upper level pass-through entity's fiscal or calendar 80819
year. If the upper level pass-through entity directly and 80820
indirectly owns less than fifty per cent of the equity of the 80821
lower level pass-through entity on each day of the upper level 80822
pass-through entity's calendar or fiscal year in which or with 80823
which ends the calendar or fiscal year of the lower level 80824
pass-through entity and if, based upon clear and convincing 80825
evidence, complete information about the location and cost of the 80826
physical assets of the lower pass-through entity is not available 80827
to the upper level pass-through entity, then solely for purposes 80828
of ascertaining if a gain or loss constitutes a qualifying trust 80829
amount, the upper level pass-through entity shall be deemed as 80830
owning no equity of the lower level pass-through entity for each 80831
day during the upper level pass-through entity's calendar or 80832
fiscal year in which or with which ends the lower level 80833
pass-through entity's calendar or fiscal year. Nothing in division 80834
(BB)(5)(a)(iii) of this section shall be construed to provide for 80835
any deduction or exclusion in computing any trust's Ohio taxable 80836
income. 80837

(b) With respect to a trust that is not a resident for the 80838
taxable year and with respect to a part of a trust that is not a 80839
resident for the taxable year, "qualifying investee" for that 80840
taxable year does not include a C corporation if both of the 80841
following apply: 80842

(i) During the taxable year the trust or part of the trust 80843
recognizes a gain or loss from the sale, exchange, or other 80844
disposition of equity or ownership interests in, or debt 80845
obligations of, the C corporation. 80846

(ii) Such gain or loss constitutes nonbusiness income. 80847

(6) "Available" means information is such that a person is 80848

able to learn of the information by the due date plus extensions, 80849
if any, for filing the return for the taxable year in which the 80850
trust recognizes the gain or loss. 80851

(CC) "Qualifying controlled group" has the same meaning as in 80852
section 5733.04 of the Revised Code. 80853

(DD) "Related member" has the same meaning as in section 80854
5733.042 of the Revised Code. 80855

(EE)(1) For the purposes of division (EE) of this section: 80856

(a) "Qualifying person" means any person other than a 80857
qualifying corporation. 80858

(b) "Qualifying corporation" means any person classified for 80859
federal income tax purposes as an association taxable as a 80860
corporation, except either of the following: 80861

(i) A corporation that has made an election under subchapter 80862
S, chapter one, subtitle A, of the Internal Revenue Code for its 80863
taxable year ending within, or on the last day of, the investor's 80864
taxable year; 80865

(ii) A subsidiary that is wholly owned by any corporation 80866
that has made an election under subchapter S, chapter one, 80867
subtitle A of the Internal Revenue Code for its taxable year 80868
ending within, or on the last day of, the investor's taxable year. 80869

(2) For the purposes of this chapter, unless expressly stated 80870
otherwise, no qualifying person indirectly owns any asset directly 80871
or indirectly owned by any qualifying corporation. 80872

(FF) For purposes of this chapter and Chapter 5751. of the 80873
Revised Code: 80874

(1) "Trust" does not include a qualified pre-income tax 80875
trust. 80876

(2) A "qualified pre-income tax trust" is any pre-income tax 80877
trust that makes a qualifying pre-income tax trust election as 80878

described in division (FF)(3) of this section. 80879

(3) A "qualifying pre-income tax trust election" is an 80880
election by a pre-income tax trust to subject to the tax imposed 80881
by section 5751.02 of the Revised Code the pre-income tax trust 80882
and all pass-through entities of which the trust owns or controls, 80883
directly, indirectly, or constructively through related interests, 80884
five per cent or more of the ownership or equity interests. The 80885
trustee shall notify the tax commissioner in writing of the 80886
election on or before April 15, 2006. The election, if timely 80887
made, shall be effective on and after January 1, 2006, and shall 80888
apply for all tax periods and tax years until revoked by the 80889
trustee of the trust. 80890

(4) A "pre-income tax trust" is a trust that satisfies all of 80891
the following requirements: 80892

(a) The document or instrument creating the trust was 80893
executed by the grantor before January 1, 1972; 80894

(b) The trust became irrevocable upon the creation of the 80895
trust; and 80896

(c) The grantor was domiciled in this state at the time the 80897
trust was created. 80898

Sec. 5747.13. (A) If any employer collects the tax imposed by 80899
section 5747.02 or under Chapter 5748. of the Revised Code and 80900
fails to remit the tax as required by law, or fails to collect the 80901
tax, the employer is personally liable for any amount collected 80902
that the employer fails to remit, or any amount that the employer 80903
fails to collect. If any taxpayer fails to file a return or fails 80904
to pay the tax imposed by section 5747.02 or under Chapter 5748. 80905
of the Revised Code, the taxpayer is personally liable for the 80906
amount of the tax. 80907

If any employer, taxpayer, or qualifying entity required to 80908

file a return under this chapter fails to file the return within 80909
the time prescribed, files an incorrect return, fails to remit the 80910
full amount of the taxes due for the period covered by the return, 80911
or fails to remit any additional tax due as a result of a 80912
reduction in the amount of the credit allowed under division (B) 80913
of section 5747.05 of the Revised Code together with interest on 80914
the additional tax within the time prescribed by that division, 80915
the tax commissioner may make an assessment against any person 80916
liable for any deficiency for the period for which the return is 80917
or taxes are due, based upon any information in the commissioner's 80918
possession. 80919

An assessment issued against either the employer or the 80920
taxpayer pursuant to this section shall not be considered an 80921
election of remedies or a bar to an assessment against the other 80922
for failure to report or pay the same tax. No assessment shall be 80923
issued against any person if the tax actually has been paid by 80924
another. 80925

No assessment shall be made or issued against an employer, 80926
taxpayer, or qualifying entity more than four years after the 80927
final date the return subject to assessment was required to be 80928
filed or the date the return was filed, whichever is later. 80929
However, the commissioner may assess any balance due as the result 80930
of a reduction in the credit allowed under division (B) of section 80931
5747.05 of the Revised Code, including applicable penalty and 80932
interest, within four years of the date on which the taxpayer 80933
reports a change in either the portion of the taxpayer's adjusted 80934
gross income subjected to an income tax or tax measured by income 80935
in another state or the District of Columbia, or the amount of 80936
liability for an income tax or tax measured by income to another 80937
state or the District of Columbia, as required by division (B)(3) 80938
of section 5747.05 of the Revised Code. Such time limits may be 80939
extended if both the employer, taxpayer, or qualifying entity and 80940

the commissioner consent in writing to the extension or if an 80941
agreement waiving or extending the time limits has been entered 80942
into pursuant to section 122.171 of the Revised Code. Any such 80943
extension shall extend the four-year time limit in division (B) of 80944
section 5747.11 of the Revised Code for the same period of time. 80945
There shall be no bar or limit to an assessment against an 80946
employer for taxes withheld from employees and not remitted to the 80947
state, against an employer, taxpayer, or qualifying entity that 80948
fails to file a return subject to assessment as required by this 80949
chapter, or against an employer, taxpayer, or qualifying entity 80950
that files a fraudulent return. 80951

The commissioner shall give the party assessed written notice 80952
of the assessment in the manner provided in section 5703.37 of the 80953
Revised Code. With the notice, the commissioner shall provide 80954
instructions on how to petition for reassessment and request a 80955
hearing on the petition. 80956

(B) Unless the party assessed files with the tax commissioner 80957
within sixty days after service of the notice of assessment, 80958
either personally or by certified mail, a written petition for 80959
reassessment, signed by the party assessed or that party's 80960
authorized agent having knowledge of the facts, the assessment 80961
becomes final, and the amount of the assessment is due and payable 80962
from the party assessed to the commissioner with remittance made 80963
payable to the treasurer of state. The petition shall indicate the 80964
objections of the party assessed, but additional objections may be 80965
raised in writing if received by the commissioner prior to the 80966
date shown on the final determination. If the petition has been 80967
properly filed, the commissioner shall proceed under section 80968
5703.60 of the Revised Code. 80969

(C) After an assessment becomes final, if any portion of the 80970
assessment remains unpaid, including accrued interest, a certified 80971
copy of the tax commissioner's entry making the assessment final 80972

may be filed in the office of the clerk of the court of common 80973
pleas in the county in which the employer's, taxpayer's, or 80974
qualifying entity's place of business is located or the county in 80975
which the party assessed resides. If the party assessed is not a 80976
resident of this state, the certified copy of the entry may be 80977
filed in the office of the clerk of the court of common pleas of 80978
Franklin county. 80979

Immediately upon the filing of the entry, the clerk shall 80980
enter a judgment against the party assessed in the amount shown on 80981
the entry. The judgment shall be filed by the clerk in one of two 80982
loose-leaf books, one entitled "special judgments for state and 80983
school district income taxes," and the other entitled "special 80984
judgments for qualifying entity taxes." The judgment shall have 80985
the same effect as other judgments. Execution shall issue upon the 80986
judgment upon the request of the tax commissioner, and all laws 80987
applicable to sales on execution shall apply to sales made under 80988
the judgment. 80989

The portion of the assessment not paid within sixty days 80990
after the assessment was issued shall bear interest at the rate 80991
per annum prescribed by section 5703.47 of the Revised Code from 80992
the day the tax commissioner issues the assessment until it is 80993
paid. Interest shall be paid in the same manner as the tax and may 80994
be collected by the issuance of an assessment under this section. 80995

(D) All money collected under this section shall be 80996
considered as revenue arising from the taxes imposed by this 80997
chapter or Chapter 5733. or 5748. of the Revised Code, as 80998
appropriate. 80999

~~(E) The portion of an assessment that must be paid upon the 81000
filing of a petition for reassessment shall be as follows: 81001~~

~~(1) If the sole item objected to is the assessed penalty or 81002
interest, payment of the assessment, including interest but not 81003~~

~~penalty, is required;~~ 81004

~~(2) If the taxpayer or qualifying entity that is assessed 81005
failed to file, prior to the date of issuance of the assessment, 81006
the annual return or report required by section 5747.08 or 5747.42 81007
of the Revised Code, any amended return or amended report required 81008
by section 5747.10 or 5747.45 of the Revised Code for the taxable 81009
year at issue, or any report required by division (B) of section 81010
5747.05 of the Revised Code to indicate a reduction in the amount 81011
of the credit provided under that division, payment of the 81012
assessment, including interest but not penalty, is required, 81013
except as otherwise provided under division (E)(6) or (7) of this 81014
section;~~ 81015

~~(3) If the employer assessed had not filed, prior to the date 81016
of issuance of the assessment, the annual return required by 81017
division (E)(2) of section 5747.07 of the Revised Code covering 81018
the period at issue, payment of the assessment, including interest 81019
but not penalty, is required;~~ 81020

~~(4) If the taxpayer or qualifying entity that is assessed 81021
filed, prior to the date of issuance of the assessment, the annual 81022
return or report required by section 5747.08 or 5747.42 of the 81023
Revised Code, all amended returns or reports required by section 81024
5747.10 or 5747.45 of the Revised Code for the taxable year at 81025
issue, and all reports required by division (B) of section 5747.05 81026
of the Revised Code to indicate a reduction in the amount of the 81027
credit provided under that division, and a balance of the taxes 81028
shown due on the returns or reports as computed on the returns or 81029
reports remains unpaid, payment of only that portion of the 81030
assessment representing the unpaid balance of tax and interest is 81031
required;~~ 81032

~~(5) If the employer assessed filed, prior to the date of 81033
issuance of the assessment, the annual return required by division 81034
(E)(2) of section 5747.07 of the Revised Code covering the period 81035~~

~~at issue, and a balance of the taxes shown due on the return as 81036
computed on the return remains unpaid, payment of only that 81037
portion of the assessment representing the unpaid balance of tax 81038
and interest is required; 81039~~

~~(6) In the case of a party assessed as a qualifying entity 81040
subject to the tax levied under section 5733.41 or 5747.41 of the 81041
Revised Code, if the party does not dispute that it is a 81042
qualifying entity subject to that tax but claims the protections 81043
of section 101 of Public Law 86-272, 73 Stat. 555, 15 U.S.C.A. 81044
381, as amended, no payment is required; 81045~~

~~(7) In the case of a party assessed as a qualifying entity 81046
subject to the tax levied under section 5733.41 or 5747.41 of the 81047
Revised Code, if the party does dispute that it is a qualifying 81048
entity subject to that tax, no payment is required; 81049~~

~~(8) If none of the conditions specified in divisions (E)(1) 81050
to (7) of this section apply, no payment is required If the party 81051
assessed files a petition for reassessment under division (B) of 81052
this section, the person, on or before the last day the petition 81053
may be filed, shall pay the assessed amount, including assessed 81054
interest and assessed penalties, if either of the following 81055
conditions exists: 81056~~

~~(1) The person files a tax return reporting Ohio adjusted 81057
gross income, less the exemptions allowed by section 5747.025 of 81058
the Revised Code, in an amount less than one cent, and the 81059
reported amount is not based on the computations required under 81060
division (A) of section 5747.01 or section 5747.025 of the Revised 81061
Code. 81062~~

~~(2) The person fails to file a tax return, and the basis for 81063
this failure is not either of the following: 81064~~

~~(a) An assertion that the person has no nexus with this 81065
state; 81066~~

(b) The computations required under division (A) of section 81067
5747.01 of the Revised Code or the application of credits allowed 81068
under this chapter has the result that the person's tax liability 81069
is less than one dollar and one cent. 81070

(F) Notwithstanding the fact that a petition for reassessment 81071
is pending, the petitioner may pay all or a portion of the 81072
assessment that is the subject of the petition. The acceptance of 81073
a payment by the treasurer of state does not prejudice any claim 81074
for refund upon final determination of the petition. 81075

If upon final determination of the petition an error in the 81076
assessment is corrected by the tax commissioner, upon petition so 81077
filed or pursuant to a decision of the board of tax appeals or any 81078
court to which the determination or decision has been appealed, so 81079
that the amount due from the party assessed under the corrected 81080
assessment is less than the portion paid, there shall be issued to 81081
the petitioner or to the petitioner's assigns or legal 81082
representative a refund in the amount of the overpayment as 81083
provided by section 5747.11 of the Revised Code, with interest on 81084
that amount as provided by such section, subject to section 81085
5747.12 of the Revised Code. 81086

Sec. 5747.16. Any nonresident who accepts the privileges 81087
extended by the laws of this state to nonresidents earning or 81088
receiving income in this state, and any resident who becomes a 81089
nonresident or conceals ~~his~~ the person's whereabouts thereby makes 81090
the secretary of state ~~his~~ the person's agent for the service of 81091
process or notice in any assessment, action, or proceedings 81092
instituted in this state against such person under this chapter, 81093
such process or notice shall be served ~~by the officer to whom the~~ 81094
~~same is directed by the tax commissioner, or by the sheriff of~~ 81095
~~Franklin county, who may be deputized for such purpose by the~~ 81096
~~officer to whom the service is directed, upon the secretary of~~ 81097

~~state by leaving at the secretary's office at least fifteen days~~ 81098
~~before the return day of such process or notice, a true and~~ 81099
~~attested copy thereof, and by sending to the defendant by~~ 81100
~~certified mail, postage prepaid, a like and true attested copy,~~ 81101
~~with an endorsement thereon of the service upon the secretary of~~ 81102
~~state, addressed to such defendant at his last known address as~~ 81103
~~provided under section 5703.37 of the Revised Code.~~ 81104

Sec. 5747.66. (A) Any term used in this section has the same 81105
meaning as in section 122.85 of the Revised Code. 81106

(B) There is allowed a credit against the tax imposed by 81107
section 5747.02 of the Revised Code for any individual who, on the 81108
last day of the individual's taxable year, is the certificate 81109
owner of a tax credit certificate issued under section 122.85 of 81110
the Revised Code. The credit shall be claimed for the taxable year 81111
that includes the date the certificate was issued by the director 81112
of development. The credit amount equals the amount stated in the 81113
certificate. The credit shall be claimed in the order required 81114
under section 5747.98 of the Revised Code. If the credit amount 81115
exceeds the tax otherwise due under section 5747.02 of the Revised 81116
Code after deducting all other credits in that order, the excess 81117
shall be refunded. 81118

Nothing in this section limits or disallows pass-through 81119
treatment of the credit. 81120

Sec. 5747.98. (A) To provide a uniform procedure for 81121
calculating the amount of tax due under section 5747.02 of the 81122
Revised Code, a taxpayer shall claim any credits to which the 81123
taxpayer is entitled in the following order: 81124

(1) The retirement income credit under division (B) of 81125
section 5747.055 of the Revised Code; 81126

(2) The senior citizen credit under division (C) of section 81127

5747.05 of the Revised Code;	81128
(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;	81129 81130
(4) The dependent care credit under section 5747.054 of the Revised Code;	81131 81132
(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	81133 81134
(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	81135 81136
(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	81137 81138
(8) The low-income credit under section 5747.056 of the Revised Code;	81139 81140
(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	81141 81142
(10) The campaign contribution credit under section 5747.29 of the Revised Code;	81143 81144
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	81145 81146
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	81147 81148
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	81149 81150
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	81151 81152
(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	81153 81154
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	81155 81156

(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	81157 81158
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	81159 81160
(19) The job retention credit under division (B) of section 5747.058 of the Revised Code;	81161 81162
(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	81163 81164
(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	81165 81166 81167
(22) The job training credit under section 5747.39 of the Revised Code;	81168 81169
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	81170 81171
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	81172 81173
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	81174 81175
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	81176 81177
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	81178 81179
(28) The export sales credit under section 5747.057 of the Revised Code;	81180 81181
(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	81182 81183
(30) The enterprise zone credits under section 5709.65 of the Revised Code;	81184 81185

(31) The research and development credit under section 5747.331 of the Revised Code;	81186 81187
(32) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	81188 81189
(33) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	81190 81191
(34) The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;	81192 81193
(35) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	81194 81195
(36) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	81196 81197 81198
(37) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;	81199 81200
(38) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	81201 81202 81203
<u>(39) The refundable motion picture production credit under section 5747.66 of the Revised Code.</u>	81204 81205
(B) For any credit, except the <u>refundable</u> credits enumerated in divisions (A)(33) to (38) of this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.	81206 81207 81208 81209 81210 81211 81212 81213 81214 81215

81216

Sec. 5748.02. (A) The board of education of any school district, except a joint vocational school district, may declare, by resolution, the necessity of raising annually a specified amount of money for school district purposes. The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. A copy of the resolution shall be certified to the tax commissioner no later than eighty-five days prior to the date of the election at which the board intends to propose a levy under this section. Upon receipt of the copy of the resolution, the tax commissioner shall estimate both of the following:

(1) The property tax rate that would have to be imposed in the current year by the district to produce an equivalent amount of money;

(2) The income tax rate that would have had to have been in effect for the current year to produce an equivalent amount of money from a school district income tax.

Within ten days of receiving the copy of the board's resolution, the commissioner shall prepare these estimates and certify them to the board. Upon receipt of the certification, the board may adopt a resolution proposing an income tax under division (B) of this section at the estimated rate contained in the certification rounded to the nearest one-fourth of one per cent. The commissioner's certification applies only to the board's proposal to levy an income tax at the election for which the board requested the certification. If the board intends to submit a proposal to levy an income tax at any other election, it shall request another certification for that election in the manner

prescribed in this division. 81247

(B)(1) Upon the receipt of a certification from the tax 81248
commissioner under division (A) of this section, a majority of the 81249
members of a board of education may adopt a resolution proposing 81250
the levy of an annual tax for school district purposes on school 81251
district income. The proposed levy may be for a continuing period 81252
of time or for a specified number of years. The resolution shall 81253
set forth the purpose for which the tax is to be imposed, the rate 81254
of the tax, which shall be the rate set forth in the 81255
commissioner's certification rounded to the nearest one-fourth of 81256
one per cent, the number of years the tax will be levied or that 81257
it will be levied for a continuing period of time, the date on 81258
which the tax shall take effect, which shall be the first day of 81259
January of any year following the year in which the question is 81260
submitted, and the date of the election at which the proposal 81261
shall be submitted to the electors of the district, which shall be 81262
on the date of a primary, general, or special election the date of 81263
which is consistent with section 3501.01 of the Revised Code. The 81264
resolution shall specify whether the income that is to be subject 81265
to the tax is taxable income of individuals and estates as defined 81266
in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised 81267
Code or taxable income of individuals as defined in division 81268
(E)(1)(b) of that section. The specification shall be the same as 81269
the specification in the resolution adopted and certified under 81270
division (A) of this section. 81271

If the tax is to be levied for current expenses and permanent 81272
improvements, the resolution shall apportion the annual rate of 81273
the tax. The apportionment may be the same or different for each 81274
year the tax is levied, but the respective portions of the rate 81275
actually levied each year for current expenses and for permanent 81276
improvements shall be limited by the apportionment. 81277

If the board of education currently imposes an income tax 81278

pursuant to this chapter that is due to expire and a question is 81279
submitted under this section for a proposed income tax to take 81280
effect upon the expiration of the existing tax, the board may 81281
specify in the resolution that the proposed tax renews the 81282
expiring tax ~~and is not an additional income tax, provided that,~~ 81283
Two or more expiring income taxes may be renewed under this 81284
paragraph if the taxes are due to expire on the same date. If the 81285
tax rate being proposed is no higher than the total tax rate ~~that~~ 81286
~~is currently imposed by the expiring tax or taxes, the resolution~~ 81287
may state that the proposed tax is not an additional income tax. 81288

(2) A board of education adopting a resolution under division 81289
(B)(1) of this section proposing a school district income tax for 81290
a continuing period of time and limited to the purpose of current 81291
expenses may propose in that resolution to reduce the rate or 81292
rates of one or more of the school district's property taxes 81293
levied for a continuing period of time in excess of the ten-mill 81294
limitation for the purpose of current expenses. The reduction in 81295
the rate of a property tax may be any amount, expressed in mills 81296
per one dollar in valuation, not exceeding the rate at which the 81297
tax is authorized to be levied. The reduction in the rate of a tax 81298
shall first take effect for the tax year that includes the day on 81299
which the school district income tax first takes effect, and shall 81300
continue for each tax year that both the school district income 81301
tax and the property tax levy are in effect. 81302

In addition to the matters required to be set forth in the 81303
resolution under division (B)(1) of this section, a resolution 81304
containing a proposal to reduce the rate of one or more property 81305
taxes shall state for each such tax the maximum rate at which it 81306
currently may be levied and the maximum rate at which the tax 81307
could be levied after the proposed reduction, expressed in mills 81308
per one dollar in valuation, and that the tax is levied for a 81309
continuing period of time. 81310

If a board of education proposes to reduce the rate of one or more property taxes under division (B)(2) of this section, the board, when it makes the certification required under division (A) of this section, shall designate the specific levy or levies to be reduced, the maximum rate at which each levy currently is authorized to be levied, and the rate by which each levy is proposed to be reduced. The tax commissioner, when making the certification to the board under division (A) of this section, also shall certify the reduction in the total effective tax rate for current expenses for each class of property that would have resulted if the proposed reduction in the rate or rates had been in effect the previous tax year. As used in this paragraph, "effective tax rate" has the same meaning as in section 323.08 of the Revised Code.

(C) A resolution adopted under division (B) of this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. Immediately after its adoption and at least seventy-five days prior to the election at which the question will appear on the ballot, a copy of the resolution shall be certified to the board of elections of the proper county, which shall submit the proposal to the electors on the date specified in the resolution. The form of the ballot shall be as provided in section 5748.03 of the Revised Code. Publication of notice of the election shall be made in one or more newspapers of general circulation in the county once a week for two consecutive weeks prior to the election, and, if the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. The notice shall contain the time and place of the election and the question to be submitted to the electors. The question covered by the resolution shall be submitted as a separate proposition, but may be printed on the

same ballot with any other proposition submitted at the same 81344
election, other than the election of officers. 81345

(D) No board of education shall submit the question of a tax 81346
on school district income to the electors of the district more 81347
than twice in any calendar year. If a board submits the question 81348
twice in any calendar year, one of the elections on the question 81349
shall be held on the date of the general election. 81350

(E)(1) No board of education may submit to the electors of 81351
the district the question of a tax on school district income on 81352
the taxable income of individuals as defined in division (E)(1)(b) 81353
of section 5748.01 of the Revised Code if that tax would be in 81354
addition to an existing tax on the taxable income of individuals 81355
and estates as defined in divisions (E)(1)(a) and (2) of that 81356
section. 81357

(2) No board of education may submit to the electors of the 81358
district the question of a tax on school district income on the 81359
taxable income of individuals and estates as defined in divisions 81360
(E)(1)(a) and (2) of section 5748.01 of the Revised Code if that 81361
tax would be in addition to an existing tax on the taxable income 81362
of individuals as defined in division (E)(1)(b) of that section. 81363

Sec. 5748.03. (A) The form of the ballot on a question 81364
submitted to the electors under section 5748.02 of the Revised 81365
Code shall be as follows: 81366

"Shall an annual income tax of (state the proposed 81367
rate of tax) on the school district income of individuals and of 81368
estates be imposed by (state the name of the school 81369
district), for (state the number of years the tax would be 81370
levied, or that it would be levied for a continuing period of 81371
time), beginning (state the date the tax would first take 81372
effect), for the purpose of (state the purpose of the tax)? 81373

	FOR THE TAX	
	AGAINST THE TAX	"

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(B)(1) If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

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(2) If the question submitted to electors proposes to renew ~~an~~ one or more expiring income tax levies, the ballot shall be modified by adding the following language immediately after the name of the school district that would impose the tax: "to renew an income tax (or income taxes) expiring at the end of (state the last year the existing income tax or taxes may be levied)."

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(3) If the question includes a proposal under division (B)(2) of section 5748.02 of the Revised Code to reduce the rate of one or more school district property taxes, the ballot shall state that the purpose of the school district income tax is for current expenses, and the form of the ballot shall be modified by adding the following language immediately after the statement of the purpose of the proposed income tax: ", and shall the rate of an existing tax on property, currently levied for the purpose of current expenses at the rate of mills, be REDUCED to mills until any such time as the income tax is repealed." In lieu of "for the tax" and "against the tax," the phrases "for the issue" and "against the issue," respectively, shall be used. If a board of education proposes a reduction in the rates of more than one tax, the ballot language shall be modified accordingly to

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express the rates at which those taxes currently are levied and 81406
the rates to which the taxes will be reduced. 81407

(C) The board of elections shall certify the results of the 81408
election to the board of education and to the tax commissioner. If 81409
a majority of the electors voting on the question vote in favor of 81410
it, the income tax, the applicable provisions of Chapter 5747. of 81411
the Revised Code, and the reduction in the rate or rates of 81412
existing property taxes if the question included such a reduction 81413
shall take effect on the date specified in the resolution. If the 81414
question approved by the voters includes a reduction in the rate 81415
of a school district property tax, the board of education shall 81416
not levy the tax at a rate greater than the rate to which the tax 81417
is reduced, unless the school district income tax is repealed in 81418
an election under section 5748.04 of the Revised Code. 81419

(D) If the rate at which a property tax is levied and 81420
collected is reduced pursuant to a question approved under this 81421
section, the tax commissioner shall compute the percentage 81422
required to be computed for that tax under division (D) of section 81423
319.301 of the Revised Code each year the rate is reduced as if 81424
the tax had been levied in the preceding year at the rate at which 81425
it has been reduced. If the rate of a property tax increases due 81426
to the repeal of the school district income tax pursuant to 81427
section 5748.04 of the Revised Code, the tax commissioner, for the 81428
first year for which the rate increases, shall compute the 81429
percentage as if the tax in the preceding year had been levied at 81430
the rate at which the tax was authorized to be levied prior to any 81431
rate reduction. 81432

Sec. 5749.02. (A) For the purpose of providing revenue to 81433
administer the state's coal mining and reclamation regulatory 81434
program, to meet the environmental and resource management needs 81435
of this state, and to reclaim land affected by mining, an excise 81436

tax is hereby levied on the privilege of engaging in the severance 81437
of natural resources from the soil or water of this state. The tax 81438
shall be imposed upon the severer and shall be: 81439

(1) Ten cents per ton of coal; 81440

(2) Four cents per ton of salt; 81441

(3) Two cents per ton of limestone or dolomite; 81442

(4) Two cents per ton of sand and gravel; 81443

(5) Ten cents per barrel of oil; 81444

(6) Two and one-half cents per thousand cubic feet of natural 81445
gas; 81446

(7) One cent per ton of clay, sandstone or conglomerate, 81447
shale, gypsum, or quartzite; 81448

(8) Except as otherwise provided in this division or in rules 81449
adopted by the reclamation forfeiture fund advisory board under 81450
section 1513.182 of the Revised Code, an additional fourteen cents 81451
per ton of coal produced from an area under a coal mining and 81452
reclamation permit issued under Chapter 1513. of the Revised Code 81453
for which the performance security is provided under division 81454
(C)(2) of section 1513.08 of the Revised Code. Beginning July 1, 81455
2007, if at the end of a fiscal biennium the balance of the 81456
reclamation forfeiture fund created in section 1513.18 of the 81457
Revised Code is equal to or greater than ten million dollars, the 81458
rate levied shall be twelve cents per ton. Beginning July 1, 2007, 81459
if at the end of a fiscal biennium the balance of the fund is at 81460
least five million dollars, but less than ten million dollars, the 81461
rate levied shall be fourteen cents per ton. Beginning July 1, 81462
2007, if at the end of a fiscal biennium the balance of the fund 81463
is less than five million dollars, the rate levied shall be 81464
sixteen cents per ton. Beginning July 1, 2009, not later than 81465
thirty days after the close of a fiscal biennium, the chief of the 81466

division of mineral resources management shall certify to the tax 81467
commissioner the amount of the balance of the reclamation 81468
forfeiture fund as of the close of the fiscal biennium. Any 81469
necessary adjustment of the rate levied shall take effect on the 81470
first day of the following January and shall remain in effect 81471
during the calendar biennium that begins on that date. 81472

(9) An additional one and two-tenths cents per ton of coal 81473
mined by surface mining methods. 81474

(B) Of the moneys received by the treasurer of state from the 81475
tax levied in division (A)(1) of this section, four and 81476
seventy-six-hundredths per cent shall be credited to the 81477
geological mapping fund created in section 1505.09 of the Revised 81478
Code, eighty and ninety-five-hundredths per cent shall be credited 81479
to the coal mining administration and reclamation reserve fund 81480
created in section 1513.181 of the Revised Code, and fourteen and 81481
twenty-nine-hundredths per cent shall be credited to the 81482
unreclaimed lands fund created in section 1513.30 of the Revised 81483
Code. 81484

Fifteen per cent of the moneys received by the treasurer of 81485
state from the tax levied in division (A)(2) of this section shall 81486
be credited to the geological mapping fund and the remainder shall 81487
be credited to the ~~unreclaimed lands fund~~ permit and lease fund 81488
created in section 1506.41 of the Revised Code. 81489

Of the moneys received by the treasurer of state from the tax 81490
levied in divisions (A)(3) and (4) of this section, seven and 81491
five-tenths per cent shall be credited to the geological mapping 81492
fund, forty-two and five-tenths per cent shall be credited to the 81493
unreclaimed lands fund, and the remainder shall be credited to the 81494
surface mining fund created in section 1514.06 of the Revised 81495
Code. 81496

Of the moneys received by the treasurer of state from the tax 81497

levied in divisions (A)(5) and (6) of this section, ninety per cent shall be credited to the oil and gas well fund created in section 1509.02 of the Revised Code and ten per cent shall be credited to the geological mapping fund. All of the moneys received by the treasurer of state from the tax levied in division (A)(7) of this section shall be credited to the surface mining fund.

All of the moneys received by the treasurer of state from the tax levied in division (A)(8) of this section shall be credited to the reclamation forfeiture fund.

All of the moneys received by the treasurer of state from the tax levied in division (A)(9) of this section shall be credited to the unreclaimed lands fund.

(C) When, at the close of any fiscal year, the chief finds that the balance of the reclamation forfeiture fund, plus estimated transfers to it from the coal mining administration and reclamation reserve fund under section 1513.181 of the Revised Code, plus the estimated revenues from the tax levied by division (A)(8) of this section for the remainder of the calendar year that includes the close of the fiscal year, are sufficient to complete the reclamation of lands for which the performance security has been provided under division (C)(2) of section 1513.08 of the Revised Code, the purposes for which the tax under division (A)(8) of this section is levied shall be deemed accomplished at the end of that calendar year. The chief, within thirty days after the close of the fiscal year, shall certify those findings to the tax commissioner, and the tax levied under division (A)(8) of this section shall cease to be imposed after the last day of that calendar year on coal produced under a coal mining and reclamation permit issued under Chapter 1513. of the Revised Code if the permittee has made tax payments under division (A)(8) of this section during each of the preceding five full calendar years. Not

later than thirty days after the close of a fiscal year, the chief 81530
shall certify to the tax commissioner the identity of any 81531
permittees who accordingly no longer are required to pay the tax 81532
levied under division (A)(8) of this section. 81533

Sec. 5749.12. Any nonresident of this state who accepts the 81534
privilege extended by the laws of this state to nonresidents 81535
severing natural resources in this state, and any resident of this 81536
state who subsequently becomes a nonresident or conceals ~~his~~ the 81537
resident's whereabouts, makes the secretary of state of Ohio ~~his~~ 81538
the person's agent for the service of process or notice in any 81539
assessment, action or proceedings instituted in this state against 81540
such person under this chapter. 81541

Such process or notice shall be served, ~~by the officer to~~ 81542
~~whom the same is directed by the tax commissioner or by the~~ 81543
~~sheriff of Franklin county, who may be deputized for such purpose~~ 81544
~~by the officer to whom the service is directed, upon the secretary~~ 81545
~~of state by leaving at the office of the secretary of state, at~~ 81546
~~least fifteen days before the return day of such process or~~ 81547
~~notice, a true and attested copy thereof, and by sending to the~~ 81548
~~defendant by certified mail, a like and true attested copy, with~~ 81549
~~an endorsement thereon of the service upon said secretary of~~ 81550
~~state, addressed to such defendant at his last known address as~~ 81551
provided under section 5703.37 of the Revised Code. 81552

Sec. 5751.01. As used in this chapter: 81553

(A) "Person" means, but is not limited to, individuals, 81554
combinations of individuals of any form, receivers, assignees, 81555
trustees in bankruptcy, firms, companies, joint-stock companies, 81556
business trusts, estates, partnerships, limited liability 81557
partnerships, limited liability companies, associations, joint 81558
ventures, clubs, societies, for-profit corporations, S 81559

corporations, qualified subchapter S subsidiaries, qualified 81560
subchapter S trusts, trusts, entities that are disregarded for 81561
federal income tax purposes, and any other entities. "Person" does 81562
~~not include nonprofit organizations or the state, its agencies,~~ 81563
~~its instrumentalities, and its political subdivisions.~~ 81564

(B) "Consolidated elected taxpayer" means a group of two or 81565
more persons treated as a single taxpayer for purposes of this 81566
chapter as the result of an election made under section 5751.011 81567
of the Revised Code. 81568

(C) "Combined taxpayer" means a group of two or more persons 81569
treated as a single taxpayer for purposes of this chapter under 81570
section 5751.012 of the Revised Code. 81571

(D) "Taxpayer" means any person, or any group of persons in 81572
the case of a consolidated elected taxpayer or combined taxpayer 81573
treated as one taxpayer, required to register or pay tax under 81574
this chapter. "Taxpayer" does not include excluded persons. 81575

(E) "Excluded person" means any of the following: 81576

(1) Any person with not more than one hundred fifty thousand 81577
dollars of taxable gross receipts during the calendar year. 81578
Division (E)(1) of this section does not apply to a person that is 81579
a member of a ~~group that is a~~ consolidated elected taxpayer ~~or a~~ 81580
~~combined taxpayer;~~ 81581

(2) A public utility that paid the excise tax imposed by 81582
section 5727.24 or 5727.30 of the Revised Code based on one or 81583
more measurement periods that include the entire tax period under 81584
this chapter, except that a public utility that is a combined 81585
company is a taxpayer with regard to the following gross receipts: 81586

(a) Taxable gross receipts directly attributed to a public 81587
utility activity, but not directly attributed to an activity that 81588
is subject to the excise tax imposed by section 5727.24 or 5727.30 81589
of the Revised Code; 81590

(b) Taxable gross receipts that cannot be directly attributed 81591
to any activity, multiplied by a fraction whose numerator is the 81592
taxable gross receipts described in division (E)(2)(a) of this 81593
section and whose denominator is the total taxable gross receipts 81594
that can be directly attributed to any activity; 81595

(c) Except for any differences resulting from the use of an 81596
accrual basis method of accounting for purposes of determining 81597
gross receipts under this chapter and the use of the cash basis 81598
method of accounting for purposes of determining gross receipts 81599
under section 5727.24 of the Revised Code, the gross receipts 81600
directly attributed to the activity of a natural gas company shall 81601
be determined in a manner consistent with division (D) of section 81602
5727.03 of the Revised Code. 81603

As used in division (E)(2) of this section, "combined 81604
company" and "public utility" have the same meanings as in section 81605
5727.01 of the Revised Code. 81606

(3) A financial institution, as defined in section 5725.01 of 81607
the Revised Code, that paid the corporation franchise tax charged 81608
by division (D) of section 5733.06 of the Revised Code based on 81609
one or more taxable years that include the entire tax period under 81610
this chapter; 81611

(4) A dealer in intangibles, as defined in section 5725.01 of 81612
the Revised Code, that paid the dealer in intangibles tax levied 81613
by division (D) of section 5707.03 of the Revised Code based on 81614
one or more measurement periods that include the entire tax period 81615
under this chapter; 81616

(5) A financial holding company as defined in the "Bank 81617
Holding Company Act," 12 U.S.C. 1841(p); 81618

(6) A bank holding company as defined in the "Bank Holding 81619
Company Act," 12 U.S.C. 1841(a); 81620

(7) A savings and loan holding company as defined in the 81621

"Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging 81622
only in activities or investments permissible for a financial 81623
holding company under 12 U.S.C. 1843(k); 81624

(8) A person directly or indirectly owned by one or more 81625
financial institutions, financial holding companies, bank holding 81626
companies, or savings and loan holding companies described in 81627
division (E)(3), (5), (6), or (7) of this section that is engaged 81628
in activities permissible for a financial holding company under 12 81629
U.S.C. 1843(k), except that any such person held pursuant to 81630
merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12 81631
U.S.C. 1843(k)(4)(I) is not an excluded person, or a person 81632
directly or indirectly owned by one or more insurance companies 81633
described in division (E)(9) of this section that is authorized to 81634
do the business of insurance in this state. 81635

For the purposes of division (E)(8) of this section, a person 81636
owns another person under the following circumstances: 81637

(a) In the case of corporations issuing capital stock, one 81638
corporation owns another corporation if it owns fifty per cent or 81639
more of the other corporation's capital stock with current voting 81640
rights; 81641

(b) In the case of a limited liability company, one person 81642
owns the company if that person's membership interest, as defined 81643
in section 1705.01 of the Revised Code, is fifty per cent or more 81644
of the combined membership interests of all persons owning such 81645
interests in the company; 81646

(c) In the case of a partnership, trust, or other 81647
unincorporated business organization other than a limited 81648
liability company, one person owns the organization if, under the 81649
articles of organization or other instrument governing the affairs 81650
of the organization, that person has a beneficial interest in the 81651
organization's profits, surpluses, losses, or distributions of 81652

fifty per cent or more of the combined beneficial interests of all 81653
persons having such an interest in the organization; 81654

(d) In the case of multiple ownership, the ownership 81655
interests of more than one person may be aggregated to meet the 81656
fifty per cent ownership tests in this division only when each 81657
such owner is described in division (E)(3), (5), (6), or (7) of 81658
this section and is engaged in activities permissible for a 81659
financial holding company under 12 U.S.C. 1843(k) or is a person 81660
directly or indirectly owned by one or more insurance companies 81661
described in division (E)(9) of this section that is authorized to 81662
do the business of insurance in this state. 81663

(9) A domestic insurance company or foreign insurance 81664
company, as defined in section 5725.01 of the Revised Code, that 81665
paid the insurance company premiums tax imposed by section 5725.18 81666
or Chapter 5729. of the Revised Code based on one or more 81667
measurement periods that include the entire tax period under this 81668
chapter; 81669

(10) A person that solely facilitates or services one or more 81670
securitizations or similar transactions for any person described 81671
in division (E)(3), (5), (6), (7), (8), or (9) of this section. 81672
For purposes of this division, "securitization" means transferring 81673
one or more assets to one or more persons and then issuing 81674
securities backed by the right to receive payment from the asset 81675
or assets so transferred. 81676

(11) Except as otherwise provided in this division, a 81677
pre-income tax trust as defined in division (FF)(4) of section 81678
5747.01 of the Revised Code and any pass-through entity of which 81679
such pre-income tax trust owns or controls, directly, indirectly, 81680
or constructively through related interests, more than five per 81681
cent of the ownership or equity interests. If the pre-income tax 81682
trust has made a qualifying pre-income tax trust election under 81683
division (FF)(3) of section 5747.01 of the Revised Code, then the 81684

trust and the pass-through entities of which it owns or controls, 81685
directly, indirectly, or constructively through related interests, 81686
more than five per cent of the ownership or equity interests, 81687
shall not be excluded persons for purposes of the tax imposed 81688
under section 5751.02 of the Revised Code. 81689

(12) Nonprofit organizations or the state and its agencies, 81690
instrumentalities, or political subdivisions. 81691

(F) Except as otherwise provided in divisions (F)(2), (3), 81692
and (4) of this section, "gross receipts" means the total amount 81693
realized by a person, without deduction for the cost of goods sold 81694
or other expenses incurred, that contributes to the production of 81695
gross income of the person, including the fair market value of any 81696
property and any services received, and any debt transferred or 81697
forgiven as consideration. 81698

(1) The following are examples of gross receipts: 81699

(a) Amounts realized from the sale, exchange, or other 81700
disposition of the taxpayer's property to or with another; 81701

(b) Amounts realized from the taxpayer's performance of 81702
services for another; 81703

(c) Amounts realized from another's use or possession of the 81704
taxpayer's property or capital; 81705

(d) Any combination of the foregoing amounts. 81706

(2) "Gross receipts" excludes the following amounts: 81707

(a) Interest income except interest on credit sales; 81708

(b) Dividends and distributions from corporations, and 81709
distributive or proportionate shares of receipts and income from a 81710
pass-through entity as defined under section 5733.04 of the 81711
Revised Code; 81712

(c) Receipts from the sale, exchange, or other disposition of 81713
an asset described in section 1221 or 1231 of the Internal Revenue 81714

Code, without regard to the length of time the person held the 81715
asset. Notwithstanding section 1221 of the Internal Revenue Code, 81716
receipts from hedging transactions also are excluded to the extent 81717
the transactions are entered into primarily to protect a financial 81718
position, such as managing the risk of exposure to (i) foreign 81719
currency fluctuations that affect assets, liabilities, profits, 81720
losses, equity, or investments in foreign operations; (ii) 81721
interest rate fluctuations; or (iii) commodity price fluctuations. 81722
As used in division (F)(2)(c) of this section, "hedging 81723
transaction" has the same meaning as used in section 1221 of the 81724
Internal Revenue Code and also includes transactions accorded 81725
hedge accounting treatment under statement of financial accounting 81726
standards number 133 of the financial accounting standards board. 81727
For the purposes of division (F)(2)(c) of this section, the actual 81728
transfer of title of real or tangible personal property to another 81729
entity is not a hedging transaction. 81730

(d) Proceeds received attributable to the repayment, 81731
maturity, or redemption of the principal of a loan, bond, mutual 81732
fund, certificate of deposit, or marketable instrument; 81733

(e) The principal amount received under a repurchase 81734
agreement or on account of any transaction properly characterized 81735
as a loan to the person; 81736

(f) Contributions received by a trust, plan, or other 81737
arrangement, any of which is described in section 501(a) of the 81738
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 81739
1, Subchapter (D) of the Internal Revenue Code applies; 81740

(g) Compensation, whether current or deferred, and whether in 81741
cash or in kind, received or to be received by an employee, former 81742
employee, or the employee's legal successor for services rendered 81743
to or for an employer, including reimbursements received by or for 81744
an individual for medical or education expenses, health insurance 81745
premiums, or employee expenses, or on account of a dependent care 81746

spending account, legal services plan, any cafeteria plan 81747
described in section 125 of the Internal Revenue Code, or any 81748
similar employee reimbursement; 81749

(h) Proceeds received from the issuance of the taxpayer's own 81750
stock, options, warrants, puts, or calls, or from the sale of the 81751
taxpayer's treasury stock; 81752

(i) Proceeds received on the account of payments from ~~life~~ 81753
insurance policies, except those proceeds received for the loss of 81754
business revenue; 81755

(j) Gifts or charitable contributions received, ~~i~~ membership 81756
dues received, by trade, professional, homeowners', or condominium 81757
association; and payments received for educational courses, 81758
meetings, meals, or similar payments to a trade, professional, or 81759
other similar association; and fundraising receipts received by 81760
any person when any excess receipts are donated or used 81761
exclusively for charitable purposes; ~~and proceeds received by a~~ 81762
~~nonprofit organization including proceeds realized with regard to~~ 81763
~~its unrelated business taxable income;~~ 81764

(k) Damages received as the result of litigation in excess of 81765
amounts that, if received without litigation, would be gross 81766
receipts; 81767

(l) Property, money, and other amounts received or acquired 81768
by an agent on behalf of another in excess of the agent's 81769
commission, fee, or other remuneration; 81770

(m) Tax refunds, other tax benefit recoveries, and 81771
reimbursements for the tax imposed under this chapter made by 81772
entities that are part of the same combined taxpayer or 81773
consolidated elected taxpayer group, and reimbursements made by 81774
entities that are not members of a combined taxpayer or 81775
consolidated elected taxpayer group that are required to be made 81776
for economic parity among multiple owners of an entity whose tax 81777

obligation under this chapter is required to be reported and paid	81778
entirely by one owner, pursuant to the requirements of sections	81779
5751.011 and 5751.012 of the Revised Code;	81780
(n) Pension reversions;	81781
(o) Contributions to capital;	81782
(p) Sales or use taxes collected as a vendor or an	81783
out-of-state seller on behalf of the taxing jurisdiction from a	81784
consumer or other taxes the taxpayer is required by law to collect	81785
directly from a purchaser and remit to a local, state, or federal	81786
tax authority;	81787
(q) In the case of receipts from the sale of cigarettes or	81788
tobacco products by a wholesale dealer, retail dealer,	81789
distributor, manufacturer, or seller, all as defined in section	81790
5743.01 of the Revised Code, an amount equal to the federal and	81791
state excise taxes paid by any person on or for such cigarettes or	81792
tobacco products under subtitle E of the Internal Revenue Code or	81793
Chapter 5743. of the Revised Code;	81794
(r) In the case of receipts from the sale of motor fuel by a	81795
licensed motor fuel dealer, licensed retail dealer, or licensed	81796
permissive motor fuel dealer, all as defined in section 5735.01 of	81797
the Revised Code, an amount equal to federal and state excise	81798
taxes paid by any person on such motor fuel under section 4081 of	81799
the Internal Revenue Code or Chapter 5735. of the Revised Code;	81800
(s) In the case of receipts from the sale of beer or	81801
intoxicating liquor, as defined in section 4301.01 of the Revised	81802
Code, by a person holding a permit issued under Chapter 4301. or	81803
4303. of the Revised Code, an amount equal to federal and state	81804
excise taxes paid by any person on or for such beer or	81805
intoxicating liquor under subtitle E of the Internal Revenue Code	81806
or Chapter 4301. or 4305. of the Revised Code;	81807
(t) Receipts realized by a new motor vehicle dealer or used	81808

motor vehicle dealer, as defined in section 4517.01 of the Revised Code, from the sale or other transfer of a motor vehicle, as defined in that section, to another motor vehicle dealer for the purpose of resale by the transferee motor vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle;

(u) Receipts from a financial institution described in division (E)(3) of this section for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if such financial institution and the recipient of such receipts have at least fifty per cent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;

(v) Receipts realized from administering anti-neoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs in a physician's office to patients with cancer;

(w) Funds received or used by a mortgage broker that is not a dealer in intangibles, other than fees or other consideration, pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms used in division (F)(2)(w) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.

(x) Property, money, and other amounts received by a professional employer organization, as defined in section 4125.01 of the Revised Code, from a client employer, as defined in that section, in excess of the administrative fee charged by the

professional employer organization to the client employer; 81841

(y) In the case of amounts retained as commissions by a 81842
permit holder under Chapter 3769. of the Revised Code, an amount 81843
equal to the amounts specified under that chapter that must be 81844
paid to or collected by the tax commissioner as a tax and the 81845
amounts specified under that chapter to be used as purse money; 81846

(z) Qualifying distribution center receipts. 81847

(i) For purposes of division (F)(2)(z) of this section: 81848

(I) "Qualifying distribution center receipts" means receipts 81849
of a supplier from qualified property that is delivered to a 81850
qualified distribution center, multiplied by a quantity that 81851
equals one minus the Ohio delivery percentage. 81852

(II) "Qualified property" means tangible personal property 81853
delivered to a qualified distribution center that is shipped to 81854
that qualified distribution center solely for further shipping by 81855
the qualified distribution center to another location in this 81856
state or elsewhere. "Further shipping" includes storing and 81857
repackaging such property into smaller or larger bundles, so long 81858
as such property is not subject to further manufacturing or 81859
processing. 81860

(III) "Qualified distribution center" means a warehouse or 81861
other similar facility in this state that, for the qualifying 81862
year, is operated by a person that is not part of a combined 81863
taxpayer group and that has a qualifying certificate. However, all 81864
warehouses or other similar facilities that are operated by 81865
persons in the same taxpayer group and that are located within one 81866
mile of each other shall be treated as one qualified distribution 81867
center. 81868

(IV) "Qualifying year" means the calendar year to which the 81869
qualifying certificate applies. 81870

(V) "Qualifying period" means the period of the first day of 81871
July of the second year preceding the qualifying year through the 81872
thirtieth day of June of the year preceding the qualifying year. 81873

(VI) "Qualifying certificate" means the certificate issued by 81874
the tax commissioner after the operator of a distribution center 81875
files an annual application ~~approved by the tax commissioner from~~ 81876
~~an operator of a distribution center that has filed an application~~ 81877
~~as prescribed by the commissioner and paid the annual fee for the~~ 81878
~~qualifying certificate on or before the first day of September~~ 81879
~~prior to the qualifying year or forty five days after the opening~~ 81880
~~of the distribution center, whichever is later~~ with the 81881
commissioner. The application and annual fee shall be filed and 81882
paid for each qualified distribution center on or before the first 81883
day of September before the qualifying year or within forty-five 81884
days after the distribution center opens, whichever is later. 81885

The applicant must substantiate to the commissioner's 81886
satisfaction that, for the qualifying period, all persons 81887
operating the distribution center have more than fifty per cent of 81888
the cost of the qualified property shipped to a location such that 81889
it would be situated outside this state under the provisions of 81890
division (E) of section 5751.033 of the Revised Code. The 81891
applicant must also substantiate that the distribution center 81892
cumulatively had costs from its suppliers equal to or exceeding 81893
five hundred million dollars during the qualifying period. (For 81894
purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" 81895
excludes any person that is part of the consolidated elected 81896
taxpayer group, if applicable, of the operator of the qualified 81897
distribution center.) The commissioner may require the applicant 81898
to have an independent certified public accountant certify that 81899
the calculation of the minimum thresholds required for a qualified 81900
distribution center by the operator of a distribution center has 81901
been made in accordance with generally accepted accounting 81902

principles. The commissioner shall issue or deny the issuance of a certificate within sixty days after the receipt of the application. A denial is subject to appeal under section 5717.02 of the Revised Code. If the operator files a timely appeal under section 5717.02 of the Revised Code, the operator shall be granted a qualifying certificate, provided that the operator is liable for any tax, interest, or penalty upon amounts claimed as qualifying distribution center receipts, other than those receipts exempt under division (C)(1) of section 5751.011 of the Revised Code, that would have otherwise not been owed by its suppliers if the qualifying certificate was valid.

(VII) "Ohio delivery percentage" means the proportion of the total property delivered to a destination inside Ohio from the qualified distribution center during the qualifying period compared with total deliveries from such distribution center everywhere during the qualifying period.

(ii) If the distribution center is new and was not open for the entire qualifying period, the operator of the distribution center may request that the commissioner grant a qualifying certificate. If the certificate is granted and it is later determined that more than fifty per cent of the qualified property during that year was not shipped to a location such that it would be situated outside of this state under the provisions of division (E) of section 5751.033 of the Revised Code or if it is later determined that the person that operates the distribution center had average monthly costs from its suppliers of less than forty million dollars during that year, then the operator of the distribution center shall be liable for any tax, interest, or penalty upon amounts claimed as qualifying distribution center receipts, other than those receipts exempt under division (C)(1) of section 5751.011 of the Revised Code, that would have not otherwise been owed by its suppliers during the qualifying year if

the qualifying certificate was valid. (For purposes of division 81935
(F)(2)(z)(ii) of this section, "supplier" excludes any person that 81936
is part of the consolidated elected taxpayer group, if applicable, 81937
of the operator of the qualified distribution center.) 81938

(iii) When filing an application for a qualifying certificate 81939
under division (F)(2)(z)(i)(VI) of this section, the operator of a 81940
qualified distribution center also shall provide documentation, as 81941
the commissioner requires, for the commissioner to ascertain the 81942
Ohio delivery percentage. The commissioner, upon issuing the 81943
qualifying certificate, also shall certify the Ohio delivery 81944
percentage. The operator of the qualified distribution center may 81945
appeal the commissioner's certification of the Ohio delivery 81946
percentage in the same manner as an appeal is taken from the 81947
denial of a qualifying certificate under division (F)(2)(z)(i)(VI) 81948
of this section. 81949

Within thirty days after all appeals have been exhausted, the 81950
operator of the qualified distribution center shall notify the 81951
affected suppliers of qualified property that such suppliers are 81952
required to file, within sixty days after receiving notice from 81953
the operator of the qualified distribution center, amended reports 81954
for the impacted calendar quarter or quarters or calendar year, 81955
whichever the case may be. Any additional tax liability or tax 81956
overpayment shall be subject to interest but shall not be subject 81957
to the imposition of any penalty so long as the amended returns 81958
are timely filed. The supplier of tangible personal property 81959
delivered to the qualified distribution center shall include in 81960
its report of taxable gross receipts the receipts from the total 81961
sales of property delivered to the qualified distribution center 81962
for the calendar quarter or calendar year, whichever the case may 81963
be, multiplied by the Ohio delivery percentage for the qualifying 81964
year. Nothing in division (F)(2)(z)(iii) of this section shall be 81965
construed as imposing liability on the operator of a qualified 81966

distribution center for the tax imposed by this chapter arising 81967
from any change to the Ohio delivery percentage. 81968

(iv) In the case where the distribution center is new and not 81969
open for the entire qualifying period, the operator shall make a 81970
good faith estimate of an Ohio delivery percentage for use by 81971
suppliers in their reports of taxable gross receipts for the 81972
remainder of the qualifying period. The operator of the facility 81973
shall disclose to the suppliers that such Ohio delivery percentage 81974
is an estimate and is subject to recalculation. By the due date of 81975
the next application for a qualifying certificate, the operator 81976
shall determine the actual Ohio delivery percentage for the 81977
estimated qualifying period and proceed as provided in division 81978
(F)(2)(z)(iii) of this section with respect to the calculation and 81979
recalculation of the Ohio delivery percentage. The supplier is 81980
required to file, within sixty days after receiving notice from 81981
the operator of the qualified distribution center, amended reports 81982
for the impacted calendar quarter or quarters or calendar year, 81983
whichever the case may be. Any additional tax liability or tax 81984
overpayment shall be subject to interest but shall not be subject 81985
to the imposition of any penalty so long as the amended returns 81986
are timely filed. 81987

(v) Qualifying certificates and Ohio delivery percentages 81988
issued by the commissioner shall be open to public inspection and 81989
shall be timely published by the commissioner. A supplier relying 81990
in good faith on a certificate issued under this division shall 81991
not be subject to tax on the qualifying distribution center 81992
receipts under division (F)(2)(z) of this section. A person 81993
receiving a qualifying certificate is responsible for paying the 81994
tax, interest, and penalty upon amounts claimed as qualifying 81995
distribution center receipts that would not otherwise have been 81996
owed by the supplier if the qualifying certificate were available 81997
when it is later determined that the qualifying certificate should 81998

not have been issued because the statutory requirements were in fact not met.

(vi) The annual fee for a qualifying certificate shall be one hundred thousand dollars for each qualified distribution center. If a qualifying certificate is not issued, the annual fee is subject to refund after the exhaustion of all appeals provided for in division (F)(2)(z)(i)(VI) of this section. The fee imposed under this division may be assessed in the same manner as the tax imposed under this chapter. The first one hundred thousand dollars of the annual application fees collected each calendar year shall be credited to the commercial activity tax administrative fund. The remainder of the annual application fees collected shall be distributed in the same manner required under section 5751.20 of the Revised Code.

(vii) The tax commissioner may require that adequate security be posted by the operator of the distribution center on appeal when the commissioner disagrees that the applicant has met the minimum thresholds for a qualified distribution center as set forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this section.

(aa) Receipts of an employer from payroll deductions relating to the reimbursement of the employer for advancing moneys to an unrelated third party on an employee's behalf;

(bb) Cash discounts allowed and taken;

(cc) Returns and allowances;

(dd) Bad debts from receipts on the basis of which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purpose of this division, "bad debts" means any debt that has become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and that may be claimed as a

deduction under section 166 of the Internal Revenue Code and the 82030
regulations adopted under that section, or that could be claimed 82031
as such if the taxpayer kept its accounts on the accrual basis. 82032
"Bad debts" does not include repossessed property, uncollectible 82033
amounts on property that remains in the possession of the taxpayer 82034
until the full purchase price is paid, or expenses in attempting 82035
to collect any account receivable for any portion of the debt 82036
recovered; 82037

(ee) Any amount realized from the sale of an account 82038
receivable to the extent the receipts from the underlying 82039
transaction giving rise to the account receivable were included in 82040
the gross receipts of the taxpayer; 82041

(ff) Any receipts for which the tax imposed by this chapter 82042
is prohibited by the Constitution or laws of the United States or 82043
the Constitution of Ohio. 82044

(3) In the case of a taxpayer when acting as a real estate 82045
broker, "gross receipts" includes only the portion of any fee for 82046
the service of a real estate broker, or service of a real estate 82047
salesperson associated with that broker, that is retained by the 82048
broker and not paid to an associated real estate salesperson or 82049
another real estate broker. For the purposes of this division, 82050
"real estate broker" and "real estate salesperson" have the same 82051
meanings as in section 4735.01 of the Revised Code. 82052

(4) A taxpayer's method of accounting for gross receipts for 82053
a tax period shall be the same as the taxpayer's method of 82054
accounting for federal income tax purposes for the taxpayer's 82055
federal taxable year that includes the tax period. If a taxpayer's 82056
method of accounting for federal income tax purposes changes, its 82057
method of accounting for gross receipts under this chapter shall 82058
be changed accordingly. 82059

~~In calculating gross receipts, the following shall be~~ 82060

deducted to the extent included as a gross receipt in the current	82061
tax period or reported as taxable gross receipts in a prior tax	82062
period;	82063
(a) Cash discounts allowed and taken;	82064
(b) Returns and allowances;	82065
(c) Bad debts. For the purposes of this division, "bad debts"	82066
mean any debts that have become worthless or uncollectible between	82067
the preceding and current quarterly tax payment periods, have been	82068
uncollected for at least six months, and may be claimed as a	82069
deduction under section 166 of the Internal Revenue Code and the	82070
regulations adopted pursuant thereto, or that could be claimed as	82071
such if the taxpayer kept its accounts on the accrual basis. "Bad	82072
debts" does not include uncollectible amounts on property that	82073
remains in the possession of the taxpayer until the full purchase	82074
price is paid, expenses in attempting to collect any account	82075
receivable or for any portion of the debt recovered, and	82076
repossessed property;	82077
(d) Any amount realized from the sale of an account	82078
receivable but only to the extent the receipts from the underlying	82079
transaction giving rise to the account receivable were included in	82080
the gross receipts of the taxpayer.	82081
(G) "Taxable gross receipts" means gross receipts sitused to	82082
this state under section 5751.033 of the Revised Code.	82083
(H) A person has "substantial nexus with this state" if any	82084
of the following applies. The person:	82085
(1) Owns or uses a part or all of its capital in this state;	82086
(2) Holds a certificate of compliance with the laws of this	82087
state authorizing the person to do business in this state;	82088
(3) Has bright-line presence in this state;	82089
(4) Otherwise has nexus with this state to an extent that the	82090

person can be required to remit the tax imposed under this chapter 82091
under the Constitution of the United States. 82092

(I) A person has "bright-line presence" in this state for a 82093
reporting period and for the remaining portion of the calendar 82094
year if any of the following applies. The person: 82095

(1) Has at any time during the calendar year property in this 82096
state with an aggregate value of at least fifty thousand dollars. 82097
For the purpose of division (I)(1) of this section, owned property 82098
is valued at original cost and rented property is valued at eight 82099
times the net annual rental charge. 82100

(2) Has during the calendar year payroll in this state of at 82101
least fifty thousand dollars. Payroll in this state includes all 82102
of the following: 82103

(a) Any amount subject to withholding by the person under 82104
section 5747.06 of the Revised Code; 82105

(b) Any other amount the person pays as compensation to an 82106
individual under the supervision or control of the person for work 82107
done in this state; and 82108

(c) Any amount the person pays for services performed in this 82109
state on its behalf by another. 82110

(3) Has during the calendar year taxable gross receipts of at 82111
least five hundred thousand dollars. 82112

(4) Has at any time during the calendar year within this 82113
state at least twenty-five per cent of the person's total 82114
property, total payroll, or total gross receipts. 82115

(5) Is domiciled in this state as an individual or for 82116
corporate, commercial, or other business purposes. 82117

(J) "Tangible personal property" has the same meaning as in 82118
section 5739.01 of the Revised Code. 82119

(K) "Internal Revenue Code" means the Internal Revenue Code 82120

of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in 82121
this chapter that is not otherwise defined has the same meaning as 82122
when used in a comparable context in the laws of the United States 82123
relating to federal income taxes unless a different meaning is 82124
clearly required. Any reference in this chapter to the Internal 82125
Revenue Code includes other laws of the United States relating to 82126
federal income taxes. 82127

(L) "Calendar quarter" means a three-month period ending on 82128
the thirty-first day of March, the thirtieth day of June, the 82129
thirtieth day of September, or the thirty-first day of December. 82130

(M) "Tax period" means the calendar quarter or calendar year 82131
on the basis of which a taxpayer is required to pay the tax 82132
imposed under this chapter. 82133

(N) "Calendar year taxpayer" means a taxpayer for which the 82134
tax period is a calendar year. 82135

(O) "Calendar quarter taxpayer" means a taxpayer for which 82136
the tax period is a calendar quarter. 82137

(P) "Agent" means a person authorized by another person to 82138
act on its behalf to undertake a transaction for the other, 82139
including any of the following: 82140

(1) A person receiving a fee to sell financial instruments; 82141

(2) A person retaining only a commission from a transaction 82142
with the other proceeds from the transaction being remitted to 82143
another person; 82144

(3) A person issuing licenses and permits under section 82145
1533.13 of the Revised Code; 82146

(4) A lottery sales agent holding a valid license issued 82147
under section 3770.05 of the Revised Code; 82148

(5) A person acting as an agent of the division of liquor 82149
control under section 4301.17 of the Revised Code. 82150

(Q) "Received" includes amounts accrued under the accrual method of accounting. 82151
82152

(R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section 5751.04 of the Revised Code, a separate taxpayer that is not a member of such a group. 82153
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Sec. 5751.011. (A) A group of two or more persons may elect to be a consolidated elected taxpayer for the purposes of this chapter if the group satisfies all of the following requirements: 82160
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(1) The group elects to include all persons, including persons enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised Code, having at least eighty per cent, or having at least fifty per cent, of the value of their ownership interests owned or controlled, directly or constructively through related interests, by common owners during all or any portion of the tax period, together with the common owners. ~~At~~ 82163
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A group making its initial election on the basis of the eighty per cent ownership test may change its election so that its consolidated elected taxpayer group is formed on the basis of the fifty per cent ownership test if all of the following are satisfied: 82170
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(a) When the initial election was made, the group did not include any persons satisfying the fifty per cent ownership test; 82175
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(b) One or more of the persons in the initial group subsequently acquires ownership interests in a person such that the fifty per cent ownership test is satisfied, the eighty per cent ownership test is not satisfied, and the acquired person 82177
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would be required to be included in a combined taxpayer group 82181
under section 5751.012 of the Revised Code; 82182

(c) The group requests the change in a written request to the 82183
tax commissioner on or before the due date for filing the first 82184
return due under section 5751.051 of the Revised Code after the 82185
date of the acquisition; 82186

(d) The group has not previously changed its election. 82187

At the election of the group, all entities that are not 82188
incorporated or formed under the laws of a state or of the United 82189
States and that meet the consolidated elected ownership test shall 82190
either be included in the group or all shall be excluded from the 82191
group. The If, at the time of registration, the group does not 82192
include any such entities that meet the consolidated elected 82193
ownership test, the group shall elect to either include or exclude 82194
the newly acquired entities before the due date of the first 82195
return due after the date of the acquisition. 82196

Each group shall notify the tax commissioner of the foregoing 82197
elections before the due date of the return ~~in which the election~~ 82198
~~is to become effective~~ for the period in which the election 82199
becomes binding. If fifty per cent of the value of a person's 82200
ownership interests is owned or controlled by each of two 82201
consolidated elected taxpayer groups formed under the fifty per 82202
cent ownership or control test, that person is a member of each 82203
group for the purposes of this section, and each group shall 82204
include in the group's taxable gross receipts fifty per cent of 82205
that person's taxable gross receipts. Otherwise, all of that 82206
person's taxable gross receipts shall be included in the taxable 82207
gross receipts of the consolidated elected taxpayer group of which 82208
the person is a member. In no event shall the ownership or control 82209
of fifty per cent of the value of a person's ownership interests 82210
by two otherwise unrelated groups form the basis for consolidating 82211
the groups into a single consolidated elected taxpayer group or 82212

permit any exclusion under division (C) of this section of taxable gross receipts between members of the two groups. Division (A)(3) of this section applies with respect to the elections described in this division.

(2) The group makes the election to be treated as a consolidated elected taxpayer in the manner prescribed under division (D) of this section.

(3) Subject to review and audit by the tax commissioner, the group agrees that all of the following apply:

(a) The group shall file reports as a single taxpayer for at least the next eight calendar quarters following the election so long as at least two or more of the members of the group meet the requirements of division (A)(1) of this section.

(b) Before the expiration of the eighth such calendar quarter, the group shall notify the commissioner if it elects to cancel its designation as a consolidated elected taxpayer. If the group does not so notify the tax commissioner, the election remains in effect for another eight calendar quarters.

(c) If, at any time during any of those eight calendar quarters following the election, a former member of the group no longer meets the requirements under division (A)(1) of this section, that member shall report and pay the tax imposed under this chapter separately, as a member of a combined taxpayer, or, if the former member satisfies such requirements with respect to another consolidated elected group, as a member of that consolidated elected group.

(d) The group agrees to the application of division (B) of this section.

(B) A group of persons making the election under this section shall report and pay tax on all of the group's taxable gross receipts even if substantial nexus with this state does not exist

for one or more persons in the group. 82244

(C)(1)(a) Members of a consolidated elected taxpayer group 82245
shall exclude gross receipts among persons included in the 82246
consolidated elected taxpayer group. 82247

(b) Subject to divisions (C)(1)(c) and (C)(2) of this 82248
section, nothing in this section shall have the effect of 82249
requiring a consolidated elected taxpayer group to include gross 82250
receipts received by a person enumerated in divisions (E)(2) to 82251
(10) of section 5751.01 of the Revised Code if that person is a 82252
member of the group pursuant to the elections made by the group 82253
under division (A)(1) of this section. 82254

(c)(i) As used in division (C)(1)(c) of this section, "dealer 82255
transfer" means a transfer of property that satisfies both of the 82256
following: (I) the property is directly transferred by any means 82257
from one member of the group to another member of the group that 82258
is a dealer in intangibles but is not a qualifying dealer as 82259
defined in section 5725.24 of the Revised Code; and (II) the 82260
property is subsequently delivered by the dealer in intangibles to 82261
a person that is not a member of the group. 82262

(ii) In the event of a dealer transfer, a consolidated 82263
elected taxpayer group shall not exclude, under division (C) of 82264
this section, gross receipts from the transfer described in 82265
division (C)(1)(c)(i)(I) of this section. 82266

(2) Gross receipts related to the sale or transmission of 82267
electricity through the use of an intermediary regional 82268
transmission organization approved by the federal energy 82269
regulatory commission shall be excluded from taxable gross 82270
receipts under division (C)(1) of this section if all other 82271
requirements of that division are met, even if the receipts are 82272
from and to the same member of the group. 82273

(D) To make the election to be a consolidated elected 82274

taxpayer, a group of persons shall notify the tax commissioner of 82275
the election in the manner prescribed by the commissioner and pay 82276
the commissioner a registration fee equal to the lesser of two 82277
hundred dollars or twenty dollars for each person in the group. No 82278
additional fee shall be imposed for the addition of new members to 82279
the group once the group has remitted a fee in the amount of two 82280
hundred dollars. The election shall be made and the fee paid 82281
before the later of the beginning of the first calendar quarter to 82282
which the election applies or November 15, 2005. The fee shall be 82283
collected and used in the same manner as provided in section 82284
5751.04 of the Revised Code. 82285

The election shall be made on a form prescribed by the tax 82286
commissioner for that purpose and shall be signed by one or more 82287
individuals with authority, separately or together, to make a 82288
binding election on behalf of all persons in the group. 82289

Any person acquired or formed after the filing of the 82290
registration shall be included in the group if the person meets 82291
the requirements of division (A)(1) of this section, and the group 82292
shall notify the tax commissioner of any additions to the group 82293
with the next tax return it files with the commissioner. 82294

~~(E) Each member of a consolidated elected taxpayer is jointly 82295
and severally liable for the tax imposed by this chapter and any 82296
penalties or interest thereon. The tax commissioner may require 82297
one person in the group to be the taxpayer for purposes of 82298
registration and remittance of the tax, but all members of the 82299
group are subject to assessment under section 5751.09 of the 82300
Revised Code. 82301~~

Sec. 5751.012. (A) All persons, other than persons enumerated 82302
in divisions (E)(2) to (10) of section 5751.01 of the Revised 82303
Code, having more than fifty per cent of the value of their 82304
ownership interest owned or controlled, directly or constructively 82305

through related interests, by common owners during all or any 82306
portion of the tax period, together with the common owners, shall 82307
be members of a combined taxpayer if those persons are not members 82308
of a consolidated elected taxpayer pursuant to an election under 82309
section 5751.011 of the Revised Code. 82310

(B) A combined taxpayer shall register, file returns, and pay 82311
taxes under this chapter as a single taxpayer. 82312

(C) A combined taxpayer shall neither exclude taxable gross 82313
receipts between its members nor from others that are not members. 82314

(D) A combined taxpayer shall pay to the tax commissioner a 82315
registration fee equal to the lesser of two hundred dollars or 82316
twenty dollars for each person in the group. No additional fee 82317
shall be imposed for the addition of new members to the group once 82318
the group has remitted a fee in the amount of two hundred dollars. 82319
The fee shall be timely paid before the later of the beginning of 82320
the first calendar quarter or November 15, 2005. The fee shall be 82321
collected and used in the same manner as provided in section 82322
5751.04 of the Revised Code. 82323

Any person acquired or formed after the filing of the 82324
registration shall be included in the group if the person meets 82325
the requirements of division (A) of this section, and the group 82326
must notify the tax commissioner of any additions with the next 82327
quarterly tax return it files with the commissioner. 82328

~~(E) Each member of a combined taxpayer is jointly and 82329
severally liable for the tax imposed by this chapter and any 82330
penalties or interest thereon. The tax commissioner may require 82331
one person in the group to be the taxpayer for purposes of 82332
registration and remittance of the tax, but all members of the 82333
group are subject to assessment under section 5751.09 of the 82334
Revised Code. 82335~~

Sec. 5751.013. (A) Except as provided in division (B) of this section: 82336
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(1) A person shall include as taxable gross receipts the value of property the person transfers into this state for the person's own use within one year after the person receives the property outside this state; and 82338
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(2) In the case of ~~an elected~~ a consolidated elected taxpayer group or a combined taxpayer group, the taxpayer shall include as taxable gross receipts the value of property that any of the taxpayer's members transferred into this state for the use of any of the taxpayer's members within one year after the taxpayer receives the property outside this state. 82342
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(B) Property brought into this state within one year after it is received outside this state by a person or group described in division (A)(1) or (2) of this section shall not be included as taxable gross receipts as required under those divisions if the tax commissioner ascertains that the property's receipt outside this state by the person or group followed by its transfer into this state within one year was not intended in whole or in part to avoid in whole or in part the tax imposed under this chapter. 82348
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(C) The tax commissioner may adopt rules necessary to administer this section. 82356
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Sec. 5751.014. All members of a consolidated elected taxpayer or combined taxpayer group during the tax period or periods for which additional tax, penalty, or interest is owed may be held jointly and severally liable for such amounts due when a liability is certified to the attorney general under section 131.02 of the Revised Code. 82358
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Sec. 5751.03. (A) Except as provided in divisions (B) and (D) 82364

of this section and in sections 5751.031 and 5751.032 of the Revised Code, the tax levied under this section for each tax period shall be the product of two and six-tenths mills per dollar times the remainder of the taxpayer's taxable gross receipts for the tax period after subtracting the exclusion amount provided for in division (C) of this section.

(B) Notwithstanding division (C) of this section, the tax on the first one million dollars in taxable gross receipts each calendar year shall be one hundred fifty dollars. For calendar year 2006, the tax imposed under this division shall be paid not later than May 10, 2006, by both calendar year taxpayers and calendar quarter taxpayers. For calendar year ~~2007~~ 2008 and thereafter, the tax imposed under this division shall be paid ~~with the fourth quarter tax return or annual tax return for the prior calendar year by both calendar year taxpayers and calendar quarter taxpayers~~ not later than the tenth day of May of each year along with the first quarter or annual tax return, as applicable.

(C)(1) Each calendar quarter taxpayer may exclude the first two hundred fifty thousand dollars of taxable gross receipts for a calendar quarter and may carry forward and apply any unused exclusion amount to the three subsequent calendar quarters. Each calendar year taxpayer may exclude the first one million dollars of taxable gross receipts for a calendar year.

(2) A taxpayer switching from a calendar year tax period to a calendar quarter tax period may, for the first quarter of the change, apply the prior calendar quarter exclusion amounts to the first calendar quarter return the taxpayer files that calendar year. The tax rate shall be based on the rate imposed that calendar quarter when the taxpayer switches from a calendar year to a calendar quarter tax period.

(D) There is hereby allowed a credit against the tax imposed

under this chapter for each of the following calendar years if a transfer was made in the preceding calendar year from the general revenue fund to the commercial activity tax refund fund under division (D) of section 5751.032 of the Revised Code: calendar years 2008, 2010, and 2012. The credit is allowed for taxpayers that paid in full the tax imposed under this chapter for the calendar year in which the transfer was made. The amount of a taxpayer's credit equals the amount computed under division (D) of section 5751.032 of the Revised Code.

Sec. 5751.04. (A) As used in this section, "person" includes a reporting person.

(B) Not later than ~~the later of November 15, 2005, or~~ thirty days after a person first has more than one hundred fifty thousand dollars in taxable gross receipts in a calendar year, each person subject to this chapter shall register with the tax commissioner on the form prescribed by the commissioner. The form shall include the following:

- (1) The person's name;
- (2) If applicable, the name of the state or country under the laws of which the person is incorporated;
- (3) If applicable, the location of a person's principal office and the name and address of the officer or agent of the corporation in charge of the business;
- (4) If applicable, the names of the person's president, secretary, treasurer, and statutory agent designated pursuant to section 1703.041 of the Revised Code, with the post office address of each;
- (5) The kind of business in which the person is engaged, including applicable business or industry codes;
- (6) If required by the tax commissioner, the date of the

beginning of the person's annual accounting period that includes 82426
the first day of January of the taxable calendar year; 82427

(7) If the person is not a corporation or a sole proprietor, 82428
the names of the person's owners and officers, if required by the 82429
tax commissioner; 82430

(8) The person's federal employer identification number or 82431
numbers or, if those are not applicable, the person's social 82432
security number or equivalent; 82433

(9) All other information that the commissioner requires to 82434
administer and enforce this chapter. 82435

~~(B)~~(C) Except as otherwise provided in this division, each 82436
person registering with the tax commissioner as required by 82437
division ~~(A)~~(B) of this section shall pay a registration fee. The 82438
fee shall be in the amount of fifteen dollars if a person 82439
registers electronically and twenty dollars if a person does not 82440
register electronically. The registration fee shall be paid in the 82441
manner prescribed by the tax commissioner at the same time the 82442
registration is due if a person is subject to the tax imposed 82443
under this chapter before January 1, 2006. If a person first 82444
becomes subject to the tax after that date, the registration fee 82445
is payable with the first tax period return the person is required 82446
to file as prescribed by section 5751.051 of the Revised Code. If 82447
a ~~registration fee is not paid when due~~ person does not register 82448
within the time prescribed by this section, an additional fee is 82449
imposed in the amount of one hundred dollars per month or part 82450
thereof that the fee is outstanding, not to exceed one thousand 82451
dollars. The tax commissioner may abate the additional fee. The 82452
fee imposed under this division may be assessed in the same manner 82453
as the tax imposed under this chapter. Proceeds from the fee shall 82454
be credited to the commercial activity tax administrative fund, 82455
which is hereby created in the state treasury for the commissioner 82456
to use in implementing and administering the tax imposed under 82457

this chapter. 82458

~~No registration fee is payable by a person for a calendar 82459
year if the person first begins business operations in this state 82460
after the thirtieth day of November of that calendar year or if 82461
the person's taxable gross receipts for the calendar year exceed 82462
one hundred fifty thousand dollars but do not exceed one hundred 82463
fifty thousand dollars as of the first day of December of the 82464
calendar year. 82465~~

Registration fees paid under this section, excluding any 82466
additional fee imposed for ~~late payment of the registration fee a 82467
person's failure to timely register~~, shall be credited against the 82468
first payment of tax payable under section 5751.03 of the Revised 82469
Code ~~after the registration fee is paid.~~ 82470

~~(C)(D)~~ If a person that has registered under this section is 82471
no longer a taxpayer subject to this chapter, including no longer 82472
being a taxpayer because of the application of division (E)(1) of 82473
section 5751.01 of the Revised Code, the person shall notify the 82474
commissioner that the person's registration should be cancelled. 82475

(E) With respect to registrations received by the 82476
commissioner before the effective date of the amendment of this 82477
section by the main operating appropriations act of the 128th 82478
general assembly, the taxpayer listed as the primary taxpayer on 82479
the registration shall be the reporting person until the taxpayer 82480
notifies the commissioner otherwise. 82481

Sec. 5751.05. (A) If a person subject to this chapter 82482
anticipates that the person's taxable gross receipts will be more 82483
than one million dollars ~~or less~~ in a calendar year ~~2006~~, the 82484
person ~~may elect to be a calendar year taxpayer. If a person is 82485
not required to be registered under this section for calendar year 82486
2006 and anticipates that the person's taxable gross receipts will 82487
be one million dollars or less in the first calendar year the 82488~~

~~person is required to register under this section, the person may
elect to be a calendar year taxpayer shall notify the tax
commissioner on the person's initial registration form and file on
a quarterly basis as a calendar quarter taxpayer. Any taxpayer
with taxable gross receipts of less than one million dollars shall
register as a calendar year taxpayer and shall file annually.~~

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(B) Any person that is a calendar year taxpayer ~~pursuant to
an election~~ under division (A) of this section shall become a
calendar quarter taxpayer in the subsequent calendar year if the
person's taxable gross receipts for the prior calendar year are
more than one million dollars, and shall remain a calendar quarter
taxpayer until the person notifies the tax commissioner, and
receives approval in writing from the tax commissioner, to switch
back to being a calendar year taxpayer. Nothing in this division
prohibits a person that has elected to be a calendar year taxpayer
from notifying the tax commissioner, using the procedures
prescribed by the commissioner, that it is switching back to being
a calendar quarter taxpayer.

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(C) Any taxpayer that is not a calendar ~~year~~ quarter taxpayer
pursuant to this section is a calendar ~~quarter~~ year taxpayer. The
~~tax~~ commissioner may grant written approval for a calendar quarter
taxpayer to use an alternative reporting schedule or estimate the
amount of tax due for a calendar quarter if the taxpayer
demonstrates to the commissioner the need for such a deviation.
The commissioner may adopt a rule to apply division (C) of this
section to a group of taxpayers without the taxpayers having to
receive written approval from the commissioner.

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Sec. 5751.051. (A)(1) Not later than ~~forty days~~ the tenth day
of the second month after the end of each calendar quarter, every
taxpayer other than a calendar year taxpayer shall file with the

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tax commissioner a tax return in such form as the commissioner 82520
prescribes. The return shall include, but is not limited to, the 82521
amount of the taxpayer's taxable gross receipts for the calendar 82522
quarter and shall indicate the amount of tax due under section 82523
5751.03 of the Revised Code for the calendar quarter. 82524

(2)(a) Subject to division (C) of section 5751.05 of the 82525
Revised Code, a calendar quarter taxpayer shall report the taxable 82526
gross receipts for that calendar quarter. 82527

(b) With respect to taxable gross receipts incorrectly 82528
reported in a calendar quarter that has a lower tax rate, the tax 82529
shall be computed at the tax rate in effect for the quarterly 82530
return in which such receipts should have been reported. Nothing 82531
in division (A)(2)(b) of this section prohibits a taxpayer from 82532
filing an application for refund under section 5751.08 of the 82533
Revised Code with regard to the incorrect reporting of taxable 82534
gross receipts discovered after filing the annual return described 82535
in division (A)(3) of this section. 82536

A tax return shall not be deemed to be an incorrect reporting 82537
of taxable gross receipts for the purposes of division (A)(2)(b) 82538
of this section if the return reflects between ninety-five and one 82539
hundred five per cent of the actual taxable gross receipts for the 82540
calendar quarter. 82541

(3) ~~The~~ For the purposes of division (A)(2)(b) of this 82542
section, the tax return filed for the fourth calendar quarter of a 82543
calendar year is the annual return for the privilege tax imposed 82544
by this chapter. Such return shall report any additional taxable 82545
gross receipts not previously reported in the calendar year and 82546
shall adjust for any over-reported taxable gross receipts in the 82547
calendar year. If the taxpayer ceases to be a taxpayer before the 82548
end of the calendar year, the last return the taxpayer is required 82549
to file shall be the annual return for the taxpayer and the 82550

taxpayer shall report any additional taxable gross receipts not 82551
previously reported in the calendar year and shall adjust for any 82552
over-reported taxable gross receipts in the calendar year. 82553

(4) Because the tax imposed by this chapter is a privilege 82554
tax, the tax rate with respect to taxable gross receipts for a 82555
calendar quarter is not fixed until the end of the measurement 82556
period for each calendar quarter. Subject to division (A)(2)(b) of 82557
this section, the total amount of taxable gross receipts reported 82558
for a given calendar quarter shall be subject to the tax rate in 82559
effect in that quarter. 82560

(5) Not later than ~~forty days after~~ the tenth day of May 82561
following the end of each calendar year, every calendar year 82562
taxpayer shall file with the tax commissioner a tax return in such 82563
form as the commissioner prescribes. The return shall include, but 82564
is not limited to, the amount of the taxpayer's taxable gross 82565
receipts for the calendar year and shall indicate the amount of 82566
tax due under section 5751.03 of the Revised Code for the calendar 82567
year. 82568

(B)(1) A person that first becomes subject to the tax imposed 82569
under this chapter shall pay the minimum tax imposed under 82570
division (B) of section 5751.03 of the Revised Code along with the 82571
registration fee imposed under this section, if applicable, on or 82572
before the day the return is required to be filed for that quarter 82573
under division (A)(1) of this section, regardless of whether the 82574
person elects to be a calendar year taxpayer under section 5751.05 82575
of the Revised Code. 82576

(2) The amount of the minimum tax for a person subject to 82577
division (B)(1) of this section shall be reduced to seventy-five 82578
dollars if the registration is timely filed after the first day of 82579
May and before the first day of January of the following calendar 82580
year. 82581

Sec. 5751.06. (A) Any taxpayer that fails to file a return or pay the full amount of the tax due within the period prescribed therefor under this chapter shall pay a penalty in an amount not exceeding the greater of fifty dollars or ten per cent of the tax required to be paid for the tax period.

(B)(1) If any additional tax is found to be due, the tax commissioner may impose an additional penalty of up to fifteen per cent on the additional tax found to be due.

(2) Any delinquent payments of the tax made after a taxpayer is notified of an audit or a tax discrepancy by the commissioner is subject to the penalty imposed by division (B) of this section. If an assessment is issued under section ~~5751.10~~ 5751.09 of the Revised Code in connection with such delinquent payments, the payments shall be credited to the assessment.

(C) After calendar year 2008, the tax commissioner may impose an additional penalty against a taxpayer that fails to switch to being a calendar quarter taxpayer at the time it had over two million in taxable gross receipts in the calendar year, as required under section 5751.04 of the Revised Code. The penalty may be imposed in an amount not to exceed ten per cent of the tax due above two million dollars in taxable gross receipts for the calendar year. Any penalty imposed under this division is in addition to any other penalties imposed under this section.

(D) If the tax commissioner notifies a person required to register under section 5751.05 of the Revised Code of such requirement and of the requirement to remit the tax due under this chapter, and the person fails to so register and remit the tax within sixty days after such notice, the tax commissioner may impose an additional penalty of up to thirty-five per cent of the tax due. The penalty imposed under this division is in addition to any other penalties imposed under this section.

(E) The tax commissioner may collect any penalty or interest 82613
imposed by this section in the same manner as the tax imposed 82614
under this chapter. Penalties and interest so collected shall be 82615
considered as revenue arising from the tax imposed under this 82616
chapter. 82617

(F) The tax commissioner may abate all or a portion of any 82618
penalties imposed under this section and may adopt rules governing 82619
such abatements. 82620

(G) If any tax due is not timely paid in accordance with this 82621
chapter, the taxpayer shall pay interest, calculated at the rate 82622
per annum prescribed by section 5703.47 of the Revised Code, from 82623
the date the tax payment was due to the date of payment or to the 82624
date an assessment was issued, whichever occurs first. 82625

(H) The tax commissioner may impose a penalty of up to ten 82626
per cent for any additional tax that is due under division 82627
(A)(2)(b) of section 5751.051 of the Revised Code from a taxpayer 82628
incorrectly reporting its taxable gross receipts. 82629

Sec. 5751.08. (A) An application for refund to the taxpayer 82630
of the amount of taxes imposed under this chapter that are 82631
overpaid, paid illegally or erroneously, or paid on any illegal or 82632
erroneous assessment shall be filed with the tax commissioner, on 82633
the form prescribed by the commissioner, within four years after 82634
the date of the illegal or erroneous payment of the tax. The 82635
applicant shall provide the amount of the requested refund along 82636
with the claimed reasons for, and documentation to support, the 82637
issuance of a refund. 82638

(B) On the filing of the refund application, the tax 82639
commissioner shall determine the amount of refund to which the 82640
applicant is entitled. If the amount is not less than that 82641
claimed, the commissioner shall certify the amount to the director 82642
of budget and management and treasurer of state for payment from 82643

the tax refund fund created under section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

(C) Interest on a refund applied for under this section, computed at the rate provided for in section 5703.47 of the Revised Code, shall be allowed from the later of the date the tax was paid or when the tax payment was due.

(D) A calendar quarter taxpayer with more than one million dollars in taxable gross receipts in a calendar year other than calendar year 2005 and that is not able to exclude one million dollars in taxable gross receipts because of the operation of the taxpayer's business in that calendar year may file for a refund under this section to obtain the full exclusion of one million dollars in taxable gross receipts for that calendar year.

(E) No person with an active registration as a taxpayer under this chapter may claim a refund under this section for the tax imposed under division (B) of section 5751.03 of the Revised Code unless the person cancelled the registration before the tenth day of ~~February~~ May of the current calendar year pursuant to division ~~(C)~~ (D) of section 5751.04 of the Revised Code.

(F) Except as provided in section 5751.091 of the Revised Code, the tax commissioner may, with the consent of the taxpayer, provide for the crediting against tax due for a tax year the amount of any refund due the taxpayer under this chapter for a preceding tax year.

Sec. 5751.09. (A) The tax commissioner may make an assessment, based on any information in the commissioner's possession, against any person that fails to file a return or pay any tax as required by this chapter. The commissioner shall give the person assessed written notice of the assessment as provided

in section 5703.37 of the Revised Code. With the notice, the 82675
commissioner shall provide instructions on the manner in which to 82676
petition for reassessment and request a hearing with respect to 82677
the petition. The commissioner shall send any assessments against 82678
consolidated elected taxpayers and combined taxpayers under 82679
section 5751.011 or 5751.012 of the Revised Code to the taxpayer's 82680
"reporting person" as defined under division (R) of section 82681
5751.01 of the Revised Code. The reporting person shall notify all 82682
members of the group of the assessment and all outstanding taxes, 82683
interest, and penalties for which the assessment is issued. 82684

(B) Unless the person assessed, within sixty days after 82685
service of the notice of assessment, files with the tax 82686
commissioner, either personally or by certified mail, a written 82687
petition signed by the person or the person's authorized agent 82688
having knowledge of the facts, the assessment becomes final, and 82689
the amount of the assessment is due and payable from the person 82690
assessed to the treasurer of state. The petition shall indicate 82691
the objections of the person assessed, but additional objections 82692
may be raised in writing if received by the commissioner prior to 82693
the date shown on the final determination. 82694

If a petition for reassessment has been properly filed, the 82695
commissioner shall proceed under section 5703.60 of the Revised 82696
Code. 82697

(C)(1) After an assessment becomes final, if any portion of 82698
the assessment, including accrued interest, remains unpaid, a 82699
certified copy of the tax commissioner's entry making the 82700
assessment final may be filed in the office of the clerk of the 82701
court of common pleas in the county in which the person resides or 82702
has its principal place of business in this state, or in the 82703
office of the clerk of court of common pleas of Franklin county. 82704

(2) Immediately upon the filing of the entry, the clerk shall 82705

enter judgment for the state against the person assessed in the 82706
amount shown on the entry. The judgment may be filed by the clerk 82707
in a loose-leaf book entitled, "special judgments for the 82708
commercial activity tax" and shall have the same effect as other 82709
judgments. Execution shall issue upon the judgment at the request 82710
of the tax commissioner, and all laws applicable to sales on 82711
execution shall apply to sales made under the judgment. 82712

(3) The portion of the assessment not paid within sixty days 82713
after the day the assessment was issued shall bear interest at the 82714
rate per annum prescribed by section 5703.47 of the Revised Code 82715
from the day the tax commissioner issues the assessment until it 82716
is paid. Interest shall be paid in the same manner as the tax and 82717
may be collected by the issuance of an assessment under this 82718
section. 82719

(D) If the tax commissioner believes that collection of the 82720
tax will be jeopardized unless proceedings to collect or secure 82721
collection of the tax are instituted without delay, the 82722
commissioner may issue a jeopardy assessment against the person 82723
liable for the tax. Immediately upon the issuance of the jeopardy 82724
assessment, the commissioner shall file an entry with the clerk of 82725
the court of common pleas in the manner prescribed by division (C) 82726
of this section. Notice of the jeopardy assessment shall be served 82727
on the person assessed or the person's authorized agent in the 82728
manner provided in section 5703.37 of the Revised Code within five 82729
days of the filing of the entry with the clerk. The total amount 82730
assessed is immediately due and payable, unless the person 82731
assessed files a petition for reassessment in accordance with 82732
division (B) of this section and provides security in a form 82733
satisfactory to the commissioner and in an amount sufficient to 82734
satisfy the unpaid balance of the assessment. Full or partial 82735
payment of the assessment does not prejudice the commissioner's 82736
consideration of the petition for reassessment. 82737

(E) The tax commissioner shall immediately forward to the 82738
treasurer of state all amounts the commissioner receives under 82739
this section, and such amounts shall be considered as revenue 82740
arising from the tax imposed under this chapter. 82741

(F) Except as otherwise provided in this division, no 82742
assessment shall be made or issued against a taxpayer for the tax 82743
imposed under this chapter more than four years after the due date 82744
for the filing of the return for the tax period for which the tax 82745
was reported, or more than four years after the return for the tax 82746
period was filed, whichever is later. Nothing in this division 82747
bars an assessment against a taxpayer that fails to file a return 82748
required by this chapter or that files a fraudulent return. 82749

(G) If the tax commissioner possesses information that 82750
indicates that the amount of tax a taxpayer is required to pay 82751
under this chapter exceeds the amount the taxpayer paid, the tax 82752
commissioner may audit a sample of the taxpayer's gross receipts 82753
over a representative period of time to ascertain the amount of 82754
tax due, and may issue an assessment based on the audit. The tax 82755
commissioner shall make a good faith effort to reach agreement 82756
with the taxpayer in selecting a representative sample. The tax 82757
commissioner may apply a sampling method only if the commissioner 82758
has prescribed the method by rule. 82759

(H) If the whereabouts of a person subject to this chapter is 82760
not known to the tax commissioner, the ~~secretary of state is~~ 82761
~~hereby deemed to be that person's agent for purposes of service of~~ 82762
~~process of notice of any assessment, action, or proceedings~~ 82763
~~instituted in this state against the person under this chapter.~~ 82764
~~Such process or notice shall be served on such person by the~~ 82765
~~commissioner or by one of the commissioner's agents by leaving at~~ 82766
~~the office of the secretary of state, at least fifteen days before~~ 82767
~~the return day of such process or notice, a true and attested copy~~ 82768
~~of the notice, and by sending to such person by ordinary mail,~~ 82769

~~with an endorsement thereon of the service upon the secretary of~~ 82770
~~state, addressed to such person at the person's last known address~~ 82771
commissioner shall follow the procedures under section 5703.37 of 82772
the Revised Code. 82773

Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of 82774
the Revised Code: 82775

(1) "School district," "joint vocational school district," 82776
"local taxing unit," "recognized valuation," "fixed-rate levy," 82777
and "fixed-sum levy" have the same meanings as used in section 82778
5727.84 of the Revised Code. 82779

(2) "State education aid" for a school district means the 82780
following: 82781

(a) For fiscal years prior to fiscal year 2010, the sum of 82782
state aid amounts computed for the district under division (A) of 82783
section 3317.022 of the Revised Code, including the amounts 82784
calculated under sections 3317.029 and 3317.0217 of the Revised 82785
Code; divisions (C)(1), (C)(4), (D), (E), and (F) of section 82786
3317.022; divisions (B), (C), and (D) of section 3317.023; 82787
divisions (L) and (N) of section 3317.024; section 3317.0216; and 82788
any unit payments for gifted student services paid under sections 82789
3317.05, 3317.052, and 3317.053 of the Revised Code; except that, 82790
for fiscal years 2008 and 2009, the amount computed for the 82791
district under Section 269.20.80 of H.B. 119 of the 127th general 82792
assembly and as that section subsequently may be amended shall be 82793
substituted for the amount computed under division (D) of section 82794
3317.022 of the Revised Code, and the amount computed under 82795
Section 269.30.80 of H.B. 119 of the 127th general assembly and as 82796
that section subsequently may be amended shall be included. 82797

(b) For fiscal year 2010 and for each fiscal year thereafter, 82798
the sum of the amounts computed under section 3306.12, 3306.13, 82799
and 3306.19 of the Revised Code. 82800

(3) "State education aid" for a joint vocational school	82801
district means <u>the following</u> :	82802
<u>(a) For fiscal years prior to fiscal year 2010,</u> the sum of	82803
the state aid computed for the district under division (N) of	82804
section 3317.024 and section 3317.16 of the Revised Code, except	82805
that, for fiscal years 2008 and 2009, the amount computed under	82806
Section 269.30.80 of H.B. 119 of the 127th general assembly and as	82807
that section subsequently may be amended shall be included.	82808
<u>(b) For fiscal years 2010 and 2011, the amount paid in</u>	82809
<u>accordance with the section of this act entitled "FUNDING FOR</u>	82810
<u>JOINT VOCATIONAL SCHOOL DISTRICTS."</u>	82811
(4) "State education aid offset" means the amount determined	82812
for each school district or joint vocational school district under	82813
division (A)(1) of section 5751.21 of the Revised Code.	82814
(5) "Machinery and equipment property tax value loss" means	82815
the amount determined under division (C)(1) of this section.	82816
(6) "Inventory property tax value loss" means the amount	82817
determined under division (C)(2) of this section.	82818
(7) "Furniture and fixtures property tax value loss" means	82819
the amount determined under division (C)(3) of this section.	82820
(8) "Machinery and equipment fixed-rate levy loss" means the	82821
amount determined under division (D)(1) of this section.	82822
(9) "Inventory fixed-rate levy loss" means the amount	82823
determined under division (D)(2) of this section.	82824
(10) "Furniture and fixtures fixed-rate levy loss" means the	82825
amount determined under division (D)(3) of this section.	82826
(11) "Total fixed-rate levy loss" means the sum of the	82827
machinery and equipment fixed-rate levy loss, the inventory	82828
fixed-rate levy loss, the furniture and fixtures fixed-rate levy	82829
loss, and the telephone company fixed-rate levy loss.	82830

(12) "Fixed-sum levy loss" means the amount determined under 82831
division (E) of this section. 82832

(13) "Machinery and equipment" means personal property 82833
subject to the assessment rate specified in division (F) of 82834
section 5711.22 of the Revised Code. 82835

(14) "Inventory" means personal property subject to the 82836
assessment rate specified in division (E) of section 5711.22 of 82837
the Revised Code. 82838

(15) "Furniture and fixtures" means personal property subject 82839
to the assessment rate specified in division (G) of section 82840
5711.22 of the Revised Code. 82841

(16) "Qualifying levies" are levies in effect for tax year 82842
2004 or applicable to tax year 2005 or approved at an election 82843
conducted before September 1, 2005. For the purpose of determining 82844
the rate of a qualifying levy authorized by section 5705.212 or 82845
5705.213 of the Revised Code, the rate shall be the rate that 82846
would be in effect for tax year 2010. 82847

(17) "Telephone property" means tangible personal property of 82848
a telephone, telegraph, or interexchange telecommunications 82849
company subject to an assessment rate specified in section 82850
5727.111 of the Revised Code in tax year 2004. 82851

(18) "Telephone property tax value loss" means the amount 82852
determined under division (C)(4) of this section. 82853

(19) "Telephone property fixed-rate levy loss" means the 82854
amount determined under division (D)(4) of this section. 82855

(B) The commercial activities tax receipts fund is hereby 82856
created in the state treasury and shall consist of money arising 82857
from the tax imposed under this chapter. ~~All money in that~~ 82858
Eighty-five one-hundredths of one per cent of the money credited 82859
to that fund shall be credited to the tax reform system 82860

implementation fund, which is hereby created in the state 82861
treasury, and shall be used to defray the costs incurred by the 82862
department of taxation in administering the tax imposed by this 82863
chapter and in implementing tax reform measures. The remainder in 82864
the commercial activities tax receipts fund shall be credited for 82865
each fiscal year in the following percentages to the general 82866
revenue fund, to the school district tangible property tax 82867
replacement fund, which is hereby created in the state treasury 82868
for the purpose of making the payments described in section 82869
5751.21 of the Revised Code, and to the local government tangible 82870
property tax replacement fund, which is hereby created in the 82871
state treasury for the purpose of making the payments described in 82872
section 5751.22 of the Revised Code, in the following percentages: 82873

Fiscal year	General Revenue Fund	School District Tangible Property Tax Replacement Fund	Local Government Tangible Property Tax Replacement Fund	
				82874
				82875
2006	67.7%	22.6%	9.7%	82876
2007	0%	70.0%	30.0%	82877
2008	0%	70.0%	30.0%	82878
2009	0%	70.0%	30.0%	82879
2010	0%	70.0%	30.0%	82880
2011	0%	70.0%	30.0%	82881
2012	5.3%	70.0%	24.7%	82882
2013	10.6%	70.0%	19.4%	82883
2014	14.1%	70.0%	15.9%	82884
2015	17.6%	70.0%	12.4%	82885
2016	21.1%	70.0%	8.9%	82886
2017	24.6%	70.0%	5.4%	82887
2018	28.1%	70.0%	1.9%	82888
2019 and thereafter	30%	70%	0%	82889

(C) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory property, furniture and fixtures property, and telephone property tax value losses, which are the applicable amounts described in divisions (C)(1), (2), (3), and (4) of this section, except as provided in division (C)(5) of this section:

(1) Machinery and equipment property tax value loss is the taxable value of machinery and equipment property as reported by taxpayers for tax year 2004 multiplied by:

(a) For tax year 2006, thirty-three and eight-tenths per cent;

(b) For tax year 2007, sixty-one and three-tenths per cent;

(c) For tax year 2008, eighty-three per cent;

(d) For tax year 2009 and thereafter, one hundred per cent.

(2) Inventory property tax value loss is the taxable value of inventory property as reported by taxpayers for tax year 2004 multiplied by:

(a) For tax year 2006, a fraction, the numerator of which is five and three-fourths and the denominator of which is twenty-three;

(b) For tax year 2007, a fraction, the numerator of which is nine and one-half and the denominator of which is twenty-three;

(c) For tax year 2008, a fraction, the numerator of which is thirteen and one-fourth and the denominator of which is twenty-three;

(d) For tax year 2009 and thereafter a fraction, the numerator of which is seventeen and the denominator of which is twenty-three.

(3) Furniture and fixtures property tax value loss is the

taxable value of furniture and fixture property as reported by	82920
taxpayers for tax year 2004 multiplied by:	82921
(a) For tax year 2006, twenty-five per cent;	82922
(b) For tax year 2007, fifty per cent;	82923
(c) For tax year 2008, seventy-five per cent;	82924
(d) For tax year 2009 and thereafter, one hundred per cent.	82925
The taxable value of property reported by taxpayers used in	82926
divisions (C)(1), (2), and (3) of this section shall be such	82927
values as determined to be final by the tax commissioner as of	82928
August 31, 2005. Such determinations shall be final except for any	82929
correction of a clerical error that was made prior to August 31,	82930
2005, by the tax commissioner.	82931
(4) Telephone property tax value loss is the taxable value of	82932
telephone property as taxpayers would have reported that property	82933
for tax year 2004 if the assessment rate for all telephone	82934
property for that year were twenty-five per cent, multiplied by:	82935
(a) For tax year 2006, zero per cent;	82936
(b) For tax year 2007, zero per cent;	82937
(c) For tax year 2008, zero per cent;	82938
(d) For tax year 2009, sixty per cent;	82939
(e) For tax year 2010, eighty per cent;	82940
(f) For tax year 2011 and thereafter, one hundred per cent.	82941
(5) Division (C)(5) of this section applies to any school	82942
district, joint vocational school district, or local taxing unit	82943
in a county in which is located a facility currently or formerly	82944
devoted to the enrichment or commercialization of uranium or	82945
uranium products, and for which the total taxable value of	82946
property listed on the general tax list of personal property for	82947
any tax year from tax year 2001 to tax year 2004 was fifty per	82948

cent or less of the taxable value of such property listed on the 82949
general tax list of personal property for the next preceding tax 82950
year. 82951

In computing the fixed-rate levy losses under divisions 82952
(D)(1), (2), and (3) of this section for any school district, 82953
joint vocational school district, or local taxing unit to which 82954
division (C)(5) of this section applies, the taxable value of such 82955
property as listed on the general tax list of personal property 82956
for tax year 2000 shall be substituted for the taxable value of 82957
such property as reported by taxpayers for tax year 2004, in the 82958
taxing district containing the uranium facility, if the taxable 82959
value listed for tax year 2000 is greater than the taxable value 82960
reported by taxpayers for tax year 2004. For the purpose of making 82961
the computations under divisions (D)(1), (2), and (3) of this 82962
section, the tax year 2000 valuation is to be allocated to 82963
machinery and equipment, inventory, and furniture and fixtures 82964
property in the same proportions as the tax year 2004 values. For 82965
the purpose of the calculations in division (A) of section 5751.21 82966
of the Revised Code, the tax year 2004 taxable values shall be 82967
used. 82968

To facilitate the calculations required under division (C) of 82969
this section, the county auditor, upon request from the tax 82970
commissioner, shall provide by August 1, 2005, the values of 82971
machinery and equipment, inventory, and furniture and fixtures for 82972
all single-county personal property taxpayers for tax year 2004. 82973

(D) Not later than September 15, 2005, the tax commissioner 82974
shall determine for each tax year from 2006 through 2009 for each 82975
school district, joint vocational school district, and local 82976
taxing unit its machinery and equipment, inventory, and furniture 82977
and fixtures fixed-rate levy losses, and for each tax year from 82978
2006 through 2011 its telephone property fixed-rate levy loss, 82979
which. Except as provided in division (F) of this section, such 82980

losses are the applicable amounts described in divisions (D)(1), 82981
(2), (3), and (4) of this section: 82982

(1) The machinery and equipment fixed-rate levy loss is the 82983
machinery and equipment property tax value loss multiplied by the 82984
sum of the tax rates of fixed-rate qualifying levies. 82985

(2) The inventory fixed-rate loss is the inventory property 82986
tax value loss multiplied by the sum of the tax rates of 82987
fixed-rate qualifying levies. 82988

(3) The furniture and fixtures fixed-rate levy loss is the 82989
furniture and fixture property tax value loss multiplied by the 82990
sum of the tax rates of fixed-rate qualifying levies. 82991

(4) The telephone property fixed-rate levy loss is the 82992
telephone property tax value loss multiplied by the sum of the tax 82993
rates of fixed-rate qualifying levies. 82994

(E) Not later than September 15, 2005, the tax commissioner 82995
shall determine for each school district, joint vocational school 82996
district, and local taxing unit its fixed-sum levy loss. The 82997
fixed-sum levy loss is the amount obtained by subtracting the 82998
amount described in division (E)(2) of this section from the 82999
amount described in division (E)(1) of this section: 83000

(1) The sum of the machinery and equipment property tax value 83001
loss, the inventory property tax value loss, and the furniture and 83002
fixtures property tax value loss, and, for 2008 through 2017 the 83003
telephone property tax value loss of the district or unit 83004
multiplied by the sum of the fixed-sum tax rates of qualifying 83005
levies. For 2006 through 2010, this computation shall include all 83006
qualifying levies remaining in effect for the current tax year and 83007
any school district levies imposed under section 5705.194 or 83008
5705.213 of the Revised Code that are qualifying levies not 83009
remaining in effect for the current year. For 2011 through 2017 in 83010
the case of qualifying school district levies imposed under 83011

section 5705.194 or 5705.213 of the Revised Code and for all years 83012
after 2010 in the case of other fixed-sum levies, this computation 83013
shall include only qualifying levies remaining in effect for the 83014
current year. For purposes of this computation, a qualifying 83015
school district levy imposed under section 5705.194, 5705.199, or 83016
5705.213 of the Revised Code remains in effect in a year after 83017
2010 only if, for that year, the board of education levies a 83018
school district levy imposed under section 5705.194 or 5705.213 of 83019
the Revised Code for an annual sum at least equal to the annual 83020
sum levied by the board in tax year 2004 less the amount of the 83021
payment certified under this division for 2006. 83022

(2) The total taxable value in tax year 2004 less the sum of 83023
the machinery and equipment, inventory, furniture and fixtures, 83024
and telephone property tax value losses in each school district, 83025
joint vocational school district, and local taxing unit multiplied 83026
by one-half of one mill per dollar. 83027

(3) For the calculations in divisions (E)(1) and (2) of this 83028
section, the tax value losses are those that would be calculated 83029
for tax year 2009 under divisions (C)(1), (2), and (3) of this 83030
section and for tax year 2011 under division (C)(4) of this 83031
section. 83032

(4) To facilitate the calculation under divisions (D) and (E) 83033
of this section, not later than September 1, 2005, any school 83034
district, joint vocational school district, or local taxing unit 83035
that has a qualifying levy that was approved at an election 83036
conducted during 2005 before September 1, 2005, shall certify to 83037
the tax commissioner a copy of the county auditor's certificate of 83038
estimated property tax millage for such levy as required under 83039
division (B) of section 5705.03 of the Revised Code, which is the 83040
rate that shall be used in the calculations under such divisions. 83041

If the amount determined under division (E) of this section 83042
for any school district, joint vocational school district, or 83043

local taxing unit is greater than zero, that amount shall equal 83044
the reimbursement to be paid pursuant to division (E) of section 83045
5751.21 or division (A)(3) of section 5751.22 of the Revised Code, 83046
and the one-half of one mill that is subtracted under division 83047
(E)(2) of this section shall be apportioned among all contributing 83048
fixed-sum levies in the proportion that each levy bears to the sum 83049
of all fixed-sum levies within each school district, joint 83050
vocational school district, or local taxing unit. 83051

(F) If a school district levies a tax under section 5705.219 83052
of the Revised Code, the fixed-rate levy loss for qualifying 83053
levies, to the extent repealed under that section, shall equal the 83054
sum of the following amounts in lieu of the amounts computed for 83055
such levies under division (D) of this section: 83056

(1) The sum of the rates of qualifying levies to the extent 83057
so repealed multiplied by the sum of the machinery and equipment, 83058
inventory, and furniture and fixtures tax value losses for 2009 as 83059
determined under that division; 83060

(2) The sum of the rates of qualifying levies to the extent 83061
so repealed multiplied by the telephone property tax value loss 83062
for 2011 as determined under that division. 83063

The fixed-rate levy losses for qualifying levies to the 83064
extent not repealed under section 5705.219 of the Revised Code 83065
shall be as determined under division (D) of this section. The 83066
revised fixed-rate levy losses determined under this division and 83067
division (D) of this section first apply in the year following the 83068
first year the district levies the tax under section 5705.219 of 83069
the Revised Code. 83070

(G) Not later than October 1, 2005, the tax commissioner 83071
shall certify to the department of education for every school 83072
district and joint vocational school district the machinery and 83073
equipment, inventory, furniture and fixtures, and telephone 83074

property tax value losses determined under division (C) of this 83075
section, the machinery and equipment, inventory, furniture and 83076
fixtures, and telephone fixed-rate levy losses determined under 83077
division (D) of this section, and the fixed-sum levy losses 83078
calculated under division (E) of this section. The calculations 83079
under divisions (D) and (E) of this section shall separately 83080
display the levy loss for each levy eligible for reimbursement. 83081

~~(G)~~(H) Not later than October 1, 2005, the tax commissioner 83082
shall certify the amount of the fixed-sum levy losses to the 83083
county auditor of each county in which a school district, joint 83084
vocational school district, or local taxing unit with a fixed-sum 83085
levy loss reimbursement has territory. 83086

(I) Not later than the twenty-eighth day of February each 83087
year beginning in 2011 and ending in 2014, the tax commissioner 83088
shall certify to the department of education for each school 83089
district first levying a tax under section 5705.219 of the Revised 83090
Code in the preceding year the revised fixed-rate levy losses 83091
determined under divisions (D) and (F) of this section. 83092

Sec. 5751.21. (A) Not later than the thirtieth day of July of 83093
2007 through 2017, the department of education shall consult with 83094
the director of budget and management and determine the following 83095
for each school district and each joint vocational school district 83096
eligible for payment under division (B) of this section: 83097

(1) The state education aid offset, which is the difference 83099
obtained by subtracting the amount described in division (A)(1)(b) 83100
of this section from the amount described in division (A)(1)(a) of 83101
this section: 83102

(a) The state education aid computed for the school district 83103
or joint vocational school district for the current fiscal year as 83104
of the thirtieth day of July; 83105

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirtieth day of July if the recognized valuation included the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses for the school district or joint vocational school district for the second preceding tax year, and if taxes charged and payable associated with the tax value losses are accounted for in any state education aid computation dependent on taxes charged and payable.

(2) The greater of zero or the difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, furniture and fixtures fixed-rate levy loss, and telephone property fixed-rate levy loss certified under ~~division (F)~~ divisions (G) and (I) of section 5751.20 of the Revised Code for all taxing districts in each school district and joint vocational school district for the second preceding tax year.

By the thirtieth day of July of each such year, the department of education and the director of budget and management shall agree upon the amount to be determined under division (A)(1) of this section.

(B) On or before the thirty-first day of August of each year beginning in 2008, the department of education shall recalculate the offset described under division (A) of this section for the previous fiscal year and recalculate the payments made under division (C) of this section in the preceding fiscal year using the offset calculated under this division. If the payments calculated under this division differ from the payments made under division (C) of this section in the preceding fiscal year, the difference shall either be paid to a school district or recaptured

from a school district through an adjustment at the same times 83138
during the current fiscal year that the payments under division 83139
(C) of this section are made. In August and October of the current 83140
fiscal year, the amount of each adjustment shall be three-sevenths 83141
of the amount calculated under this division. In May of the 83142
current fiscal year, the adjustment shall be one-seventh of the 83143
amount calculated under this division. 83144

(C) The department of education shall pay from the school 83145
district tangible property tax replacement fund to each school 83146
district and joint vocational school district all of the following 83147
for fixed-rate levy losses certified under ~~division (F)~~ divisions 83148
(G) and (I) of section 5751.20 of the Revised Code: 83149

(1) On or before May 31, 2006, one-seventh of the total 83150
fixed-rate levy loss for tax year 2006; 83151

(2) On or before August 31, 2006, and October 31, 2006, 83152
one-half of six-sevenths of the total fixed-rate levy loss for tax 83153
year 2006; 83154

(3) On or before May 31, 2007, one-seventh of the total 83155
fixed-rate levy loss for tax year 2007; 83156

(4) On or before August 31, 2007, and October 31, 2007, 83157
forty-three per cent of the amount determined under division 83158
(A)(2) of this section for fiscal year 2008, but not less than 83159
zero, plus one-half of six-sevenths of the difference between the 83160
total fixed-rate levy loss for tax year 2007 and the total 83161
fixed-rate levy loss for tax year 2006. 83162

(5) On or before May 31, 2008, fourteen per cent of the 83163
amount determined under division (A)(2) of this section for fiscal 83164
year 2008, but not less than zero, plus one-seventh of the 83165
difference between the total fixed-rate levy loss for tax year 83166
2008 and the total fixed-rate levy loss for tax year 2006. 83167

(6) On or before August 31, 2008, and October 31, 2008, 83168

forty-three per cent of the amount determined under division 83169
(A)(2) of this section for fiscal year 2009, but not less than 83170
zero, plus one-half of six-sevenths of the difference between the 83171
total fixed-rate levy loss in tax year 2008 and the total 83172
fixed-rate levy loss in tax year 2007. 83173

(7) On or before May 31, 2009, fourteen per cent of the 83174
amount determined under division (A)(2) of this section for fiscal 83175
year 2009, but not less than zero, plus one-seventh of the 83176
difference between the total fixed-rate levy loss for tax year 83177
2009 and the total fixed-rate levy loss for tax year 2007. 83178

(8) On or before August 31, 2009, and October 31, 2009, 83179
forty-three per cent of the amount determined under division 83180
(A)(2) of this section for fiscal year 2010, but not less than 83181
zero, plus one-half of six-sevenths of the difference between the 83182
total fixed-rate levy loss in tax year 2009 and the total 83183
fixed-rate levy loss in tax year 2008. 83184

(9) On or before May 31, 2010, fourteen per cent of the 83185
amount determined under division (A)(2) of this section for fiscal 83186
year 2010, but not less than zero, plus one-seventh of the 83187
difference between the total fixed-rate levy loss in tax year 2010 83188
and the total fixed-rate levy loss in tax year 2008. 83189

(10) On or before August 31, 2010, and October 31, 2010, 83190
forty-three per cent of the amount determined under division 83191
(A)(2) of this section for fiscal year 2011, but not less than 83192
zero, plus one-half of six-sevenths of the difference between the 83193
telephone property fixed-rate levy loss for tax year 2010 and the 83194
telephone property fixed-rate levy loss for tax year 2009. 83195

(11) On or before May 31, 2011, fourteen per cent of the 83196
amount determined under division (A)(2) of this section for fiscal 83197
year 2011, but not less than zero, plus one-seventh of the 83198
difference between the telephone property fixed-rate levy loss for 83199

tax year 2011 and the telephone property fixed-rate levy loss for 83200
tax year 2009. 83201

(12) On or before August 31, 2011, and October 31, 2011, the 83202
amount determined under division (A)(2) of this section multiplied 83203
by a fraction, the numerator of which is fourteen and the 83204
denominator of which is seventeen, but not less than zero, 83205
multiplied by forty-three per cent, plus one-half of six-sevenths 83206
of the difference between the telephone property fixed-rate levy 83207
loss for tax year 2011 and the telephone property fixed-rate levy 83208
loss for tax year 2010. 83209

(13) On or before May 31, 2012, fourteen per cent of the 83210
amount determined under division (A)(2) of this section for fiscal 83211
year 2012, multiplied by a fraction, the numerator of which is 83212
fourteen and the denominator of which is seventeen, plus 83213
one-seventh of the difference between the telephone property 83214
fixed-rate levy loss for tax year 2011 and the telephone property 83215
fixed-rate levy loss for tax year 2010. 83216

(14) On or before August 31, 2012, October 31, 2012, and May 83217
31, 2013, the amount determined under division (A)(2) of this 83218
section multiplied by a fraction, the numerator of which is eleven 83219
and the denominator of which is seventeen, but not less than zero, 83220
multiplied by one-third. 83221

(15) On or before August 31, 2013, October 31, 2013, and May 83222
31, 2014, the amount determined under division (A)(2) of this 83223
section multiplied by a fraction, the numerator of which is nine 83224
and the denominator of which is seventeen, but not less than zero, 83225
multiplied by one-third. 83226

(16) On or before August 31, 2014, October 31, 2014, and May 83227
31, 2015, the amount determined under division (A)(2) of this 83228
section multiplied by a fraction, the numerator of which is seven 83229
and the denominator of which is seventeen, but not less than zero, 83230

multiplied by one-third. 83231

(17) On or before August 31, 2015, October 31, 2015, and May 83232
31, 2016, the amount determined under division (A)(2) of this 83233
section multiplied by a fraction, the numerator of which is five 83234
and the denominator of which is seventeen, but not less than zero, 83235
multiplied by one-third. 83236

(18) On or before August 31, 2016, October 31, 2016, and May 83237
31, 2017, the amount determined under division (A)(2) of this 83238
section multiplied by a fraction, the numerator of which is three 83239
and the denominator of which is seventeen, but not less than zero, 83240
multiplied by one-third. 83241

(19) On or before August 31, 2017, October 31, 2017, and May 83242
31, 2018, the amount determined under division (A)(2) of this 83243
section multiplied by a fraction, the numerator of which is one 83244
and the denominator of which is seventeen, but not less than zero, 83245
multiplied by one-third. 83246

The department of education shall report to each school 83247
district and joint vocational school district the apportionment of 83248
the payments among the school district's or joint vocational 83249
school district's funds based on the certifications under ~~division~~ 83250
~~(F)~~ divisions (G) and (I) of section 5751.20 of the Revised Code. 83251

Any qualifying levy that is a fixed-rate levy that is not 83252
applicable to a tax year after 2010 does not qualify for any 83253
reimbursement after the tax year to which it is last applicable. 83254

(D) For taxes levied within the ten-mill limitation for debt 83255
purposes in tax year 2005, payments shall be made equal to one 83256
hundred per cent of the loss computed as if the tax were a 83257
fixed-rate levy, but those payments shall extend from fiscal year 83258
2006 through fiscal year 2018, as long as the qualifying levy 83259
continues to be used for debt purposes. If the purpose of such a 83260
qualifying levy is changed, that levy becomes subject to the 83261

payments determined in division (C) of this section. 83262

(E)(1) Not later than January 1, 2006, for each fixed-sum 83263
levy of each school district or joint vocational school district 83264
and for each year for which a determination is made under division 83265
~~(F)~~(E) of section 5751.20 of the Revised Code that a fixed-sum 83266
levy loss is to be reimbursed, the tax commissioner shall certify 83267
to the department of education the fixed-sum levy loss determined 83268
under that division. The certification shall cover a time period 83269
sufficient to include all fixed-sum levies for which the 83270
commissioner made such a determination. The department shall pay 83271
from the school district property tax replacement fund to the 83272
school district or joint vocational school district one-third of 83273
the fixed-sum levy loss so certified for each year, plus one-third 83274
of the amount certified under division (I) of section 5751.20 of 83275
the Revised Code, on or before the last day of May, August, and 83276
October of the current year. Payments under this division of the 83277
amounts certified under division (I) of section 5751.20 of the 83278
Revised Code shall continue through the earlier of calendar year 83279
2017 or until the levy adopted under section 5705.219 of the 83280
Revised Code expires. 83281

(2) Beginning in 2006, by the first day of January of each 83282
year, the tax commissioner shall review the certification 83283
originally made under division (E)(1) of this section. If the 83284
commissioner determines that a debt levy that had been scheduled 83285
to be reimbursed in the current year has expired, a revised 83286
certification for that and all subsequent years shall be made to 83287
the department of education. 83288

(F) Beginning in September 2007 and through June 2018, the 83289
director of budget and management shall transfer from the school 83290
district tangible property tax replacement fund to the general 83291
revenue fund each of the following: 83292

(1) On the first day of September, one-fourth of the amount 83293

determined for that fiscal year under division (A)(1) of this section; 83294
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(2) On the first day of December, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section; 83296
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(3) On the first day of March, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section; 83299
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(4) On the first day of June, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section. 83302
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If, when a transfer is required under division (F)(1), (2), (3), or (4) of this section, there is not sufficient money in the school district tangible property tax replacement fund to make the transfer in the required amount, the director shall transfer the balance in the fund to the general revenue fund and may make additional transfers on later dates as determined by the director in a total amount that does not exceed one-fourth of the amount determined for the fiscal year. 83305
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(G) For each of the fiscal years 2006 through 2018, if the total amount in the school district tangible property tax replacement fund is insufficient to make all payments under divisions (C), (D), and (E) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district tangible property tax replacement fund the difference between the total amount to be paid and the amount in the school district tangible property tax replacement fund. For each fiscal year after 2018, at the time payments under division (E) of this section are to be made, the director of budget and management shall transfer from the general revenue fund to the school 83313
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district property tax replacement fund the amount necessary to 83325
make such payments. 83326

(H)(1) On the fifteenth day of June of 2006 through 2011, the 83327
director of budget and management may transfer any balance in the 83328
school district tangible property tax replacement fund to the 83329
general revenue fund. At the end of fiscal years 2012 through 83330
2018, any balance in the school district tangible property tax 83331
replacement fund shall remain in the fund to be used in future 83332
fiscal years for school purposes. 83333

(2) In each fiscal year beginning with fiscal year 2019, all 83334
amounts credited to the school district tangible personal property 83335
tax replacement fund shall be appropriated for school purposes. 83336

(I) If all of the territory of a school district or joint 83337
vocational school district is merged with another district, or if 83338
a part of the territory of a school district or joint vocational 83339
school district is transferred to an existing or newly created 83340
district, the department of education, in consultation with the 83341
tax commissioner, shall adjust the payments made under this 83342
section as follows: 83343

(1) For a merger of two or more districts, the machinery and 83344
equipment, inventory, furniture and fixtures, and telephone 83345
property fixed-rate levy losses and the fixed-sum levy losses of 83346
the successor district shall be equal to the sum of the machinery 83347
and equipment, inventory, furniture and fixtures, and telephone 83348
property fixed-rate levy losses and debt levy losses as determined 83349
in section 5751.20 of the Revised Code, for each of the districts 83350
involved in the merger. 83351

(2) If property is transferred from one district to a 83352
previously existing district, the amount of machinery and 83353
equipment, inventory, furniture and fixtures, and telephone 83354
property tax value losses and fixed-rate levy losses that shall be 83355

transferred to the recipient district shall be an amount equal to 83356
the total machinery and equipment, inventory, furniture and 83357
fixtures, and telephone property fixed-rate levy losses times a 83358
fraction, the numerator of which is the value of business tangible 83359
personal property on the land being transferred in the most recent 83360
year for which data are available, and the denominator of which is 83361
the total value of business tangible personal property in the 83362
district from which the land is being transferred in the most 83363
recent year for which data are available. For each of the first 83364
five years after the property is transferred, but not after fiscal 83365
year 2012, if the tax rate in the recipient district is less than 83366
the tax rate of the district from which the land was transferred, 83367
one-half of the payments arising from the amount of fixed-rate 83368
levy losses so transferred to the recipient district shall be paid 83369
to the recipient district and one-half of the payments arising 83370
from the fixed-rate levy losses so transferred shall be paid to 83371
the district from which the land was transferred. Fixed-rate levy 83372
losses so transferred shall be computed on the basis of the sum of 83373
the rates of fixed-rate qualifying levies of the district from 83374
which the land was transferred, notwithstanding division (E) of 83375
this section. 83376

(3) After December 31, 2004, if property is transferred from 83377
one or more districts to a district that is newly created out of 83378
the transferred property, the newly created district shall be 83379
deemed not to have any machinery and equipment, inventory, 83380
furniture and fixtures, or telephone property fixed-rate levy 83381
losses and the districts from which the property was transferred 83382
shall have no reduction in their machinery and equipment, 83383
inventory, furniture and fixtures, and telephone property 83384
fixed-rate levy losses. 83385

(4) If the recipient district under division (I)(2) of this 83386
section or the newly created district under divisions (I)(3) of 83387

this section is assuming debt from one or more of the districts 83388
from which the property was transferred and any of the districts 83389
losing the property had fixed-sum levy losses, the department of 83390
education, in consultation with the tax commissioner, shall make 83391
an equitable division of the fixed-sum levy loss reimbursements. 83392

Sec. 5911.10. If any armory erected or purchased by the state 83393
becomes vacant because of the deactivation of the organizations 83394
quartered in that armory, the governor and the adjutant general 83395
may lease that armory for periods not to exceed one year; or, when 83396
authorized by an act of the general assembly, may sell that armory 83397
or lease it for a period of years. ~~The~~ 83398

The proceeds from the sale or lease of such an armory, or 83399
from the sale or lease of other facilities and land owned by the 83400
adjutant general, shall be credited to the armory improvements 83401
fund, which is hereby created in the state treasury. The moneys in 83402
the fund shall be used to support Ohio army national guard 83403
facility and maintenance expenses as the adjutant general directs. 83404
Any fund expenditure related to the construction, acquisition, 83405
lease, or financing of a capital asset is subject to approval by 83406
the controlling board. Investment earnings of the fund shall be 83407
credited to the general revenue fund. 83408

Sec. 5911.11. There is hereby created in the state treasury 83409
the community match armories fund. The fund shall consist of all 83410
amounts received as revenue from contributions from local entities 83411
for construction and maintenance of Ohio army national guard 83412
readiness and community centers and facilities. The moneys in the 83413
fund shall be used to support the acquisition and maintenance 83414
costs of centers and facilities representing the local entity's 83415
share of costs, including the local entity's share of utility 83416
costs. Investment earnings of the fund shall be credited to the 83417
fund. 83418

Sec. 5913.09. (A) The adjutant general is the custodian of 83419
all military and other adjutant general's department property, 83420
both real and personal, belonging to the state. 83421

(B) The adjutant general may make changes and improvements to 83422
military and other adjutant general's department property as the 83423
needs of the state and federal government and the exigencies of 83424
the service require. All improvements made upon that property 83425
belonging to the state, from moneys received either all or in part 83426
from the state or federal government, or both, become the property 83427
of the state, except as may be provided in an agreement and 83428
corresponding regulations by which the United States contributes 83429
to the cost of an improvement. 83430

(C)(1) In accordance with applicable state and federal law 83431
and regulations, the adjutant general, with the approval of the 83432
governor, may acquire by purchase lease, license, or otherwise, 83433
real and personal property necessary for the purposes of the 83434
department. 83435

(2) In accordance with applicable state and federal law and 83436
regulations, the adjutant general, with the approval of the 83437
attorney general, may enter into contracts for the construction, 83438
repair, renovation, maintenance, and operation of military or 83439
other adjutant general's department property. 83440

(3) In accordance with applicable state and federal law and 83441
regulations, the adjutant general, with the approval of the 83442
governor, may lease or exchange all or part of any military or 83443
other adjutant general's department property or grant easements or 83444
licenses, if the lease, exchange, easement, or license is 83445
advantageous to the state. 83446

(4) All real property of the adjutant general's department 83447
shall be sold in accordance with section 5911.10 of the Revised 83448
Code. 83449

(D)(1) Except as otherwise provided in this section, all 83450
income from any military or other adjutant general's department 83451
property of the state, not made a portion of the company, troop, 83452
battery, detachment, squadron, or other organization funds by 83453
regulations, shall be credited to the funds for the operation and 83454
maintenance of the Ohio organized militia, as the adjutant general 83455
directs, in accordance with applicable state and federal law and 83456
regulations and the agreements by which the United States 83457
contributes to the cost of operation and maintenance of the Ohio 83458
national guard. 83459

(2) There is hereby created in the state treasury the camp 83460
Perry/buckeye inn operations fund. The fund shall consist of all 83461
amounts received as revenue from the rental of facilities located 83462
at the camp Perry training site in Ottawa county and the buckeye 83463
inn at Rickenbacker air national guard base in Franklin county, 83464
and all amounts received from the use of the camp Perry training 83465
site and its facilities, including shooting ranges. The moneys in 83466
the fund shall be used to support the facility operations of the 83467
camp Perry clubhouse and the buckeye inn. Investment earnings of 83468
the fund shall be credited to the general revenue fund. 83469

Sec. 5919.20. There is hereby created in the state treasury 83470
the national guard service medal fund. The fund shall consist of 83471
all amounts received from the purchase of Ohio national guard 83472
service medals for eligible national guard service members as 83473
authorized by the general assembly. The moneys in the fund shall 83474
be used to purchase additional medals. Investment earnings of the 83475
fund shall be credited to the fund. 83476

Sec. 5919.36. There is hereby created in the state treasury 83477
the Ohio national guard facility maintenance fund. The fund shall 83478
consist of all amounts received from revenue from leases of sites, 83479
including towers and wells, and other revenue received from 83480

reimbursements for services related to Ohio national guard 83481
programs. The moneys in the fund shall be used for service, 83482
maintenance, and repair expenses, and for equipment purchases for 83483
programs and facilities of the adjutant general. Investment 83484
earnings of the fund shall be credited to the general revenue 83485
fund. 83486

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) 83487
of this section, on and after January 1, 1994, no person shall 83488
operate or maintain a public water system in this state without a 83489
license issued by the director of environmental protection. A 83490
person who operates or maintains a public water system on January 83491
1, 1994, shall obtain an initial license under this section in 83492
accordance with the following schedule: 83493

(1) If the public water system is a community water system, 83494
not later than January 31, 1994; 83495

(2) If the public water system is not a community water 83496
system and serves a nontransient population, not later than 83497
January 31, 1994; 83498

(3) If the public water system is not a community water 83499
system and serves a transient population, not later than January 83500
31, 1995. 83501

A person proposing to operate or maintain a new public water 83502
system after January 1, 1994, in addition to complying with 83503
section 6109.07 of the Revised Code and rules adopted under it, 83504
shall submit an application for an initial license under this 83505
section to the director prior to commencing operation of the 83506
system. 83507

A license or license renewal issued under this section shall 83508
be renewed annually. Such a license or license renewal shall 83509
expire on the thirtieth day of January in the year following its 83510

issuance. A license holder that proposes to continue operating the public water system for which the license or license renewal was issued shall apply for a license renewal at least thirty days prior to that expiration date.

The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing procedures governing and information to be included on applications for licenses and license renewals under this section. Through June 30, ~~2010~~ 2012, each application shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code, provided that an applicant for an initial license who is proposing to operate or maintain a new public water system after January 1, 1994, shall submit a fee that equals a prorated amount of the appropriate fee established under that division for the remainder of the licensing year.

(B) Not later than thirty days after receiving a completed application and the appropriate license fee for an initial license under division (A) of this section, the director shall issue the license for the public water system. Not later than thirty days after receiving a completed application and the appropriate license fee for a license renewal under division (A) of this section, the director shall do one of the following:

(1) Issue the license renewal for the public water system;

(2) Issue the license renewal subject to terms and conditions that the director determines are necessary to ensure compliance with this chapter and rules adopted under it;

(3) Deny the license renewal if the director finds that the public water system was not operated in substantial compliance with this chapter and rules adopted under it.

(C) The director may suspend or revoke a license or license renewal issued under this section if the director finds that the

public water system was not operated in substantial compliance 83542
with this chapter and rules adopted under it. The director shall 83543
adopt, and may amend and rescind, rules in accordance with Chapter 83544
119. of the Revised Code governing such suspensions and 83545
revocations. 83546

(D)(1) As used in division (D) of this section, "church" 83547
means a fellowship of believers, congregation, society, 83548
corporation, convention, or association that is formed primarily 83549
or exclusively for religious purposes and that is not formed or 83550
operated for the private profit of any person. 83551

(2) This section does not apply to a church that operates or 83552
maintains a public water system solely to provide water for that 83553
church or for a campground that is owned by the church and 83554
operated primarily or exclusively for members of the church and 83555
their families. A church that, on or before March 5, 1996, has 83556
obtained a license under this section for such a public water 83557
system need not obtain a license renewal under this section. 83558

(E) This section does not apply to any public or nonpublic 83559
school that meets minimum standards of the state board of 83560
education that operates or maintains a public water system solely 83561
to provide water for that school. 83562

(F) The environmental protection agency shall collect well 83563
log filing fees on behalf of the division of water in the 83564
department of natural resources in accordance with section 1521.05 83565
of the Revised Code and rules adopted under it. The fees shall be 83566
submitted to the division quarterly as provided in those rules. 83567

Section 101.02. That existing sections 9.06, 107.21, 109.572, 83568
118.05, 120.08, 120.52, 120.53, 121.04, 121.08, 121.083, 121.084, 83569
121.40, 121.401, 121.402, 122.05, 122.051, 122.151, 122.17, 83570
122.171, 122.40, 122.603, 123.01, 124.03, 124.04, 124.07, 124.11, 83571
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943.04, 943.05, 943.06, 943.07, 943.13, 943.14, 953.23, 955.201, 83583
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1751.32, 1751.321, 1751.34, 1751.35, 1751.36, 1751.45, 1751.46, 83592
1751.48, 1751.53, 1751.831, 1751.84, 1753.09, 2151.011, 2317.422, 83593
2503.17, 2743.191, 2903.33, 2909.03, 2909.05, 2909.11, 2913.02, 83594
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5751.011, 5751.012, 5751.013, 5751.03, 5751.04, 5751.05, 5751.051, 83691
5751.06, 5751.08, 5751.09, 5751.20, 5751.21, 5911.10, 5913.09, and 83692
6109.21 of the Revised Code are hereby repealed. 83693

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That existing Section 269.60.60 of Am. Sub. H.B. 119 of the 83696
127th General Assembly is hereby repealed. 83697

That existing Section 6 of H.B. 364 of the 124th General 83698
Assembly is hereby repealed. 83699

Section 105.01. Sections 173.71, 173.72, 173.721, 173.722, 83700
173.723, 173.724, 173.73, 173.731, 173.732, 173.74, 173.741, 83701
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3702.542, 3704.143, 3724.01, 3724.02, 3724.021, 3724.03, 3724.04, 83713
3724.05, 3724.06, 3724.07, 3724.08, 3724.09, 3724.10, 3724.11, 83714
3724.12, 3724.13, 3724.99, 4735.22, 4735.23, 5101.072, 5111.083, 83715
5145.32, and 5923.141 of the Revised Code are hereby repealed. 83716

Section 110.10. That the version of section 2949.111 of the 83717
Revised Code that is scheduled to take effect January 1, 2010, be 83718
amended to read as follows: 83719

Sec. 2949.111. (A) As used in this section: 83720

(1) "Court costs" means any assessment that the court 83721
requires an offender to pay to defray the costs of operating the 83722
court. 83723

(2) "State fines or costs" means any costs imposed or 83724
forfeited bail collected by the court under section 2743.70 of the 83725
Revised Code for deposit into the reparations fund or under 83726
section 2949.091 of the Revised Code for deposit into the ~~general~~ 83727
~~revenue~~ indigent defense support fund established under section 83728
120.08 of the Revised Code and all fines, penalties, and forfeited 83729

bail collected by the court and paid to a law library association 83730
under section 307.515 of the Revised Code. 83731

(3) "Reimbursement" means any reimbursement for the costs of 83732
confinement that the court orders an offender to pay pursuant to 83733
section 2929.28 of the Revised Code, any supervision fee, any fee 83734
for the costs of house arrest with electronic monitoring that an 83735
offender agrees to pay, any reimbursement for the costs of an 83736
investigation or prosecution that the court orders an offender to 83737
pay pursuant to section 2929.71 of the Revised Code, or any other 83738
costs that the court orders an offender to pay. 83739

(4) "Supervision fees" means any fees that a court, pursuant 83740
to sections 2929.18, 2929.28, and 2951.021 of the Revised Code, 83741
requires an offender who is under a community control sanction to 83742
pay for supervision services. 83743

(5) "Community control sanction" has the same meaning as in 83744
section 2929.01 of the Revised Code. 83745

(B) Unless the court, in accordance with division (C) of this 83746
section, enters in the record of the case a different method of 83747
assigning payments, if a person who is charged with a misdemeanor 83748
is convicted of or pleads guilty to the offense, if the court 83749
orders the offender to pay any combination of court costs, state 83750
fines or costs, restitution, a conventional fine, or any 83751
reimbursement, and if the offender makes any payment of any of 83752
them to a clerk of court, the clerk shall assign the offender's 83753
payment in the following manner: 83754

(1) If the court ordered the offender to pay any court costs, 83755
the offender's payment shall be assigned toward the satisfaction 83756
of those court costs until they have been entirely paid. 83757

(2) If the court ordered the offender to pay any state fines 83758
or costs and if all of the court costs that the court ordered the 83759
offender to pay have been paid, the remainder of the offender's 83760

payment shall be assigned on a pro rata basis toward the 83761
satisfaction of the state fines or costs until they have been 83762
entirely paid. 83763

(3) If the court ordered the offender to pay any restitution 83764
and if all of the court costs and state fines or costs that the 83765
court ordered the offender to pay have been paid, the remainder of 83766
the offender's payment shall be assigned toward the satisfaction 83767
of the restitution until it has been entirely paid. 83768

(4) If the court ordered the offender to pay any fine and if 83769
all of the court costs, state fines or costs, and restitution that 83770
the court ordered the offender to pay have been paid, the 83771
remainder of the offender's payment shall be assigned toward the 83772
satisfaction of the fine until it has been entirely paid. 83773

(5) If the court ordered the offender to pay any 83774
reimbursement and if all of the court costs, state fines or costs, 83775
restitution, and fines that the court ordered the offender to pay 83776
have been paid, the remainder of the offender's payment shall be 83777
assigned toward the satisfaction of the reimbursements until they 83778
have been entirely paid. 83779

(C) If a person who is charged with a misdemeanor is 83780
convicted of or pleads guilty to the offense and if the court 83781
orders the offender to pay any combination of court costs, state 83782
fines or costs, restitution, fines, or reimbursements, the court, 83783
at the time it orders the offender to make those payments, may 83784
prescribe an order of payments that differs from the order set 83785
forth in division (B) of this section by entering in the record of 83786
the case the order so prescribed. If a different order is entered 83787
in the record, on receipt of any payment, the clerk of the court 83788
shall assign the payment in the manner prescribed by the court. 83789

Section 110.11. That the existing version of section 2949.111 83790
of the Revised Code that is scheduled to take effect January 1, 83791

2010, is hereby repealed. 83792

Section 110.12. Sections 110.10 and 110.11 of this act take 83793
effect January 1, 2010. 83794

Section 110.20. That the version of section 5739.033 of the 83795
Revised Code that is scheduled to take effect January 1, 2010, be 83796
amended to read as follows: 83797

Sec. 5739.033. (A) The amount of tax due pursuant to sections 83798
5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is 83799
the sum of the taxes imposed pursuant to those sections at the 83800
sourcing location of the sale as determined under this section or, 83801
if applicable, under division (C) of section 5739.031 or section 83802
5739.034 of the Revised Code. This section applies only to a 83803
vendor's or seller's obligation to collect and remit sales taxes 83804
under section 5739.02, 5739.021, 5739.023, or 5739.026 of the 83805
Revised Code or use taxes under section 5741.02, 5741.021, 83806
5741.022, or 5741.023 of the Revised Code. Division (A) of this 83807
section does not apply in determining the jurisdiction for which 83808
sellers are required to collect the use tax under section 5741.05 83809
of the Revised Code. This section does not affect the obligation 83810
of a consumer to remit use taxes on the storage, use, or other 83811
consumption of tangible personal property or on the benefit 83812
realized of any service provided, to the jurisdiction of that 83813
storage, use, or consumption, or benefit realized. 83814

(B)(1) Beginning January 1, 2010, retail sales, excluding the 83815
lease or rental, of tangible personal property or digital goods 83816
shall be sourced to the location where the vendor receives an 83817
order for the sale of such property or goods if: 83818

(a) The vendor receives the order in this state and the 83819
consumer receives the property or goods in this state; 83820

(b) The location where the consumer receives the property or goods is determined under division (C)(2), (3), or (4) of this section; and

(c) The record-keeping system used by the vendor to calculate the tax imposed captures the location where the order is received at the time the order is received.

(2) A consumer has no additional liability to this state under this chapter or Chapter 5741. of the Revised Code for tax, penalty, or interest on a sale for which the consumer remits tax to the vendor in the amount invoiced by the vendor if the invoice amount is calculated at either the rate applicable to the location where the consumer receives the property or digital good or at the rate applicable to the location where the order is received by the vendor. A consumer may rely on a written representation by the vendor as to the location where the order for the sale was received by the vendor. If the consumer does not have a written representation by the vendor as to the location where the order was received by the vendor, the consumer may use a location indicated by a business address for the vendor that is available from records that are maintained in the ordinary course of the consumer's business to determine the rate applicable to the location where the order was received.

(3) For the purposes of division (B) of this section, the location where an order is received by or on behalf of a vendor means the physical location of the vendor or a third party such as an established outlet, office location, or automated order receipt system operated by or on behalf of the vendor, where an order is initially received by or on behalf of the vendor, and not where the order may be subsequently accepted, completed, or fulfilled. An order is received when all necessary information to determine whether the order can be accepted has been received by or on behalf of the vendor. The location from which the property or

digital good is shipped shall not be used to determine the 83853
location where the order is received by the vendor. 83854

(4) For the purposes of division (B) of this section, if 83855
services subject to taxation under this chapter or Chapter 5741. 83856
of the Revised Code are sold with tangible personal property or 83857
digital goods pursuant to a single contract or in the same 83858
transaction, the services are billed on the same billing statement 83859
or invoice, and, because of the application of division (B) of 83860
this section, the transaction would be sourced to more than one 83861
jurisdiction, the situs of the transaction shall be the location 83862
where the order is received by or on behalf of the vendor. 83863

(C) Except for sales, other than leases, of titled motor 83864
vehicles, titled watercraft, or titled outboard motors as provided 83865
in section 5741.05 of the Revised Code, or as otherwise provided 83866
in this section and section 5739.034 of the Revised Code, all 83867
sales shall be sourced as follows: 83868

(1) If the consumer or a donee designated by the consumer 83869
receives tangible personal property or a service at a vendor's 83870
place of business, the sale shall be sourced to that place of 83871
business. 83872

(2) When the tangible personal property or service is not 83873
received at a vendor's place of business, the sale shall be 83874
sourced to the location known to the vendor where the consumer or 83875
the donee designated by the consumer receives the tangible 83876
personal property or service, including the location indicated by 83877
instructions for delivery to the consumer or the consumer's donee. 83878

(3) If divisions (C)(1) and (2) of this section do not apply, 83879
the sale shall be sourced to the location indicated by an address 83880
for the consumer that is available from the vendor's business 83881
records that are maintained in the ordinary course of the vendor's 83882
business, when use of that address does not constitute bad faith. 83883

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(4) If divisions (C)(1), (2), and (3) of this section do not apply, the sale shall be sourced to the location indicated by an address for the consumer obtained during the consummation of the sale, including the address associated with the consumer's payment instrument, if no other address is available, when use of that address does not constitute bad faith.

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(5) If divisions (C)(1), (2), (3), and (4) of this section do not apply, including in the circumstance where the vendor is without sufficient information to apply any of those divisions, the sale shall be sourced to the address from which tangible personal property was shipped, or from which the service was provided, disregarding any location that merely provided the electronic transfer of the property sold or service provided.

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(6) As used in division (C) of this section, "receive" means taking possession of tangible personal property or making first use of a service. "Receive" does not include possession by a shipping company on behalf of a consumer.

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(D)(1)(a) Notwithstanding divisions (C)(1) to (5) of this section, a business consumer that is not a holder of a direct payment permit granted under section 5739.031 of the Revised Code, that purchases a digital good, computer software, except computer software received in person by a business consumer at a vendor's place of business, or a service, and that knows at the time of purchase that such digital good, software, or service will be concurrently available for use in more than one taxing jurisdiction shall deliver to the vendor in conjunction with its purchase an exemption certificate claiming multiple points of use, or shall meet the requirements of division (D)(2) of this section. On receipt of the exemption certificate claiming multiple points of use, the vendor is relieved of its obligation to collect, pay, or remit the tax due, and the business consumer must pay the tax

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directly to the state. 83916

(b) A business consumer that delivers the exemption 83917
certificate claiming multiple points of use to a vendor may use 83918
any reasonable, consistent, and uniform method of apportioning the 83919
tax due on the digital good, computer software, or service that is 83920
supported by the consumer's business records as they existed at 83921
the time of the sale. The business consumer shall report and pay 83922
the appropriate tax to each jurisdiction where concurrent use 83923
occurs. The tax due shall be calculated as if the apportioned 83924
amount of the digital good, computer software, or service had been 83925
delivered to each jurisdiction to which the sale is apportioned 83926
under this division. 83927

(c) The exemption certificate claiming multiple points of use 83928
shall remain in effect for all future sales by the vendor to the 83929
business consumer until it is revoked in writing by the business 83930
consumer, except as to the business consumer's specific 83931
apportionment of a subsequent sale under division (D)(1)(b) of 83932
this section and the facts existing at the time of the sale. 83933

(2) When the vendor knows that a digital good, computer 83934
software, or service sold will be concurrently available for use 83935
by the business consumer in more than one jurisdiction, but the 83936
business consumer does not provide an exemption certificate 83937
claiming multiple points of use as required by division (D)(1) of 83938
this section, the vendor may work with the business consumer to 83939
produce the correct apportionment. Governed by the principles of 83940
division (D)(1)(b) of this section, the vendor and business 83941
consumer may use any reasonable, but consistent and uniform, 83942
method of apportionment that is supported by the vendor's and 83943
business consumer's books and records as they exist at the time 83944
the sale is reported for purposes of the taxes levied under this 83945
chapter. If the business consumer certifies to the accuracy of the 83946
apportionment and the vendor accepts the certification, the vendor 83947

shall collect and remit the tax accordingly. In the absence of bad 83948
faith, the vendor is relieved of any further obligation to collect 83949
tax on any transaction where the vendor has collected tax pursuant 83950
to the information certified by the business consumer. 83951

(3) When the vendor knows that the digital good, computer 83952
software, or service will be concurrently available for use in 83953
more than one jurisdiction, and the business consumer does not 83954
have a direct pay permit and does not provide to the vendor an 83955
exemption certificate claiming multiple points of use as required 83956
in division (D)(1) of this section, or certification pursuant to 83957
division (D)(2) of this section, the vendor shall collect and 83958
remit the tax based on division (C) of this section. 83959

(4) Nothing in this section shall limit a person's obligation 83960
for sales or use tax to any state in which a digital good, 83961
computer software, or service is concurrently available for use, 83962
nor limit a person's ability under local, state, or federal law, 83963
to claim a credit for sales or use taxes legally due and paid to 83964
other jurisdictions. 83965

(E) A person who holds a direct payment permit issued under 83966
section 5739.031 of the Revised Code is not required to deliver an 83967
exemption certificate claiming multiple points of use to a vendor. 83968
But such permit holder shall comply with division (D)(2) of this 83969
section in apportioning the tax due on a digital good, computer 83970
software, or a service for use in business that will be 83971
concurrently available for use in more than one taxing 83972
jurisdiction. 83973

(F)(1) Notwithstanding divisions (C)(1) to (5) of this 83974
section, the consumer of direct mail that is not a holder of a 83975
direct payment permit shall provide to the vendor in conjunction 83976
with the sale either an exemption certificate claiming direct mail 83977
prescribed by the tax commissioner, or information to show the 83978
jurisdictions to which the direct mail is delivered to recipients. 83979

(2) Upon receipt of such exemption certificate, the vendor is 83980
relieved of all obligations to collect, pay, or remit the 83981
applicable tax and the consumer is obligated to pay that tax on a 83982
direct pay basis. An exemption certificate claiming direct mail 83983
shall remain in effect for all future sales of direct mail by the 83984
vendor to the consumer until it is revoked in writing. 83985

(3) Upon receipt of information from the consumer showing the 83986
jurisdictions to which the direct mail is delivered to recipients, 83987
the vendor shall collect the tax according to the delivery 83988
information provided by the consumer. In the absence of bad faith, 83989
the vendor is relieved of any further obligation to collect tax on 83990
any transaction where the vendor has collected tax pursuant to the 83991
delivery information provided by the consumer. 83992

(4) If the consumer of direct mail does not have a direct 83993
payment permit and does not provide the vendor with either an 83994
exemption certificate claiming direct mail or delivery information 83995
as required by division (F)(1) of this section, the vendor shall 83996
collect the tax according to division (C)(5) of this section. 83997
Nothing in division (F)(4) of this section shall limit a 83998
consumer's obligation to pay sales or use tax to any state to 83999
which the direct mail is delivered. 84000

(5) If a consumer of direct mail provides the vendor with 84001
documentation of direct payment authority, the consumer shall not 84002
be required to provide an exemption certificate claiming direct 84003
mail or delivery information to the vendor. 84004

(G) If the vendor provides lodging to transient guests as 84005
specified in division (B)(2) of section 5739.01 of the Revised 84006
Code, the sale shall be sourced to the location where the lodging 84007
is located. 84008

(H)(1) As used in this division and division (I) of this 84009
section, "transportation equipment" means any of the following: 84010

(a) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce.	84011 84012
(b) Trucks and truck-tractors with a gross vehicle weight rating of greater than ten thousand pounds, trailers, semi-trailers, or passenger buses that are registered through the international registration plan and are operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.	84013 84014 84015 84016 84017 84018 84019 84020
(c) Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate or foreign commerce.	84021 84022 84023 84024
(d) Containers designed for use on and component parts attached to or secured on the items set forth in division (H)(1)(a), (b), or (c) of this section.	84025 84026 84027
(2) A sale, lease, or rental of transportation equipment shall be sourced pursuant to division (C) of this section.	84028 84029
(I)(1) A lease or rental of tangible personal property that does not require recurring periodic payments shall be sourced pursuant to division (C) of this section.	84030 84031 84032
(2) A lease or rental of tangible personal property that requires recurring periodic payments shall be sourced as follows:	84033 84034
(a) In the case of a motor vehicle, other than a motor vehicle that is transportation equipment, or an aircraft, other than an aircraft that is transportation equipment, such lease or rental shall be sourced as follows:	84035 84036 84037 84038
(i) An accelerated tax payment on a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code	84039 84040

shall be sourced to the primary property location at the time the 84041
lease or rental is consummated. Any subsequent taxable charges on 84042
the lease or rental shall be sourced to the primary property 84043
location for the period in which the charges are incurred. 84044

(ii) For a lease or rental taxed pursuant to division (A)(3) 84045
of section 5739.02 of the Revised Code, each lease or rental 84046
installment shall be sourced to the primary property location for 84047
the period covered by the installment. 84048

(b) In the case of a lease or rental of all other tangible 84049
personal property, other than transportation equipment, such lease 84050
or rental shall be sourced as follows: 84051

(i) An accelerated tax payment on a lease or rental that is 84052
taxed pursuant to division (A)(2) of section 5739.02 of the 84053
Revised Code shall be sourced pursuant to division (C) of this 84054
section at the time the lease or rental is consummated. Any 84055
subsequent taxable charges on the lease or rental shall be sourced 84056
to the primary property location for the period in which the 84057
charges are incurred. 84058

(ii) For a lease or rental that is taxed pursuant to division 84059
(A)(3) of section 5739.02 of the Revised Code, the initial lease 84060
or rental installment shall be sourced pursuant to division (C) of 84061
this section. Each subsequent installment shall be sourced to the 84062
primary property location for the period covered by the 84063
installment. 84064

(3) As used in division (I) of this section, "primary 84065
property location" means an address for tangible personal property 84066
provided by the lessee or renter that is available to the lessor 84067
or owner from its records maintained in the ordinary course of 84068
business, when use of that address does not constitute bad faith. 84069

(J) If the vendor provides a service specified in division 84070
(B)(11) of section 5739.01 of the Revised Code, the situs of the 84071

sale is the location of the enrollee for whom a medicaid health insurance corporation receives managed care premiums. Such sales shall be sourced to the locations of the enrollees in the same proportion as the managed care premiums received by the medicaid health insuring corporation on behalf of enrollees located in a particular taxing jurisdiction in Ohio as compared to all managed care premiums received by the medicaid health insuring corporation.

Section 110.21. That the existing version of section 5739.033 of the Revised Code that is scheduled to take effect January 1, 2010, is hereby repealed.

Section 110.22. Sections 110.20 and 110.21 of this act take effect January 1, 2010.

Section 125.10. Sections 5112.40, 5112.41, 5112.42, 5112.43, 5112.44, 5112.45, 5112.46, 5112.47, and 5112.48 of the Revised Code are hereby repealed, effective October 1, 2011.

Section 201.01. Except as otherwise provided in this act, all appropriation items in this act are appropriated out of any moneys in the state treasury to the credit of the designated fund that are not otherwise appropriated. For all appropriations made in this act, the amounts in the first column are for fiscal year 2010 and the amounts in the second column are for fiscal year 2011.

Section 203.10. ACC ACCOUNTANCY BOARD OF OHIO

General Services Fund Group

4J80	889601	CPA Education Assistance	\$	325,000	\$	325,000	
4K90	889609	Operating Expenses	\$	1,117,000	\$	1,117,000	

TOTAL GSF General Services Fund				84099
Group	\$	1,442,000	\$ 1,442,000	84100
TOTAL ALL BUDGET FUND GROUPS	\$	1,442,000	\$ 1,442,000	84101
 Section 205.10. ADJ ADJUTANT GENERAL				84103
General Revenue Fund				84104
GRF 745401 Ohio Military Reserve	\$	13,675	\$ 13,675	84105
GRF 745404 Air National Guard	\$	2,010,606	\$ 2,010,606	84106
GRF 745407 National Guard	\$	500,000	\$ 500,000	84107
Benefits				
GRF 745409 Central	\$	3,105,784	\$ 3,105,784	84108
Administration				
GRF 745499 Army National Guard	\$	6,008,551	\$ 6,008,551	84109
TOTAL GRF General Revenue Fund	\$	11,638,616	\$ 11,638,616	84110
General Services Fund Group				84111
5340 745612 Property	\$	1,000,000	\$ 1,000,000	84112
Operations/Management				
5360 745605 Marksmanship	\$	128,600	\$ 128,600	84113
Activities				
5360 745620 Camp Perry/Buckeye	\$	1,502,970	\$ 1,502,970	84114
Inn Operations				
5370 745604 Ohio National Guard	\$	269,826	\$ 269,826	84115
Facility Maintenance				
TOTAL GSF General Services Fund	\$	2,901,396	\$ 2,901,396	84116
Group				
Federal Special Revenue Fund Group				84117
3410 745615 Air National Guard	\$	2,777,692	\$ 2,777,692	84118
Base Security				
3420 745616 Army National Guard	\$	10,970,050	\$ 10,970,050	84119
Agreement				
3E80 745628 Air National Guard	\$	16,048,595	\$ 16,048,595	84120
Agreement				

3R80 745603	Counter Drug Operations	\$	25,000	\$	25,000	84121
TOTAL FED	Federal Special Revenue Fund Group	\$	29,821,337	\$	29,821,337	84122
	State Special Revenue Fund Group					84123
5U80 745613	Community Match Armories	\$	320,000	\$	345,600	84124
TOTAL SSR	State Special Revenue Fund Group	\$	320,000	\$	345,600	84125
TOTAL ALL BUDGET FUND GROUPS		\$	44,681,349	\$	44,706,949	84126

NATIONAL GUARD BENEFITS 84127

The foregoing appropriation item 745407, National Guard 84128
Benefits, shall be used for purposes of sections 5919.31 and 84129
5919.33 of the Revised Code, and for administrative costs of the 84130
associated programs. 84131

For active duty members of the Ohio National Guard who died 84132
after October 7, 2001, while performing active duty, the death 84133
benefit, pursuant to section 5919.33 of the Revised Code, shall be 84134
paid to the beneficiary or beneficiaries designated on the 84135
member's Servicemembers' Group Life Insurance Policy. 84136

STATE ACTIVE DUTY COSTS 84137

Of the foregoing appropriation item 745409, Central 84138
Administration, \$50,000 in each fiscal year shall be used for the 84139
purpose of paying expenses related to state active duty of members 84140
of the Ohio organized militia, in accordance with a proclamation 84141
of the Governor. Expenses include, but are not limited to, the 84142
cost of equipment, supplies, and services, as determined by the 84143
Adjutant General's Department. 84144

Section 205.20. FUND ABOLITION 84145

On July 1, 2009, or as soon as possible thereafter, the 84146

Director of Budget and Management, upon request by the Adjutant 84147
 General, shall transfer the cash balance in the Marksmanship 84148
 Activities Fund (Fund 5280) to the Camp Perry/Buckeye Inn 84149
 Operations Fund (Fund 5360). The Director shall cancel any 84150
 existing encumbrances against appropriation item 745645, 84151
 Marksmanship Activities, and re-establish them against 84152
 appropriation item 745620, Camp Perry/Buckeye Inn Operations. The 84153
 re-established encumbrance amounts are hereby appropriated. Upon 84154
 completion of the transfer, Fund 5280 is abolished. 84155

Section 207.10. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES 84156

General Revenue Fund 84157

GRF 100405 Agency Audit Expenses \$ 312,075 \$ 312,075 84158

GRF 100415 OAKS Rental Payments \$ 18,607,000 \$ 21,728,000 84159

GRF 100416 STARS Lease Rental \$ 4,977,600 \$ 7,638,500 84160
 Payments

GRF 100418 Web Sites and Business \$ 2,943,074 \$ 2,943,076 84161
 Gateway

GRF 100419 IT Security \$ 1,211,250 \$ 1,211,250 84162
 Infrastructure

GRF 100421 OAKS Project \$ 202,500 \$ 202,500 84163
 Implementation

GRF 100433 State of Ohio Computer \$ 6,736,752 \$ 6,736,752 84164
 Center

GRF 100439 Equal Opportunity \$ 712,724 \$ 712,724 84165
 Certification Programs

GRF 100447 OBA - Building Rent \$ 102,635,400 \$ 97,712,600 84166
 Payments

GRF 100448 OBA - Building \$ 25,603,000 \$ 25,603,000 84167
 Operating Payments

GRF 100449 DAS - Building \$ 3,271,384 \$ 3,271,384 84168
 Operating Payments

GRF	100451	Minority Affairs	\$	50,016	\$	50,016	84169
GRF	100734	Major Maintenance - State Buildings	\$	37,800	\$	37,800	84170
GRF	102321	Construction Compliance	\$	1,108,744	\$	1,108,744	84171
GRF	130321	State Agency Support Services	\$	4,039,578	\$	4,039,578	84172
TOTAL GRF	General Revenue Fund		\$	172,448,897	\$	173,307,999	84173
General Services Fund Group							84174
1120	100616	DAS Administration	\$	5,299,427	\$	5,299,427	84175
1150	100632	Central Service Agency	\$	928,403	\$	928,403	84176
1170	100644	General Services Division - Operating	\$	14,384,751	\$	14,574,622	84177
1220	100637	Fleet Management	\$	2,032,968	\$	2,032,968	84178
1250	100622	Human Resources Division - Operating	\$	27,162,320	\$	27,998,410	84179
1280	100620	Collective Bargaining	\$	3,662,534	\$	3,662,534	84180
1300	100606	Risk Management Reserve	\$	5,568,548	\$	5,568,548	84181
1310	100639	State Architect's Office	\$	8,292,759	\$	8,331,498	84182
1320	100631	DAS Building Management	\$	10,166,228	\$	10,166,228	84183
1330	100607	IT Services Delivery	\$	78,582,948	\$	77,067,948	84184
1880	100649	Equal Opportunity Division - Operating	\$	884,650	\$	884,650	84185
2100	100612	State Printing	\$	17,224,494	\$	17,263,080	84186
2290	100630	IT Governance	\$	15,431,411	\$	15,743,306	84187
2290	100640	Leveraged Enterprise Purchases	\$	10,000,000	\$	10,000,000	84188
4270	100602	Investment Recovery	\$	5,683,564	\$	5,683,564	84189
4N60	100617	Major IT Purchases	\$	8,460,134	\$	1,950,000	84190
4P30	100603	DAS Information	\$	4,958,218	\$	4,958,218	84191

	Services				
5C20 100605	MARCS Administration	\$ 15,852,314	\$ 16,363,179		84192
5C30 100608	Skilled Trades	\$ 934,982	\$ 934,982		84193
5DQ0 100638	Administrative	\$ 200,000	\$ 200,000		84194
	Hearings				
5EB0 100635	OAKS Support	\$ 15,984,761	\$ 18,009,192		84195
	Organization				
5L70 100610	Professional	\$ 3,900,000	\$ 3,900,000		84196
	Development				
5V60 100619	Employee Educational	\$ 936,129	\$ 936,129		84197
	Development				
5X30 100634	Centralized Gateway	\$ 3,676,956	\$ 2,052,308		84198
	Enhancement				
TOTAL GSF General Services Fund					84199
Group		\$ 260,208,499	\$ 254,509,194		84200
TOTAL ALL BUDGET FUND GROUPS		\$ 432,657,396	\$ 427,817,193		84201

Section 207.10.10. AGENCY AUDIT EXPENSES 84203

The foregoing appropriation item 100405, Agency Audit 84204
Expenses, shall be used for auditing expenses designated in 84205
division (A)(1) of section 117.13 of the Revised Code for those 84206
state agencies audited on a biennial basis. 84207

Section 207.10.20. OAKS RENTAL PAYMENTS 84208

The foregoing appropriation item 100415, OAKS Rental 84209
Payments, shall be used for payments for the period from July 1, 84210
2009, through June 30, 2011, pursuant to leases and agreements 84211
entered into under Chapter 125. of the Revised Code, as 84212
supplemented by Section 503.10 of Am. Sub. H.B. 496 and Section 84213
281.10 of Am. Sub. H.B. 562 of the 127th General Assembly with 84214
respect to financing the costs associated with the acquisition, 84215
development, installation, and implementation of the Ohio 84216
Administrative Knowledge System. If it is determined that 84217

additional appropriations are necessary for this purpose, the 84218
amounts are hereby appropriated. 84219

Section 207.10.30. STATE TAXATION ACCOUNTING AND REVENUE 84220
SYSTEM 84221

The Office of Information Technology, in conjunction with the 84222
Department of Taxation, may acquire the State Taxation Accounting 84223
and Revenue System (STARS) pursuant to Chapter 125. of the Revised 84224
Code, including, but not limited to, the application software and 84225
installation and implementation thereof, for the use of the 84226
Department of Taxation. STARS is an integrated tax collection and 84227
audit system that will replace all of the state's existing 84228
separate tax software and administration systems for the various 84229
taxes collected by the state. Any lease-purchase arrangement used 84230
under Chapter 125. of the Revised Code to acquire STARS, including 84231
any fractionalized interests therein as defined in division (N) of 84232
section 133.01 of the Revised Code, shall provide that at the end 84233
of the lease period, STARS becomes the property of the state. 84234
84235

Section 207.10.40. STARS LEASE RENTAL PAYMENTS 84236

The foregoing appropriation item 100416, STARS Lease Rental 84237
Payments, shall be used for payments for the period from July 1, 84238
2009, through June 30, 2011, pursuant to leases and agreements 84239
entered into under Chapter 125. of the Revised Code, as 84240
supplemented by Section 757.10 of Am. Sub. H.B. 119 of the 127th 84241
General Assembly, with respect to financing the cost associated 84242
with the acquisition, development, installation, and 84243
implementation of the State Taxation Accounting and Revenue System 84244
(STARS). If it is determined that additional appropriations are 84245
necessary for this purpose, the amounts are appropriated. 84246

Section 207.10.50. BUILDING RENT PAYMENTS 84247

The foregoing appropriation item 100447, OBA - Building Rent Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2009, to June 30, 2011, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code. These appropriations are the source of funds pledged for bond service charges on obligations issued pursuant to Chapter 152. of the Revised Code.

The foregoing appropriation item 100448, OBA - Building Operating Payments, shall be used to meet all payments at the times that they are required to be made during the period from July 1, 2009, to June 30, 2011, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code, but limited to the aggregate amount of \$51,206,000.

The payments to the Ohio Building Authority are for paying the expenses of agencies that occupy space in various state facilities. The Department of Administrative Services may enter into leases and agreements with the Ohio Building Authority providing for the payment of these expenses. The Ohio Building Authority shall report to the Department of Administrative Services and the Office of Budget and Management not later than five months after the start of each fiscal year the actual expenses incurred by the Ohio Building Authority in operating the facilities and any balances remaining from payments and rentals received in the prior fiscal year. The Department of Administrative Services shall reduce subsequent payments by the amount of the balance reported to it by the Ohio Building Authority.

Section 207.10.60. DAS - BUILDING OPERATING PAYMENTS

The foregoing appropriation item 100449, DAS - Building

Operating Payments, shall be used to pay the rent expenses of 84279
veterans organizations pursuant to section 123.024 of the Revised 84280
Code in fiscal years 2010 and 2011. 84281

The foregoing appropriation item, 100449, DAS - Building 84282
Operating Payments, also may be used to provide funding for the 84283
cost of property appraisals or building studies that the 84284
Department of Administrative Services may be required to obtain 84285
for property that is being sold by the state or property under 84286
consideration to be renovated or purchased by the state. 84287

Notwithstanding section 125.28 of the Revised Code, the 84288
remaining portion of the appropriation may be used to pay the 84289
operating expenses of state facilities maintained by the 84290
Department of Administrative Services that are not billed to 84291
building tenants. These expenses may include, but are not limited 84292
to, the costs for vacant space and space undergoing renovation, 84293
and the rent expenses of tenants that are relocated because of 84294
building renovations. These payments shall be processed by the 84295
Department of Administrative Services through intrastate transfer 84296
vouchers and placed in the Building Management Fund (Fund 1320). 84297

Notwithstanding division (A)(1) of section 125.28 of the 84298
Revised Code, the Department of Administrative Services may use 84299
the Building Management Fund (Fund 1320) to support utility costs 84300
at the State of Ohio Computer Center that exceed the available 84301
appropriation in appropriation item 100433, State of Ohio Computer 84302
Center. 84303

Section 207.10.70. CENTRAL SERVICE AGENCY FUND 84304

The appropriation item 100632, Central Service Agency, shall 84305
be used to purchase the equipment, products, and services that are 84306
needed to maintain automated applications for the professional 84307
licensing boards and to support board licensing functions in 84308
fiscal years 2010 and 2011. The Department of Administrative 84309

Services shall establish charges for recovering the costs of 84310
carrying out these functions. The charges shall be billed to the 84311
professional licensing boards and deposited via intrastate 84312
transfer vouchers to the credit of the Central Service Agency Fund 84313
(Fund 1150). Total Department of Administrative Services charges 84314
for the maintenance and support of the licensing system shall not 84315
exceed \$363,678 in each fiscal year of the biennium. 84316

Section 207.10.80. CENTRAL SERVICE AGENCY CONSOLIDATION 84317
INITIATIVE 84318

Of the foregoing appropriation item 130321, State Agency 84319
Support Services, \$308,230 in fiscal year 2010 and \$235,230 in 84320
fiscal year 2011 shall be used by the Department of Administrative 84321
Services for the Central Service Agency Consolidation initiative. 84322

Section 207.10.90. EXPANDED FUNCTIONS OF THE CENTRAL SERVICE 84323
AGENCY 84324

Notwithstanding any contrary provision of law, on July 1, 84325
2009, or as soon as possible thereafter, the Central Service 84326
Agency, in consultation with the Director of Budget and 84327
Management, shall review the support services the Central Service 84328
Agency performs on behalf of the boards and commissions named in 84329
division (A) of section 125.22 of the Revised Code (except the 84330
Commission on Hispanic-Latino Affairs) and the fiscal condition of 84331
those boards and commissions. The Central Service Agency shall 84332
thereafter provide recommendations regarding consolidation of 84333
finance, human resources, legal, procurement, and other 84334
administrative functions to achieve administrative cost savings 84335
and efficiency. The Central Service Agency also may initiate or 84336
deny personnel or fiscal actions for the boards and commissions if 84337
such an initiation or denial would result in administrative cost 84338
savings and efficiency among the boards and commissions, and may 84339

require the boards and commissions to enter into agreements to 84340
share office equipment, office space, or other assets to the 84341
extent such an agreement would create efficiencies or savings in 84342
rental, lease, or contractual expenses. 84343

Except with respect to the authority of the boards and 84344
commissions named in division (A) of section 125.22 of the Revised 84345
Code to appoint or employ additional employees for the performance 84346
of professional, technical, clerical, or other duties, this 84347
section shall not be interpreted as a grant of authority to the 84348
Central Service Agency to supersede or replace the boards or 84349
commissions in the performance of their respective statutory 84350
duties, or to appoint, remove, or demote the executive directors 84351
of the respective boards or commissions. 84352

The Director of Budget and Management may take actions made 84353
necessary by administrative reorganization for the purpose of cost 84354
savings and efficiency by making budget changes, transferring 84355
programs, creating new funds, and consolidating funds. 84356

Section 207.20.10. GENERAL SERVICE CHARGES 84357

The Department of Administrative Services, with the approval 84358
of the Director of Budget and Management, shall establish charges 84359
for recovering the costs of administering the programs funded by 84360
the General Services Fund (Fund 1170) and the State Printing Fund 84361
(Fund 2100). Such charges within Fund 1170 may be used to recover 84362
the cost of paying a vendor to establish reduced pricing for 84363
contracted supplies or services. 84364

If the Director of Administrative Services determines that 84365
additional amounts are necessary to pay for consulting and 84366
administrative costs related to securing lower pricing, the 84367
Director of Administrative Services may request that the Director 84368
of Budget and Management approve additional expenditures. Such 84369
approved additional amounts are appropriated to appropriation item 84370

100644, General Services Division-Operating. 84371

Section 207.20.20. COLLECTIVE BARGAINING ARBITRATION EXPENSES 84372
84373

With approval of the Director of Budget and Management, the 84374
Department of Administrative Services may seek reimbursement from 84375
state agencies for the actual costs and expenses the Department 84376
incurs in the collective bargaining arbitration process. The 84377
reimbursements shall be processed through intrastate transfer 84378
vouchers and credited to the Collective Bargaining Fund (Fund 84379
1280). 84380

Section 207.20.30. BROADBAND OHIO 84381

Any unencumbered, unexpended amounts of the foregoing 84382
appropriation item 100607, IT Services Delivery, that were 84383
allocated for implementation of the NextGen Network in fiscal 84384
years 2008 and 2009 are hereby reappropriated for the same purpose 84385
in fiscal years 2010 and 2011. 84386

Section 207.20.40. EQUAL OPPORTUNITY PROGRAM 84387

The Department of Administrative Services, with the approval 84388
of the Director of Budget and Management, shall establish charges 84389
for recovering the costs of administering the activities supported 84390
by the State EEO Fund (Fund 1880). These charges shall be 84391
deposited to the credit of the State EEO Fund (Fund 1880) upon 84392
payment made by state agencies, state-supported or state-assisted 84393
institutions of higher education, and tax-supported agencies, 84394
municipal corporations, and other political subdivisions of the 84395
state, for services rendered. 84396

Section 207.20.50. MERCHANDISE RESALE FUND ABOLISHMENT 84397

On July 1, 2009, or as soon as possible thereafter, the 84398

Director of Budget and Management shall transfer the cash balance, 84399
functions, assets, and liabilities of the Merchandise Resale Fund 84400
(Fund 2010) to the State Printing Fund (Fund 2100). The Director 84401
of Budget and Management shall cancel any existing encumbrances 84402
against appropriation item 100653, General Services Resale 84403
Merchandise, and re-establish them against appropriation item 84404
100612, State Printing. The re-established encumbrances are 84405
appropriated. Upon completion of the transfer, Fund 2010 is 84406
abolished. 84407

The State Printing Fund is thereupon and thereafter successor 84408
to, assumes the obligations of, and otherwise constitutes the 84409
continuation of the Merchandise Resale Fund. Any business 84410
commenced but not completed pertaining to the Merchandise for 84411
Resale Fund by July 1, 2009, shall be completed within the State 84412
Printing Fund in the same manner and with the same effect as if it 84413
were completed within the Merchandise for Resale Fund. All of the 84414
rules, orders, and determinations associated with the Merchandise 84415
for Resale Fund continue in effect as rules, orders, and 84416
determinations associated with the State Printing Fund until 84417
modified or rescinded by the Director of Administrative Services. 84418
If necessary to ensure the integrity of the Administrative Code, 84419
the Director of the Legislative Service Commission shall renumber 84420
the rules relating to the Merchandise for Resale Fund to reflect 84421
its transfer to the State Printing Fund. 84422

On and after July 1, 2009, when the Merchandise for Resale 84423
Fund is referred to in any statute, rule, contract, grant or other 84424
document, the reference is hereby deemed to refer to the State 84425
Printing Fund. 84426

Section 207.20.60. LEVERAGED ENTERPRISE PURCHASE PROGRAM 84427
FUNDING 84428

The foregoing appropriation item 100640, Leveraged Enterprise 84429

Purchases, may be used by the Director of Administrative Services 84430
to operate a Leveraged Enterprise Purchases Program to make 84431
enterprise-wide information technology purchases. The Director of 84432
Administrative Services may recover the cost of operating such a 84433
program from all participating government entities through 84434
intrastate transfer voucher billings for each applicable 84435
procurement, or the Director may use any pass-through billing 84436
method agreed to by the Director of Administrative Services, the 84437
Director of Budget and Management, and the participating 84438
government entities that will receive the applicable procurement. 84439
If the Director of Administrative Services chooses to recover the 84440
costs through intrastate transfer voucher billings, the 84441
participating government entities shall process the intrastate 84442
transfer vouchers to pay for the cost. 84443

Amounts received under this section for the Leveraged 84444
Enterprise Purchases Program shall be deposited to the credit of 84445
the IT Governance Fund (Fund 2290). 84446

Section 207.20.70. INFORMATION TECHNOLOGY ASSESSMENT 84447

The Director of Administrative Services, with the approval of 84448
the Director of Budget and Management, may establish an 84449
information technology assessment for the purpose of recovering 84450
the cost of selected infrastructure and statewide programs. The 84451
information technology assessment shall be charged to all 84452
organized bodies, offices, or agencies established by the laws of 84453
the state for the exercise of any function of state government 84454
except for the General Assembly, any legislative agency, the 84455
Supreme Court, the other courts of record in Ohio, or any judicial 84456
agency, the Adjutant General, the Bureau of Workers' Compensation, 84457
and institutions administered by a board of trustees. Any 84458
state-entity exempted by this section may use the infrastructure 84459
or statewide program by participating in the information 84460

technology assessment. All charges for the information technology 84461
assessment shall be deposited to the credit of the IT Governance 84462
Fund (Fund 2290). 84463

Section 207.20.80. INVESTMENT RECOVERY FUND 84464

Notwithstanding division (B) of section 125.14 of the Revised 84465
Code, cash balances in the Investment Recovery Fund (Fund 4270) 84466
may be used to support the operating expenses of the Federal 84467
Surplus Operating Program created in sections 125.84 to 125.90 of 84468
the Revised Code. 84469

Notwithstanding division (B) of section 125.14 of the Revised 84470
Code, cash balances in the Investment Recovery Fund may be used to 84471
support the operating expenses of the Asset Management Services 84472
Program, including, but not limited to, the cost of establishing 84473
and maintaining procedures for inventory records for state 84474
property as described in section 125.16 of the Revised Code. 84475

Of the foregoing appropriation item 100602, Investment 84476
Recovery, up to \$2,093,564 in fiscal year 2010 and up to 84477
\$2,107,388 in fiscal year 2011 shall be used to pay the operating 84478
expenses of the State Surplus Property Program, the Surplus 84479
Federal Property Program, and the Asset Management Services 84480
Program under Chapter 125. of the Revised Code and this section. 84481
If additional appropriations are necessary for the operations of 84482
these programs, the Director of Administrative Services shall seek 84483
increased appropriations from the Controlling Board under section 84484
131.35 of the Revised Code. 84485

Of the foregoing appropriation item 100602, Investment 84486
Recovery, \$3,590,000 in fiscal year 2010 and \$3,576,176 in fiscal 84487
year 2011 shall be used to transfer proceeds from the sale of 84488
surplus property from the Investment Recovery Fund to non-General 84489
Revenue Funds under division (A)(2) of section 125.14 of the 84490
Revised Code. If it is determined by the Director of 84491

Administrative Services that additional amounts are necessary for 84492
the transfer of such sale proceeds, the Director of Administrative 84493
Services may request the Director of Budget and Management to 84494
authorize additional amounts. Such authorized additional amounts 84495
are hereby appropriated. 84496

Section 207.20.90. DAS INFORMATION SERVICES 84497

There is hereby established in the State Treasury the DAS 84498
Information Services Fund. The foregoing appropriation item 84499
100603, DAS Information Services, shall be used to pay the costs 84500
of providing information systems and services in the Department of 84501
Administrative Services. Any state agency, board, or commission 84502
may use DAS Information Services by paying for the services 84503
rendered. 84504

The Department of Administrative Services shall establish 84505
user charges for all information systems and services that are 84506
allowable in the statewide indirect cost allocation plan submitted 84507
annually to the United States Department of Health and Human 84508
Services. These charges shall comply with federal regulations and 84509
shall be deposited to the credit of the DAS Information Services 84510
Fund (Fund 4P30). 84511

Section 207.30.10. ADMINISTRATIVE HEARINGS 84512

There is hereby created in the State Treasury the 84513
Administrative Hearings Fund (Fund 5DQ0). The fund shall be under 84514
the supervision of the Department of Administrative Services and 84515
shall be used to pay the costs of operating shared, centralized 84516
administrative-adjudicatory services in the Department of 84517
Administrative Services. Money collected from charges to state 84518
agencies for adjudicatory services provided by the Department of 84519
Administrative Services shall be credited to the fund. The 84520
foregoing appropriation item 100638, Administrative Hearings, 84521

shall be used to make payments from the fund. 84522

With the approval of the Director of Budget and Management, 84523
the Department of Administrative Services shall establish user 84524
charges to recover the costs of providing adjudicatory services in 84525
fiscal years 2010 and 2011. The charges shall be established at 84526
amounts sufficient to pay the costs of providing services and an 84527
amount to provide operating cash flow for the fund. The charges 84528
shall be billed to state agencies that receive 84529
administrative-adjudicatory services and deposited via intrastate 84530
transfer vouchers to the credit of the Administrative Hearings 84531
Fund (Fund 5DQ0). 84532

The Director of Administrative Services shall submit a 84533
spending plan to the Director of Budget and Management to justify 84534
operating transfers to Fund 5DQ0 from the operating funds of state 84535
agencies that receive administrative-adjudicatory services. The 84536
spending plan shall identify the state agencies participating in 84537
the initial receipt of administrative-adjudicatory services, the 84538
proportion of services to be received by each agency, and the 84539
funding source from which the operating transfer shall be made. 84540
Upon approval of the plan, the Director of Budget and Management 84541
may transfer an amount in cash, not to exceed a total of \$200,000, 84542
from the funds identified in the plan to Fund 5DQ0. The amounts 84543
shall support the establishment of an Office of Administrative 84544
Hearings. 84545

The Director of Administrative Services shall prepare a plan 84546
for the return of cash balances transferred from the operating 84547
funds of state agencies that receive administrative-adjudicatory 84548
services under this section. This plan shall be submitted to the 84549
Director of Budget and Management when the Department of 84550
Administrative Services files with the Director of Budget and 84551
Management its estimate of proposed expenditures for the biennium 84552
beginning July 1, 2011. Upon approval of the plan, the Director of 84553

Budget and Management shall make the cash transfers specified in 84554
the plan. 84555

Section 207.30.20. OAKS SUPPORT ORGANIZATION 84556

The foregoing appropriation item 100635, OAKS Support 84557
Organization, shall be used by the Department of Administrative 84558
Services' Office of Information Technology to pay operating 84559
expenses incurred in providing information technology services to 84560
support the modules of OAKS, the state's enterprise resource 84561
planning system. The Department of Administrative Services shall 84562
submit to the Office of Budget and Management a budget and cost 84563
allocation plan for OAKS Support Organization costs by the first 84564
day of September of each fiscal year of the biennium. Upon 84565
approval of the plan by the Director of Budget and Management, the 84566
Department of Administrative Services may bill and transfer cash 84567
from funds accordingly. Specifically, the Department of 84568
Administrative Services shall recover the costs of the information 84569
technology services provided through intrastate transfer voucher 84570
billings to (1) the Office of Budget and Management (in amounts up 84571
to \$9,610,874 in fiscal year 2010 and up to \$9,733,416 in fiscal 84572
year 2011), (2) the Department of Administrative Services' Human 84573
Resources Division, and (3) other Department of Administrative 84574
Services funds. When needed to meet OAKS Support Organization 84575
expenses, upon request by the Director of Administrative Services, 84576
and upon concurrence of the Director of Budget and Management, the 84577
Director of Budget and Management may transfer cash from other 84578
funds used by the Department of Administrative Services to the 84579
OAKS Support Organization Fund (Fund 5EB0) in lieu of intrastate 84580
transfer voucher billings. Intrastate transfer voucher billings 84581
and cash transfers shall be on an incurred-cost basis and shall 84582
not be in amounts that would create a balance in the fund in 84583
excess of federally allowable indirect cost allocation principles. 84584
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Consistent with its responsibilities under Chapter 125. of 84586
the Revised Code, the Department of Administrative Services' Human 84587
Resources Division shall operate and maintain the human capital 84588
management module of OAKS. Effective July 1, 2009, the Director of 84589
Administrative Services, with the approval of the Director of 84590
Budget and Management, shall include in the human resources 84591
services payroll rate the estimated costs of the information 84592
technology services provided by the Department of Administrative 84593
Services' Office of Information Technology to maintain the human 84594
capital management module of OAKS. These revenues shall be 84595
deposited to the credit of the Human Resources Fund (Fund 1250) 84596
and transferred not less than quarterly to the OAKS Support 84597
Organization Fund (Fund 5EB0) by intrastate transfer vouchers in 84598
accordance with a budget and cost allocation plan approved by the 84599
Director of Budget and Management for each fiscal year of the 84600
biennium. The Director of Administrative Services may offset this 84601
proportional allocation with intrastate transfer voucher billings 84602
to or cash transfers from other funds used by the Department of 84603
Administrative Services to support costs incurred by the OAKS 84604
Support Organization Fund (5EB0). 84605

Section 207.30.30. CASH TRANSFER TO OAKS SUPPORT ORGANIZATION 84606
FUND 84607

The Director of Budget and Management may transfer 84608
\$1,317,922.16 in cash from the IT Services Delivery Fund (Fund 84609
1330) to the OAKS Support Organization Fund (5EB0) to correct an 84610
intrastate transfer voucher from the Department of Administrative 84611
Services that was deposited in the IT Services Delivery Fund. 84612

Section 207.30.40. PROFESSIONAL DEVELOPMENT FUND 84613

The foregoing appropriation item 100610, Professional 84614
Development, shall be used to make payments from the Professional 84615

Development Fund (Fund 5L70) under section 124.182 of the Revised Code. 84616
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Section 207.30.50. EMPLOYEE EDUCATIONAL DEVELOPMENT 84618

The foregoing appropriation item 100619, Employee Educational Development, shall be used to make payments from the Employee Educational Development Fund (Fund 5V60) under section 124.86 of the Revised Code. The fund shall be used to pay the costs of administering educational programs under existing collective bargaining agreements with District 1199, the Health Care and Social Service Union; State Council of Professional Educators; Ohio Education Association and National Education Association; the Fraternal Order of Police Ohio Labor Council, Unit 2; and the Ohio State Troopers Association, Units 1 and 15. 84619
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If it is determined by the Director of Administrative Services that additional amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management approve additional amounts. Such approved additional amounts are hereby appropriated. 84629
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Section 207.30.60. CENTRALIZED GATEWAY ENHANCEMENT FUND 84634

(A) As used in this section, "Ohio Business Gateway" refers to the internet-based system operated by the Department of Administrative Services with the advice of the Ohio Business Gateway Steering Committee established under section 5703.57 of the Revised Code. The Ohio Business Gateway is established to provide businesses a central web site where various filings and payments are submitted on-line to government. The information is then distributed to the various government entities that interact with the business community. 84635
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(B) As used in this section: 84644

(1) "State Portal" refers to the official web site of the 84645

state, operated by the Department of Administrative Services. 84646

(2) "Shared Hosting Environment" refers to the computerized 84647
system operated by the Department of Administrative Services for 84648
the purpose of providing capability for state agencies to host web 84649
sites. 84650

(C) There is hereby created in the state treasury the 84651
Centralized Gateway Enhancement Fund (Fund 5X30). The foregoing 84652
appropriation item 100634, Centralized Gateway Enhancement, shall 84653
be used by the Department of Administrative Services to pay the 84654
costs of enhancing, expanding, and operating the infrastructure of 84655
the Ohio Business Gateway, State Portal, and Shared Hosting 84656
Environment. The Director of Administrative Services shall submit 84657
spending plans to the Director of Budget and Management to justify 84658
operating transfers to the fund from the General Revenue Fund. 84659
Upon approval, the Director of Budget and Management shall 84660
transfer approved amounts to the fund, not to exceed the amount of 84661
the annual appropriation in each fiscal year. The spending plans 84662
may be based on the recommendations of the Ohio Business Gateway 84663
Steering Committee or its successor. 84664

Section 207.30.70. MAJOR IT PURCHASES AND CONTRACTS 84665

The Director of Administrative Services shall compute the 84666
amount of revenue attributable to the amortization of all 84667
equipment purchases and capitalized systems from appropriation 84668
item 100607, IT Services Delivery; appropriation item 100617, 84669
Major IT Purchases; and appropriation item C10014, Major Computer 84670
Purchases, which is recovered by the Department of Administrative 84671
Services as part of the rates charged by the IT Service Delivery 84672
Fund (Fund 1330) created in section 125.15 of the Revised Code. 84673
The Director of Budget and Management may transfer cash in an 84674
amount not to exceed the amount of amortization computed from the 84675
IT Service Delivery Fund (Fund 1330) to the Major IT Purchases 84676

Fund (Fund 4N60). 84677

Section 207.30.80. CASH TRANSFERS FROM THE MAJOR IT PURCHASES 84678
FUND 84679

Upon request of the Director of Administrative Services, the 84680
Director of Budget and Management may make the following transfers 84681
from the Major IT Purchases Fund (Fund 4N60): 84682

(1) Up to \$2,800,000 in each fiscal year of the biennium to 84683
the State Architect's Fund (Fund 1310) to support the OAKS Capital 84684
Improvements Module and other costs of the State Architect's 84685
Office that are not directly related to capital projects managed 84686
by the State Architect; 84687

(2) Up to \$1,097,412 in fiscal year 2010 and up to \$1,111,575 84688
in fiscal year 2011 to the Director's Office Fund (Fund 1120) to 84689
support operating expenses of the Accountability and Results 84690
Initiative; and 84691

(3) Up to \$4,000,000 in fiscal year 2010 and up to \$1,000,000 84692
in fiscal year 2011 to the OAKS Support Organization Fund (Fund 84693
5EB0) to support OAKS operating costs not billed to the Office of 84694
Budget and Management's Accounting and Budgeting Fund (Fund 1050), 84695
to the Department of Administrative Services' Human Resources 84696
Services Fund (Fund 1250), or paid from other funds of the 84697
Department of Administrative Services. 84698

Upon approval of the Director of Budget and Management, the 84699
transferred amounts are appropriated in the designated fiscal 84700
years to the following appropriation items: 100639, State 84701
Architect's Office (Fund 1310) in each fiscal year 2010 and fiscal 84702
year 2011; 100616, DAS Administration (Fund 1120) in both fiscal 84703
year 2010 and fiscal year 2011; and 100635, OAKS Support 84704
Organization (Fund 5EB0) in fiscal year 2010 only. 84705

Section 207.30.90. CORRECTIVE CASH TRANSFER TO INFORMATION 84706

TECHNOLOGY FUND 84707

On July 1, 2009, or as soon as possible thereafter, the 84708
Director of Budget and Management shall transfer \$7,768.37 in cash 84709
from the Unemployment Compensation Fund (Fund 1130) to the 84710
Information Technology Fund (Fund 1330). This transfer corrects a 84711
deposit of revenue that was made to Fund 1130. Upon completion of 84712
the transfer, Fund 1130 is abolished. 84713

Section 207.40.10. MULTI-AGENCY RADIO COMMUNICATION SYSTEM 84714
DEBT SERVICE PAYMENTS 84715

The Director of Administrative Services, in consultation with 84716
the Multi-Agency Radio Communication System (MARCS) Steering 84717
Committee and the Director of Budget and Management, shall 84718
determine the share of debt service payments attributable to 84719
spending for MARCS components that are not specific to any one 84720
agency and that shall be charged to agencies supported by the 84721
motor fuel tax. Such share of debt service payments shall be 84722
calculated for MARCS capital disbursements made beginning July 1, 84723
1997. Within thirty days of any payment made from appropriation 84724
item 100447, OBA - Building Rent Payments, the Director of 84725
Administrative Services shall certify to the Director of Budget 84726
and Management the amount of this share. The Director of Budget 84727
and Management shall transfer such amounts to the General Revenue 84728
Fund from the State Highway Safety Fund (Fund 7036) established in 84729
section 4501.06 of the Revised Code. 84730

The Director of Administrative Services shall consider 84731
renting or leasing existing tower sites at reasonable or current 84732
market rates, so long as these existing sites are equipped with 84733
the technical capabilities to support the MARCS project. 84734

Section 207.40.20. ACCOUNTABILITY AND RESULTS FUND 84735

There is hereby created in the state treasury the 84736
Accountability and Results Fund (Fund 5GD0) for use by the 84737
Department of Administrative Services. The Accountability and 84738
Results Fund shall consist of gifts, grants, devises, bequests, 84739
and other financial contributions made to the Department of 84740
Administrative Services for the purchase of services, supplies, or 84741
equipment for the Accountability and Results Initiative. All 84742
investment earnings of the fund shall be credited to the fund. 84743

Section 207.40.30. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY 84744

Whenever the Director of Administrative Services declares a 84745
"public exigency," as provided in division (C) of section 123.15 84746
of the Revised Code, the Director shall also notify the members of 84747
the Controlling Board. 84748

Section 209.10. AGE DEPARTMENT OF AGING 84749

General Revenue Fund 84750

GRF 490321 Operating Expenses \$ 2,109,817 \$ 2,109,817 84751

GRF 490409 AmeriCorps Operations \$ 147,034 \$ 147,034 84752

GRF 490410 Long-Term Care \$ 535,857 \$ 535,857 84753

Ombudsman

GRF 490411 Senior Community \$ 8,434,134 \$ 8,434,134 84754

Services

GRF 490412 Residential State \$ 7,325,417 \$ 7,325,417 84755

Supplement

GRF 490414 Alzheimer's Respite \$ 3,619,277 \$ 3,660,593 84756

GRF 490423 Long Term Care Budget \$ 112,916,967 \$ 149,317,603 84757

- State

GRF 490506 National Senior \$ 268,237 \$ 268,237 84758

Service Corps

GRF 490625 Alzheimer's Respite - \$ 512,318 \$ 471,002 84759

Federal Stimulus

TOTAL GRF General Revenue Fund	\$	135,869,058	\$	172,269,694	84760
General Services Fund Group					84761
4800 490606 Senior Community	\$	372,677	\$	372,677	84762
Outreach and					
Education					
TOTAL GSF General Services Fund					84763
Group	\$	372,677	\$	372,677	84764
Federal Special Revenue Fund Group					84765
3220 490618 Federal Aging Grants	\$	10,200,000	\$	10,200,000	84766
3C40 490623 Long Term Care Budget	\$	350,162,957	\$	340,193,418	84767
3M40 490612 Federal Independence	\$	63,655,080	\$	63,655,080	84768
Services					
3R70 490617 AmeriCorps Programs	\$	8,870,000	\$	8,870,000	84769
TOTAL FED Federal Special Revenue					84770
Fund Group	\$	432,888,037	\$	422,918,498	84771
State Special Revenue Fund Group					84772
4C40 490609 Regional Long-Term	\$	935,000	\$	935,000	84773
Care Ombudsman					
Program					
4J40 490610 PASSPORT/Residential	\$	33,263,984	\$	33,263,984	84774
State Supplement					
4U90 490602 PASSPORT Fund	\$	4,424,969	\$	4,424,969	84775
5AA0 490673 Ohio's Best Rx	\$	910,801	\$	0	84776
Administration					
5BA0 490620 Ombudsman Support	\$	600,000	\$	600,000	84777
5K90 490613 Long Term Care	\$	820,400	\$	820,400	84778
Consumers Guide					
5W10 490616 Resident Services	\$	330,000	\$	330,000	84779
Coordinator Program					
6240 490604 OCSC Community	\$	470,000	\$	470,000	84780
Support					
TOTAL SSR State Special Revenue					84781

Fund Group	\$	41,755,154	\$	40,844,353	84782
TOTAL ALL BUDGET FUND GROUPS	\$	610,884,926	\$	636,405,222	84783

Section 209.20. LONG-TERM CARE 84785

Pursuant to an interagency agreement, the Department of Job and Family Services shall designate the Department of Aging to perform assessments under section 5111.204 of the Revised Code. The Department of Aging shall provide long-term care consultations under section 173.42 of the Revised Code to assist individuals in planning for their long-term health care needs. The foregoing appropriation items 490423, Long Term Care Budget - State, and 490623, Long Term Care Budget, may be used to provide the preadmission screening and resident review (PASRR), which includes screening, assessments, and determinations made under sections 5111.02, 5111.204, 5119.061, and 5123.021 of the Revised Code.

The foregoing appropriation items 490423, Long Term Care Budget - State, and 490623, Long Term Care Budget, may be used to assess and provide long-term care consultations to clients regardless of Medicaid eligibility.

The Director of Aging shall adopt rules under section 111.15 of the Revised Code governing the nonwaiver funded PASSPORT program, including client eligibility. The foregoing appropriation item 490423, Long Term Care Budget - State, may be used by the Department of Aging to provide nonwaiver funded PASSPORT services to persons the Department has determined to be eligible to participate in the nonwaiver funded PASSPORT Program, including those persons not yet determined to be financially eligible to participate in the Medicaid waiver component of the PASSPORT Program by a county department of job and family services.

The Department of Aging shall administer the Medicaid waiver-funded PASSPORT Home Care Program, the Choices Program, the Assisted Living Program, and the PACE Program as delegated by the

Department of Job and Family Services in an interagency agreement. 84814
The foregoing appropriation item 490423, Long Term Care Budget - 84815
State, shall be used to provide the required state match for 84816
federal Medicaid funds supporting the Medicaid Waiver-funded 84817
PASSPORT Home Care Program, the Choices Program, the Assisted 84818
Living Program, and the PACE Program. The foregoing appropriation 84819
items 490423, Long Term Care Budget - State, and 490623, Long Term 84820
Care Budget, may also be used to support the Department of Aging's 84821
administrative costs associated with operating the PASSPORT, 84822
Choices, Assisted Living, and PACE programs. 84823

The foregoing appropriation item 490623, Long Term Care 84824
Budget, shall be used to provide the federal matching share for 84825
all program costs determined by the Department of Job and Family 84826
Services to be eligible for Medicaid reimbursement. 84827

HOME FIRST PROGRAM 84828

(A) As used in this section, "Long Term Care Budget Services" 84829
includes the following existing programs: PASSPORT, Assisted 84830
Living, Residential State Supplement, and PACE. 84831

(B) On a quarterly basis, on receipt of the certified 84832
expenditures related to sections 173.401, 173.351, and 5111.894 of 84833
the Revised Code, the Director of Budget and Management may do all 84834
of the following for fiscal years 2010 and 2011: 84835

(1) Transfer cash from the Nursing Facility Stabilization 84836
Fund (Fund 5R20), used by the Department of Job and Family 84837
Services, to the PASSPORT/Residential State Supplement Fund (Fund 84838
4J40), used by the Department of Aging. 84839

The transferred cash is hereby appropriated to appropriation 84840
item 490610, PASSPORT/Residential State Supplement. 84841

(2) If receipts credited to the PASSPORT Fund (Fund 3C40) 84842
exceed the amounts appropriated from the fund, the Director of 84843
Aging may request the Director of Budget and Management to 84844

authorize expenditures from the fund in excess of the amounts 84845
appropriated. Upon the approval of the Director of Budget and 84846
Management, the additional amounts are hereby appropriated. 84847

(3) If receipts credited to the Interagency Reimbursement 84848
Fund (Fund 3G50) exceed the amounts appropriated from the fund, 84849
the Director of Job and Family Services may request the Director 84850
of Budget and Management to authorize expenditures from the fund 84851
in excess of the amounts appropriated. Upon the approval of the 84852
Director of Budget and Management, the additional amounts are 84853
hereby appropriated. 84854

(C) The individuals placed in Long Term Care Budget Services 84855
pursuant to this section shall be in addition to the individuals 84856
placed in Long Term Care Budget Services during fiscal years 2010 84857
and 2011 before any transfers to appropriation item 490423, Long 84858
Term Care Budget-State, are made under this section. 84859

ALLOCATION OF PACE SLOTS 84860

In order to effectively administer and manage growth within 84861
the PACE Program, the Director of Aging may, as the director deems 84862
appropriate and to the extent funding is available, allocate funds 84863
for the PACE Program between the PACE sites in Cleveland and 84864
Cincinnati. 84865

Section 209.30. OHIO COMMUNITY SERVICE COUNCIL 84866

The foregoing appropriation items 490409, AmeriCorps 84867
Operations, and 490617, AmeriCorps Programs, shall be used in 84868
accordance with section 121.40 of the Revised Code. 84869

LONG-TERM CARE OMBUDSMAN 84870

The foregoing appropriation item 490410, Long-Term Care 84871
Ombudsman, shall be used for a program to fund ombudsman program 84872
activities as authorized in sections 173.14 to 173.27 and section 84873
173.99 of the Revised Code. 84874

SENIOR COMMUNITY SERVICES 84875

The foregoing appropriation item 490411, Senior Community 84876
Services, shall be used for services designated by the Department 84877
of Aging, including, but not limited to, home-delivered and 84878
congregate meals, transportation services, personal care services, 84879
respite services, adult day services, home repair, care 84880
coordination, and decision support systems. Service priority shall 84881
be given to low income, frail, and cognitively impaired persons 60 84882
years of age and over. The department shall promote cost sharing 84883
by service recipients for those services funded with senior 84884
community services funds, including, when possible, sliding-fee 84885
scale payment systems based on the income of service recipients. 84886
84887

RESIDENTIAL STATE SUPPLEMENT 84888

Under the Residential State Supplement Program, the amount 84889
used to determine whether a resident is eligible for payment and 84890
for determining the amount per month the eligible resident will 84891
receive shall be as follows: 84892

(A) \$927 for a residential care facility, as defined in 84893
section 3721.01 of the Revised Code; 84894

(B) \$927 for an adult group home, as defined in Chapter 3722. 84895
of the Revised Code; 84896

(C) \$824 for an adult foster home, as defined in Chapter 173. 84897
of the Revised Code; 84898

(D) \$824 for an adult family home, as defined in Chapter 84899
3722. of the Revised Code; 84900

(E) \$824 for an adult community alternative home, as defined 84901
in Chapter 3724. of the Revised Code; 84902

(F) \$824 for an adult residential facility, as defined in 84903
Chapter 5119. of the Revised Code; 84904

(G) \$618 for adult community mental health housing services, 84905
as defined in division (B)(5) of section 173.35 of the Revised 84906
Code. 84907

The Departments of Aging and Job and Family Services shall 84908
reflect these amounts in any applicable rules the departments 84909
adopt under section 173.35 of the Revised Code. 84910

TRANSFER OF RESIDENTIAL STATE SUPPLEMENT APPROPRIATIONS 84911

The foregoing appropriation items 490412, Residential State 84912
Supplement, and 490610, PASSPORT/Residential State Supplement, may 84913
be used by the Director of Aging to transfer cash to the Home and 84914
Community Based Services for the Aged Fund (Fund 4J50), which is 84915
used by the Department of Job and Family Services. The transferred 84916
cash shall be used to make benefit payments to residential state 84917
supplement recipients. The transfer shall be made using an 84918
intrastate transfer voucher. 84919

RESIDENTIAL STATE SUPPLEMENT WORKGROUP 84920

(A) There is hereby created the Residential State Supplement 84921
Workgroup consisting of all of the following: 84922

(1) The Director of Aging or the Director's designee; 84923

(2) The Director of Health or the Director's designee; 84924

(3) The Director of Job and Family Services or the Director's 84925
designee; 84926

(4) The Director of Mental Health or the Director's designee. 84927

(B) The Director of Aging or the Director's designee shall 84928
serve as the chairperson of the Workgroup. Members of the 84929
Workgroup shall serve without compensation, except to the extent 84930
that serving on the Workgroup is considered part of their regular 84931
employment duties. 84932

(C) The Workgroup shall examine solely the issue of which 84933
state agency is the most appropriate to administer the Residential 84934

State Supplement Program. Not later than December 31, 2009, the 84935
Workgroup shall submit written recommendations on this issue to 84936
the Governor and, in accordance with section 101.68 of the Revised 84937
Code, to the General Assembly. The Workgroup shall cease to exist 84938
on submission of its recommendations. 84939

ALZHEIMER'S RESPITE 84940

The foregoing appropriation item 490414, Alzheimer's Respite, 84941
shall be used to fund only Alzheimer's disease services under 84942
section 173.04 of the Revised Code. 84943

ALZHEIMER'S RESPITE - FEDERAL STIMULUS 84944

The foregoing appropriation item 490625, Alzheimer's Respite 84945
- Federal Stimulus, shall be used to fund only Alzheimer's disease 84946
services under section 173.04 of the Revised Code. 84947

EDUCATION AND TRAINING 84948

The foregoing appropriation item 490606, Senior Community 84949
Outreach and Education, may be used to provide training to workers 84950
in the field of aging pursuant to division (G) of section 173.02 84951
of the Revised Code. 84952

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM 84953

The foregoing appropriation item 490609, Regional Long-Term 84954
Care Ombudsman, shall be used to pay the costs of operating the 84955
regional long-term care ombudsman programs designated by the 84956
Long-Term Care Ombudsman. 84957

PASSPORT/RESIDENTIAL STATE SUPPLEMENT 84958

The foregoing appropriation item 490610, PASSPORT/Residential 84959
State Supplement, may be used to fund the Residential State 84960
Supplement Program. The remaining available funds shall be used to 84961
fund the PASSPORT program. 84962

TRANSFER OF APPROPRIATIONS - FEDERAL INDEPENDENCE SERVICES 84963
AND FEDERAL AGING GRANTS 84964

At the request of the Director of Aging, the Director of Budget and Management may transfer appropriation between appropriation items 490612, Federal Independence Services, and 490618, Federal Aging Grants. The amounts transferred shall not exceed 30 per cent of the appropriation from which the transfer is made. Any transfers shall be reported by the Department of Aging to the Controlling Board at the next scheduled meeting of the board.

TRANSFER OF RESIDENT PROTECTION FUNDS

In each fiscal year, the Director of Budget and Management may transfer \$600,000 cash from the Resident Protection Fund (Fund 4E30), which is used by the Department of Job and Family Services, to the Ombudsman Support Fund (Fund 5BA0), which is used by the Department of Aging.

Section 209.40. UNIFIED LONG-TERM CARE BUDGET WORKGROUP

(A) There is hereby created the Unified Long-Term Care Budget Workgroup. The Workgroup shall consist of the following members:

(1) The Director of Aging;

(2) Consumer advocates, representatives of the provider community, and state policy makers, appointed by the Governor;

(3) Two members of the House of Representatives, one member from the majority party and one member from the minority party, appointed by the Speaker of the House of Representatives;

(4) Two members of the Senate, one member from the majority party and one member from the minority party, appointed by the President of the Senate.

The Director of Aging shall serve as the chairperson of the Workgroup.

The Workgroup shall be staffed by the departments of Aging

and Job and Family Services. 84994

(B) The Workgroup shall develop a unified long-term care 84995
budget that facilitates the following: 84996

(1) Providing a consumer a choice of services that meet the 84997
consumer's health care needs and improve the consumer's quality of 84998
life; 84999

(2) Providing a continuum of services that meet the needs of 85000
a consumer throughout life; 85001

(3) Consolidating policymaking authority and the associated 85002
budgets in a single entity to simplify the consumer's decision 85003
making and maximize the state's flexibility in meeting the 85004
consumer's needs; 85005

(4) Assuring the state has a system that is cost effective 85006
and links disparate services across agencies and jurisdictions. 85007

(C) On an annual basis, the Directors of Aging and Budget and 85008
Management shall submit a written report to the Speaker of the 85009
House of Representatives, the Minority Leader of the House of 85010
Representatives, the President of the Senate, the Minority Leader 85011
of the Senate, and the members of the Joint Legislative Committee 85012
on Medicaid Technology and Reform describing the progress towards 85013
establishing, or if already established, the effectiveness of the 85014
unified long-term care budget. 85015

(D) In support of the Workgroup's proposal, the Director of 85016
Budget and Management may seek Controlling Board approval to 85017
transfer cash from the Nursing Facility Stabilization Fund (Fund 85018
5R20), used by the Department of Job and Family Services, to the 85019
PASSPORT/Residential State Supplement Fund (Fund 4J40), used by 85020
the Department of Aging. 85021

Any transfers of cash approved by the Controlling Board under 85022
this section are hereby appropriated to appropriation item 490610, 85023

PASSPORT/Residential State Supplement. 85024

Section 209.50. OHIO'S BEST RX PROGRAM 85025

Notwithstanding the provisions of Chapter 173. of the Revised 85026
Code regarding the establishment and operation of the Ohio's Best 85027
Rx Program, the Director of Aging shall take all actions necessary 85028
to wind up the affairs of the program not later than January 1, 85029
2010. For purposes of this section, all of the following apply: 85030

85031

(A) Beginning on the effective date of this section, 85032
applications for program enrollment cards shall not be accepted 85033
and consideration of pending applications shall cease. 85034

(B) On November 15, 2009, each program enrollment card or the 85035
portion of a Golden Buckeye card used as a program enrollment card 85036
is no longer valid. 85037

(C) Except as provided in division (D) of this section, 85038
terminal distributors of dangerous drugs shall not dispense drugs 85039
under the program on or after November 15, 2009. 85040

(D) The drug mail order system included in the program shall 85041
dispense drugs under the program only for orders postmarked or 85042
otherwise submitted before November 15, 2009. 85043

(E) Drug manufacturers shall not enter into new manufacturer 85044
agreements on or after November 15, 2009, but shall continue to 85045
make payments in accordance with agreements in effect before 85046
November 15, 2009. 85047

(F) Accounts with terminal distributors of dangerous drugs 85048
and all other accounts under the program shall continue to be 85049
reconciled as necessary on and after November 15, 2009, but the 85050
accounts shall be closed not later than January 1, 2010, and are 85051
not subject to further reconciliation on or after January 1, 2010. 85052

85053

OHIO'S BEST RX ADMINISTRATION				85054
On January 1, 2010, or as soon as possible thereafter, the				85055
Director of Budget and Management shall transfer the cash balance				85056
in the Ohio's Best Rx Administration Fund (Fund 5AA0) to the				85057
General Revenue Fund. Upon completion of the transfer, Fund 5AA0				85058
is abolished. The Director shall cancel any existing encumbrances				85059
against appropriation item 490673, Ohio's Best Rx Administration.				85060
Section 211.10. AGR DEPARTMENT OF AGRICULTURE				85061
General Revenue Fund				85062
GRF 700401 Animal Disease Control	\$	3,617,777	\$ 3,617,777	85063
GRF 700403 Dairy Division	\$	1,110,277	\$ 1,110,277	85064
GRF 700404 Ohio Proud	\$	196,895	\$ 196,895	85065
GRF 700406 Consumer Analytical	\$	1,256,469	\$ 1,274,854	85066
Lab				
GRF 700407 Food Safety	\$	875,043	\$ 875,043	85067
GRF 700409 Farmland Preservation	\$	200,000	\$ 200,000	85068
GRF 700411 International Trade	\$	431,440	\$ 431,440	85069
and Market Development				
GRF 700412 Weights and Measures	\$	200,000	\$ 200,000	85070
GRF 700415 Poultry Inspection	\$	375,401	\$ 375,401	85071
GRF 700418 Livestock Regulation	\$	1,322,784	\$ 1,353,676	85072
Program				
GRF 700424 Livestock Testing and	\$	120,906	\$ 120,906	85073
Inspections				
GRF 700499 Meat Inspection	\$	4,920,926	\$ 4,960,926	85074
Program - State Share				
GRF 700501 County Agricultural	\$	334,903	\$ 334,903	85075
Societies				
GRF 700654 Agriculture Operating	\$	1,107,035	\$ 1,017,758	85076
- Federal Stimulus				
TOTAL GRF General Revenue Fund	\$	16,069,856	\$ 16,069,856	85077

General Services Fund Group				85078
5DA0	700644	Laboratory	\$ 1,100,000 \$	1,100,000 85079
		Administration		
		Support		
5GH0	700655	Central Support	\$ 5,713,404 \$	5,713,404 85080
		Indirect Cost		
TOTAL GSF General Services Fund				85081
Group				
Federal Special Revenue Fund Group				85082
3260	700618	Meat Inspection	\$ 4,950,000 \$	4,950,000 85083
		Program - Federal		
		Share		
3360	700617	Ohio Farm Loan	\$ 44,679 \$	44,679 85084
		Revolving Fund		
3820	700601	Cooperative Contracts	\$ 2,000,000 \$	2,000,000 85085
3AB0	700641	Agricultural Easement	\$ 1,000,000 \$	1,000,000 85086
3J40	700607	Indirect Cost	\$ 600,000 \$	600,000 85087
3R20	700614	Federal Plant	\$ 1,000,000 \$	1,000,000 85088
		Industry		
TOTAL FED Federal Special Revenue				85089
Fund Group				85090
State Special Revenue Fund Group				85091
4900	700651	License Plates -	\$ 20,000 \$	20,000 85092
		Sustainable		
		Agriculture		
4940	700612	Agricultural	\$ 250,000 \$	250,000 85093
		Commodity Marketing		
		Program		
4960	700626	Ohio Grape Industries	\$ 849,999 \$	849,999 85094
4970	700627	Commodity Handlers	\$ 496,000 \$	496,000 85095
4C90	700605	Commercial Feed and	\$ 2,200,000 \$	2,200,000 85096
		Seed		

4D20	700609	Auction Education	\$	41,000	\$	41,000	85097
4E40	700606	Utility Radiological Safety	\$	134,631	\$	134,631	85098
4P70	700610	Food Safety Inspection	\$	1,099,396	\$	1,099,396	85099
4R00	700636	Ohio Proud Marketing	\$	10,500	\$	10,500	85100
4R20	700637	Dairy Industry Inspection	\$	1,800,000	\$	1,800,000	85101
4T60	700611	Poultry and Meat Inspection	\$	153,339	\$	153,339	85102
4T70	700613	Ohio Proud International and Domestic Market Development	\$	15,000	\$	15,000	85103
5780	700620	Ride Inspection Fees	\$	1,000,001	\$	1,000,001	85104
5B80	700629	Auctioneers	\$	365,390	\$	365,390	85105
5CP0	700652	License Plate Scholarships	\$	20,000	\$	20,000	85106
5FB0	700647	Fuel Quality Testing	\$	25,000	\$	25,000	85107
5FC0	700648	Plant Pest Program	\$	1,000,000	\$	1,000,000	85108
5H20	700608	Metrology Lab and Scale Certification	\$	1,454,006	\$	1,454,006	85109
5L80	700604	Livestock Management Program	\$	256,286	\$	256,286	85110
6520	700634	Animal and Consumer Analytical Laboratory	\$	4,400,000	\$	4,400,000	85111
6690	700635	Pesticide, Fertilizer, and Lime Inspection Program	\$	3,470,000	\$	3,470,000	85112
TOTAL	SSR	State Special Revenue					85113
Fund Group			\$	19,060,548	\$	19,060,548	85114
Clean Ohio	Conservation	Fund Group					85115
7057	700632	Clean Ohio	\$	149,000	\$	149,000	85116

Agricultural Easement

TOTAL CLF Clean Ohio Conservation	\$	149,000	\$	149,000	85117
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	51,687,487	\$	51,687,487	85118

Section 211.20. COUNTY AGRICULTURAL SOCIETIES 85120

The foregoing appropriation item 700501, County Agricultural Societies, shall be used to reimburse county and independent agricultural societies for expenses related to Junior Fair activities. 85121
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85123
85124

FEDERAL ECONOMIC STIMULUS/RECOVERY FUNDS 85125

The foregoing appropriation item 700654, Agriculture Operating - Federal Stimulus, shall be used to support government services consistent with funds received from the federal government for fiscal stabilization and recovery purposes. 85126
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Section 211.30. COMMERCIAL FEED AND SEED FUND TRANSFER 85130

On July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management shall transfer thirty-two per cent of the cash balance in the Commercial Feed and Seed Fund (Fund 4C90) as of June 30, 2009, to the Pesticide, Fertilizer, and Lime Inspection Program Fund (Fund 6690). The Director shall cancel existing encumbrances against appropriation item 700605, Commercial Feed and Seed, and re-establish them against appropriation item 700635, Pesticide, Fertilizer, and Lime Inspection Program. The re-established encumbrance amounts are hereby appropriated. 85131
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PESTICIDE, FERTILIZER, AND LIME INSPECTION FUND TRANSFER 85141

On July, 1, 2009, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$600,000 in cash from the Pesticide, Fertilizer, and Lime Inspection Fund (Fund 6690) to the Plant Pest Program Fund (Fund 5FC0). 85142
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CLEAN OHIO AGRICULTURAL EASEMENT				85146
The foregoing appropriation item 700632, Clean Ohio				85147
Agricultural Easement, shall be used by the Department of				85148
Agriculture in administering sections 901.21, 901.22, and 5301.67				85149
to 5301.70 of the Revised Code.				85150
Section 213.10. AIR AIR QUALITY DEVELOPMENT AUTHORITY				85151
General Revenue Fund				85152
GRF 898402 Coal Development	\$	424,146	\$ 424,146	85153
Office				
GRF 898901 Coal Research and	\$	9,968,400	\$ 10,947,000	85154
Development General				
Obligation Debt				
Service				
TOTAL GRF General Revenue Fund	\$	10,392,546	\$ 11,371,146	85155
General Services Fund Group				85156
5EG0 898608 Energy Strategy	\$	307,000	\$ 307,000	85157
Development				
TOTAL GSF General Services Fund	\$	307,000	\$ 307,000	85158
Agency Fund Group				85159
4Z90 898602 Small Business	\$	294,290	\$ 294,290	85160
Ombudsman				
5700 898601 Operating Expenses	\$	264,000	\$ 264,000	85161
5A00 898603 Small Business	\$	71,087	\$ 71,087	85162
Assistance				
TOTAL AGY Agency Fund Group	\$	629,377	\$ 629,377	85163
Coal Research/Development Fund				85164
7046 898604 Coal Research and	\$	66,000,000	\$ 10,000,000	85165
Development Fund				
TOTAL 046 Coal Research and	\$	66,000,000	\$ 10,000,000	85166
Development Fund				

Central Support	Environmental	\$	35,000	\$	35,000	85192
Indirect Cost Fund	Protection Agency					
(Fund 2190)						
Central Support	Department of	\$	35,000	\$	35,000	85193
Indirect Chargeback	Natural Resources					
Fund (Fund 1570)						
Highway Operating Fund	Department of	\$	50,000	\$	50,000	85194
(Fund 7002)	Transportation					

Section 213.30. REIMBURSEMENT TO AIR QUALITY DEVELOPMENT 85195
AUTHORITY TRUST ACCOUNT 85196

Notwithstanding any other provision of law to the contrary, 85197
the Air Quality Development Authority may reimburse the Air 85198
Quality Development Authority trust account established under 85199
section 3706.10 of the Revised Code from all operating funds of 85200
the agency for expenses pertaining to the administration and 85201
shared costs incurred by the Air Quality Development Authority in 85202
the execution of responsibilities as prescribed in Chapter 3706. 85203
of the Revised Code. Reimbursement shall be made by voucher and 85204
completed in accordance with the administrative indirect costs 85205
allocation plan approved by the Office of Budget and Management. 85206

Section 215.10. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION 85207
SERVICES 85208

General Revenue Fund						85209
GRF 038401	Treatment Services	\$	37,125,594	\$	35,357,594	85210
GRF 038404	Prevention Services	\$	1,241,702	\$	1,241,702	85211
GRF 038626	Local Alcohol and	\$	0	\$	2,954,598	85212
	Other Drug Subsidy -					
	Federal Stimulus					
TOTAL GRF General Revenue Fund		\$	38,367,296	\$	39,553,894	85213
General Services Fund						85214

5T90 038616	Problem Gambling	\$	335,000	\$	335,000	85215
	Services					
TOTAL GSF	General Services Fund	\$	335,000	\$	335,000	85216
Group						
Federal Special Revenue Fund Group						85217
3G30 038603	Drug Free Schools	\$	2,260,000	\$	2,260,000	85218
3G40 038614	Substance Abuse Block	\$	71,500,000	\$	71,500,000	85219
	Grant					
3H80 038609	Demonstration Grants	\$	7,093,075	\$	7,093,075	85220
3J80 038610	Medicaid	\$	62,460,042	\$	60,515,333	85221
3N80 038611	Administrative	\$	500,000	\$	500,000	85222
	Reimbursement					
TOTAL FED	Federal Special Revenue					85223
Fund Group		\$	143,813,117	\$	141,868,408	85224
State Special Revenue Fund Group						85225
4750 038621	Statewide Treatment	\$	18,000,000	\$	18,000,000	85226
	and Prevention					
5DH0 038620	Fetal Alcohol	\$	327,500	\$	327,500	85227
	Spectrum Disorder					
6890 038604	Education and	\$	350,000	\$	350,000	85228
	Conferences					
TOTAL SSR	State Special Revenue					85229
Fund Group		\$	18,677,500	\$	18,677,500	85230
TOTAL ALL BUDGET FUND GROUPS		\$	201,192,913	\$	200,434,802	85231
Section 217.10.	ARC STATE BOARD OF EXAMINERS OF ARCHITECTS					85233
General Services Fund Group						85234
4K90 891609	Operating Expenses	\$	522,055	\$	550,718	85235
TOTAL GSF	General Services Fund					85236
Group		\$	522,055	\$	550,718	85237
TOTAL ALL BUDGET FUND GROUPS		\$	522,055	\$	550,718	85238

Section 219.10. ART OHIO ARTS COUNCIL				85240
General Revenue Fund				85241
GRF 370321	Operating Expenses	\$ 2,072,545	\$ 2,072,545	85242
GRF 370502	State Program	\$ 7,347,868	\$ 7,347,868	85243
Subsidies				
TOTAL GRF	General Revenue Fund	\$ 9,420,413	\$ 9,420,413	85244
General Services Fund Group				85245
4600 370602	Management Expenses and Donations	\$ 285,000	\$ 285,000	85246
4B70 370603	Percent for Art Acquisitions	\$ 500,000	\$ 500,000	85247
TOTAL GSF	General Services Fund Group	\$ 785,000	\$ 785,000	85248
Federal Special Revenue Fund Group				85249
3140 370601	Federal Support	\$ 1,000,000	\$ 1,000,000	85250
TOTAL FED	Federal Special Revenue Fund Group	\$ 1,000,000	\$ 1,000,000	85251
TOTAL ALL BUDGET FUND GROUPS		\$ 11,205,413	\$ 11,205,413	85252
PROGRAM SUBSIDIES				85253
A museum is not eligible to receive funds from appropriation				85254
item 370502, State Program Subsidies, if \$8,000,000 or more in				85255
capital appropriations were appropriated by the state for the				85256
museum between January 1, 1986, and December 31, 2002.				85257
Section 221.10. ATH ATHLETIC COMMISSION				85258
General Services Fund Group				85259
4K90 175609	Operating Expenses	\$ 255,850	\$ 255,850	85260
TOTAL GSF	General Services Fund Group	\$ 255,850	\$ 255,850	85261
TOTAL ALL BUDGET FUND GROUPS		\$ 255,850	\$ 255,850	85262

Section 223.10. AGO ATTORNEY GENERAL				85264
General Revenue Fund				85265
GRF	055321	Operating Expenses	\$ 46,499,699 \$ 46,499,699	85266
GRF	055411	County Sheriffs' Pay Supplement	\$ 757,921 \$ 757,921	85267
GRF	055415	County Prosecutors' Pay Supplement	\$ 831,499 \$ 831,499	85268
TOTAL GRF	General Revenue Fund		\$ 48,089,119 \$ 48,089,119	85269
General Services Fund Group				85270
1060	055612	General Reimbursement	\$ 38,750,000 \$ 38,750,000	85271
1950	055660	Workers' Compensation Section	\$ 8,415,504 \$ 8,415,504	85272
4180	055615	Charitable Foundations	\$ 7,286,000 \$ 7,286,000	85273
4200	055603	Attorney General Antitrust	\$ 1,750,000 \$ 1,750,000	85274
4210	055617	Police Officers' Training Academy Fee	\$ 2,000,000 \$ 2,000,000	85275
4Z20	055609	BCI Asset Forfeiture and Cost Reimbursement	\$ 1,000,000 \$ 1,000,000	85276
5900	055633	Peace Officer Private Security Fund	\$ 98,370 \$ 98,370	85277
5A90	055618	Telemarketing Fraud Enforcement	\$ 7,500 \$ 7,500	85278
5L50	055619	Law Enforcement Assistance Program	\$ 1,457,852 \$ 0	85279
6290	055636	Corrupt Activity Investigation and Prosecution	\$ 15,000 \$ 15,000	85280
6310	055637	Consumer Protection	\$ 3,500,000 \$ 3,500,000	85281

Enforcement				
TOTAL GSF General Services Fund				85282
Group	\$	64,280,226	\$	62,822,374 85283
Federal Special Revenue Fund Group				85284
3060 055620 Medicaid Fraud	\$	3,879,672	\$	3,879,672 85285
Control				
3810 055611 Civil Rights Legal	\$	402,540	\$	402,540 85286
Service				
3830 055634 Crime Victims	\$	16,000,000	\$	16,000,000 85287
Assistance				
3E50 055638 Attorney General	\$	3,030,000	\$	3,030,000 85288
Pass-Through Funds				
3R60 055613 Attorney General	\$	5,115,000	\$	5,115,000 85289
Federal Funds				
TOTAL FED Federal Special Revenue				85290
Fund Group	\$	28,427,212	\$	28,427,212 85291
State Special Revenue Fund Group				85292
4020 055616 Victims of Crime	\$	29,000,000	\$	28,000,000 85293
4190 055623 Claims Section	\$	36,875,000	\$	36,875,000 85294
4L60 055606 DARE Programs	\$	3,927,962	\$	3,927,962 85295
4Y70 055608 Title Defect	\$	600,000	\$	600,000 85296
Rescission				
6590 055641 Solid and Hazardous	\$	621,159	\$	621,159 85297
Waste Background				
Investigations				
TOTAL SSR State Special Revenue				85298
Fund Group	\$	71,024,121	\$	70,024,121 85299
Holding Account Redistribution Fund Group				85300
R004 055631 General Holding	\$	1,000,000	\$	1,000,000 85301
Account				
R005 055632 Antitrust Settlements	\$	1,000	\$	1,000 85302
R018 055630 Consumer Frauds	\$	750,000	\$	750,000 85303

R042	055601	Organized Crime Commission Distributions	\$	25,025	\$	25,025	85304
R054	055650	Collection Outside Counsel Payments	\$	4,500,000	\$	4,500,000	85305
TOTAL	090	Holding Account					85306
Redistribution		Fund Group	\$	6,276,025	\$	6,276,025	85307
Tobacco Master		Settlement Agreement					85308
Fund Group							
J087	055635	Law Enforcement Technology, Training, and Facility Enhancements	\$	1,987,073	\$	0	85309
U087	055402	Tobacco Settlement Oversight, Administration, and Enforcement	\$	2,478,850	\$	2,478,850	85310
TOTAL	TSF	Tobacco Master Settlement	\$	4,465,923	\$	2,478,850	85311
Agreement		Fund Group					
TOTAL	ALL	BUDGET FUND GROUPS	\$	222,562,626	\$	218,117,701	85312
		COUNTY SHERIFFS' PAY SUPPLEMENT					85313
		The foregoing appropriation item 055411, County Sheriffs' Pay					85314
		Supplement, shall be used for the purpose of supplementing the					85315
		annual compensation of county sheriffs as required by section					85316
		325.06 of the Revised Code.					85317
		At the request of the Attorney General, the Director of					85318
		Budget and Management may transfer appropriation from					85319
		appropriation item 055321, Operating Expenses, to appropriation					85320
		item 055411, County Sheriffs' Pay Supplement. Any appropriation so					85321
		transferred shall be used to supplement the annual compensation of					85322
		county sheriffs as required by section 325.06 of the Revised Code.					85323
							85324
		COUNTY PROSECUTORS' PAY SUPPLEMENT					85325

The foregoing appropriation item 055415, County Prosecutors' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of certain county prosecutors as required by section 325.111 of the Revised Code.

At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055415, County Prosecutors' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county prosecutors as required by section 325.111 of the Revised Code.

WORKERS' COMPENSATION SECTION

The Workers' Compensation Fund (Fund 1950) is entitled to receive payments from the Bureau of Workers' Compensation and the Ohio Industrial Commission at the beginning of each quarter of each fiscal year to fund legal services to be provided to the Bureau of Workers' Compensation and the Ohio Industrial Commission during the ensuing quarter. The advance payment shall be subject to adjustment.

In addition, the Bureau of Workers' Compensation shall transfer payments at the beginning of each quarter for the support of the Workers' Compensation Fraud Unit.

All amounts shall be mutually agreed upon by the Attorney General, the Bureau of Workers' Compensation, and the Ohio Industrial Commission.

CORRUPT ACTIVITY INVESTIGATION AND PROSECUTION

The foregoing appropriation item 055636, Corrupt Activity Investigation and Prosecution, shall be used as provided by division (D)(2) of section 2923.35 of the Revised Code to dispose of the proceeds, fines, and penalties credited to the Corrupt Activity Investigation and Prosecution Fund, which is created in

division (D)(1)(b) of section 2923.35 of the Revised Code.	85357
GENERAL HOLDING ACCOUNT	85358
The foregoing appropriation item 055631, General Holding Account, shall be used to distribute moneys under the terms of relevant court orders or other settlements received in a variety of cases involving the Office of the Attorney General.	85359 85360 85361 85362
ATTORNEY GENERAL PASS-THROUGH FUNDS	85363
The foregoing appropriation item 055638, Attorney General Pass-Through Funds, shall be used to receive federal grant funds provided to the Attorney General by other state agencies, including, but not limited to, the Department of Youth Services and the Department of Public Safety.	85364 85365 85366 85367 85368
ANTITRUST SETTLEMENTS	85369
The foregoing appropriation item 055632, Antitrust Settlements, shall be used to distribute court-ordered antitrust settlements in which the Office of Attorney General represents the state or a political subdivision under section 109.81 of the Revised Code.	85370 85371 85372 85373 85374
CONSUMER FRAUDS	85375
The foregoing appropriation item 055630, Consumer Frauds, shall be used for distribution of moneys from court-ordered judgments against sellers in actions brought by the Office of Attorney General under sections 1334.08 and 4549.48 and division (B) of section 1345.07 of the Revised Code. These moneys shall be used to provide restitution to consumers victimized by the fraud that generated the court-ordered judgments.	85376 85377 85378 85379 85380 85381 85382
ORGANIZED CRIME COMMISSION DISTRIBUTIONS	85383
The foregoing appropriation item 055601, Organized Crime Commission Distributions, shall be used by the Organized Crime Investigations Commission, as provided by section 177.011 of the	85384 85385 85386

Revised Code, to reimburse political subdivisions for the expenses	85387
the political subdivisions incur when their law enforcement	85388
officers participate in an organized crime task force.	85389
 FUND ABOLISHMENTS	 85390
Effective July 1, 2009, or as soon as possible thereafter,	85391
the Director of Budget and Management shall transfer the cash	85392
balance in the Domestic Violence Shelters Fund (Fund 4170) to the	85393
Reparations Fund (Fund 4020). Upon completion of the transfer,	85394
Fund 4170 is abolished. Funds received for deposit in the state	85395
treasury on or after July 1, 2009, that would otherwise have been	85396
credited to Fund 4170 shall be credited to Fund 4020.	85397
 Effective July 1, 2009, or as soon as possible thereafter,	 85398
the Director of Budget and Management shall transfer the cash	85399
balance in the Asbestos Abatement Distribution Fund (Fund 6740) to	85400
the General Revenue Fund. Upon completion of the transfer, Fund	85401
6740 is abolished.	85402
 Effective July 1, 2009, the Bingo License Refunds Fund (Fund	 85403
R003) is abolished.	85404
 Section 225.10. AUD AUDITOR OF STATE	 85405
 General Revenue Fund	 85406
GRF 070321 Operating Expenses \$ 30,029,775 \$ 30,029,775	85407
GRF 070403 Fiscal \$ 570,000 \$ 570,000	85408
Watch/Emergency	
Technical Assistance	
TOTAL GRF General Revenue Fund \$ 30,599,775 \$ 30,599,775	85409
 Auditor of State Fund Group	 85410
1090 070601 Public Audit Expense \$ 11,000,000 \$ 11,000,000	85411
- Intra-State	
4220 070602 Public Audit Expense \$ 30,828,000 \$ 31,053,000	85412
- Local Government	

5840	070603	Training Program	\$	181,250	\$	181,250	85413
6750	070605	Uniform Accounting	\$	3,317,336	\$	3,317,336	85414
		Network					
TOTAL AUD Auditor of State Fund							85415
Group							
			\$	45,326,586	\$	45,551,586	85416
TOTAL ALL BUDGET FUND GROUPS							
			\$	75,926,361	\$	76,151,361	85417

FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE 85418

The foregoing appropriation item 070403, Fiscal 85419
Watch/Emergency Technical Assistance, shall be used for expenses 85420
incurred by the Office of the Auditor of State in its role 85421
relating to fiscal watch or fiscal emergency activities under 85422
Chapters 118. and 3316. of the Revised Code. Expenses include, but 85423
are not limited to, the following: duties related to the 85424
determination or termination of fiscal watch or fiscal emergency 85425
of municipal corporations, counties, townships, or school 85426
districts; development of preliminary accounting reports; 85427
performance of annual forecasts; provision of performance audits; 85428
and supervisory, accounting, or auditing services for the 85429
municipal corporations, counties, townships, or school districts. 85430

An amount equal to the unexpended, unencumbered portion of 85431
appropriation item 070403, Fiscal Watch/Emergency Technical 85432
Assistance, at the end of fiscal year 2010 is hereby 85433
reappropriated for the same purpose in fiscal year 2011. 85434

Section 227.10. BRB BOARD OF BARBER EXAMINERS 85435

General Services Fund Group							85436
4K90	877609	Operating Expenses	\$	628,264	\$	628,264	85437
TOTAL GSF General Services Fund							85438
Group							
			\$	628,264	\$	628,264	85439
TOTAL ALL BUDGET FUND GROUPS							
			\$	628,264	\$	628,264	85440

Section 229.10. OBM OFFICE OF BUDGET AND MANAGEMENT 85442

General Revenue Fund				85443
GRF	042321	Budget Development and Implementation	\$ 2,412,346 \$ 2,350,805	85444
GRF	042410	National Association Dues	\$ 30,448 \$ 31,361	85445
GRF	042412	Audit of Auditor of State	\$ 44,528 \$ 46,309	85446
GRF	042413	Payment Issuance	\$ 446,968 \$ 457,545	85447
GRF	042416	Medicaid Agency Transition	\$ 571,028 \$ 369,298	85448
GRF	042435	Gubernatorial Transition	\$ 0 \$ 250,000	85449
TOTAL GRF General Revenue Fund			\$ 3,505,318 \$ 3,505,318	85450
General Services Fund Group				85451
1050	042603	State Accounting and Budgeting	\$ 37,031,976 \$ 41,206,060	85452
5N40	042602	OAKS Project Implementation	\$ 2,100,000 \$ 2,100,000	85453
5Z80	042608	Executive Medicaid Administration	\$ 57,751 \$ 0	85454
TOTAL GSF General Services Fund Group			\$ 39,189,727 \$ 43,306,060	85455
Federal Special Revenue Fund Group				85456
3CM0	042606	Medicaid Transition - Federal	\$ 734,979 \$ 747,098	85457
TOTAL FED Federal Special Revenue Fund Group			\$ 734,979 \$ 747,098	85458
Agency Fund Group				85459
5EH0	042604	Forgery Recovery	\$ 50,000 \$ 50,000	85460
TOTAL AGY Agency Fund Group			\$ 50,000 \$ 50,000	85461
TOTAL ALL BUDGET FUND GROUPS			\$ 43,480,024 \$ 47,608,476	85462
AUDIT COSTS				85463

Of the foregoing appropriation item 042603, State Accounting 85464
and Budgeting, not more than \$456,000 in fiscal year 2010 and not 85465
more than \$467,000 in fiscal year 2011 shall be used to pay for 85466
centralized audit costs associated with either Single Audit 85467
Schedules or financial statements prepared in conformance with 85468
generally accepted accounting principles for the state. 85469

SHARED SERVICES CENTER 85470

The Director of Budget and Management shall use the OAKS 85471
Project Implementation Fund (Fund 5N40) and the Accounting and 85472
Budgeting Fund (Fund 1050) to implement a Shared Services Center 85473
within the Office of Budget and Management for the purpose of 85474
consolidating statewide finance functions and common transactional 85475
processes. The Director of Budget and Management shall transfer 85476
the unobligated cash balance remaining in Fund 5N40 to the General 85477
Revenue Fund before the end of fiscal year 2011. 85478

Effective July 1, 2009, the Director of Budget and Management 85479
shall include the recovery of costs to operate the Shared Services 85480
Center in the accounting and budgeting services payroll rate and 85481
through a direct charge using intrastate transfer vouchers to 85482
agencies for services rendered. The Director of Budget and 85483
Management shall determine the cost recovery methodology. Such 85484
cost recovery revenues shall be deposited to the credit of Fund 85485
1050. 85486

Effective July 1, 2009, the Director of Budget and Management 85487
may enter into any contract or agreement necessary to carry out 85488
the director's duties set forth in this section or in division (C) 85489
of section 126.21 of the Revised Code. 85490

INTERNAL CONTROL AND AUDIT OVERSIGHT 85491

Effective July 1, 2009, the Director of Budget and Management 85492
shall include the recovery of costs to operate the Internal 85493
Control and Audit Oversight Program in the accounting and 85494

budgeting services payroll rate and through a direct charge using 85495
intrastate transfer vouchers to agencies reviewed by the program. 85496
The Director of Budget and Management, with advice from the 85497
Internal Audit Advisory Council, shall determine the cost recovery 85498
methodology. Such cost recovery revenues shall be deposited to the 85499
credit of the Accounting and Budgeting Fund (Fund 1050). 85500

FORGERY RECOVERY 85501

The foregoing appropriation item 042604, Forgery Recovery, 85502
shall be used to reissue warrants that have been certified as 85503
forgeries by the rightful recipient as determined by the Bureau of 85504
Criminal Identification and Investigation and the Treasurer of 85505
State. Upon receipt of funds to cover the reissuance of the 85506
warrant, the Director of Budget and Management shall reissue a 85507
state warrant of the same amount. 85508

OAKS SUPPORT 85509

Consistent with its responsibilities under Chapter 126. of 85510
the Revised Code, the Director of Budget and Management shall 85511
operate and maintain the financial management module of the 85512
state's enterprise resource planning system, the Ohio 85513
Administrative Knowledge System (OAKS). Effective July 1, 2009, 85514
the Director of Budget and Management shall include in the 85515
accounting and budgeting services payroll rate the recovery of the 85516
estimated costs of the information technology services provided by 85517
the Office of Information Technology in the Department of 85518
Administrative Services in support of the financial management 85519
module of OAKS, up to \$9,610,874 in fiscal year 2010 and up to 85520
\$9,733,416 in fiscal year 2011. Such cost recovery revenues shall 85521
be deposited to the credit of the Accounting and Budgeting Fund 85522
(Fund 1050) and paid not less than quarterly to the OAKS Support 85523
Organization Fund (Fund 5EB0) by intrastate transfer vouchers in 85524
accordance with the budget and cost allocation plan approved by 85525
the Director of Budget and Management for each fiscal year of the 85526

biennium. The Director of Administrative Services may offset this 85527
proportional allocation with intrastate transfer voucher billings 85528
to or cash transfers from other funds used by the Department of 85529
Administrative Services to support costs paid from the OAKS 85530
Support Organization Fund (Fund 5EB0). 85531

Section 231.10. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD 85532

General Revenue Fund 85533

GRF 874100 Personal Services \$ 1,873,368 \$ 1,873,368 85534

GRF 874320 Maintenance and \$ 752,591 \$ 752,590 85535
Equipment

TOTAL GRF General Revenue Fund \$ 2,625,959 \$ 2,625,958 85536

General Services Fund Group 85537

4G50 874603 Capitol Square \$ 15,000 \$ 15,000 85538

Education Center and
Arts

4S70 874602 Statehouse Gift \$ 799,995 \$ 794,651 85539

Shop/Events

TOTAL GSF General Services 85540

Fund Group \$ 814,995 \$ 809,651 85541

Underground Parking Garage 85542

2080 874601 Underground Parking \$ 2,923,224 \$ 2,979,615 85543

Garage Operations

TOTAL UPG Underground Parking 85544

Garage \$ 2,923,224 \$ 2,979,615 85545

TOTAL ALL BUDGET FUND GROUPS \$ 6,364,178 \$ 6,415,224 85546

WAREHOUSE PAYMENTS 85547

Of the foregoing appropriation item 874601, Underground 85548

Parking Garage Operations, \$48,000 in each fiscal year shall be 85549

used to meet all payments at the times they are required to be 85550

made during the period from July 1, 2009, to June 30, 2011, to the 85551

Ohio Building Authority for bond service charges relating to the 85552
purchase and improvement of a warehouse acquired pursuant to 85553
section 105.41 of the Revised Code, in which to store items of the 85554
Capitol Collection Trust and, whenever necessary, equipment or 85555
other property of the Board. 85556

Section 233.10. SCR STATE BOARD OF CAREER COLLEGES AND 85557
SCHOOLS 85558

General Services Fund Group 85559
4K90 233601 Operating Expenses \$ 572,700 \$ 572,700 85560
TOTAL GSF General Services Fund \$ 572,700 \$ 572,700 85561
Group
TOTAL ALL BUDGET FUND GROUPS \$ 572,700 \$ 572,700 85562

Section 235.10. CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD 85564

General Services Fund Group 85565
4K90 930609 Operating Expenses \$ 551,146 \$ 551,146 85566
TOTAL GSF General Services Fund \$ 551,146 \$ 551,146 85567
Group
TOTAL ALL BUDGET FUND GROUPS \$ 551,146 \$ 551,146 85568

Section 237.10. CHR STATE CHIROPRACTIC BOARD 85570

General Services Fund Group 85571
4K90 878609 Operating Expenses \$ 621,621 \$ 621,621 85572
TOTAL GSF General Services Fund \$ 621,621 \$ 621,621 85573
Group
TOTAL ALL BUDGET FUND GROUPS \$ 621,621 \$ 621,621 85574

Section 239.10. CIV OHIO CIVIL RIGHTS COMMISSION 85576

General Revenue Fund 85577
GRF 876321 Operating Expenses \$ 5,441,317 \$ 5,441,317 85578
TOTAL GRF General Revenue Fund \$ 5,441,317 \$ 5,441,317 85579

Federal Special Revenue Fund Group				85580
3340 876601 Federal Programs	\$	3,876,500	\$ 3,281,500	85581
TOTAL FED Federal Special Revenue				85582
Fund Group	\$	3,876,500	\$ 3,281,500	85583
State Special Revenue Fund Group				85584
2170 876604 Operations Support	\$	8,000	\$ 8,000	85585
TOTAL SSR State Special				85586
Revenue Fund Group	\$	8,000	\$ 8,000	85587
TOTAL ALL BUDGET FUND GROUPS	\$	9,325,817	\$ 8,730,817	85588

Section 241.10. COM DEPARTMENT OF COMMERCE 85590

General Revenue Fund				85591
GRF 800410 Labor and Worker	\$	2,132,396	\$ 2,132,396	85592
Safety				
Total GRF General Revenue Fund	\$	2,132,396	\$ 2,132,396	85593
General Services Fund Group				85594
1630 800620 Division of	\$	7,270,049	\$ 7,411,286	85595
Administration				
1630 800637 Information	\$	6,219,734	\$ 6,137,122	85596
Technology				
5430 800602 Unclaimed	\$	9,948,085	\$ 9,948,085	85597
Funds-Operating				
5430 800625 Unclaimed	\$	75,000,000	\$ 75,000,000	85598
Funds-Claims				
5F10 800635 Small Government Fire	\$	300,000	\$ 300,000	85599
Departments				
TOTAL GSF General Services Fund				85600
Group	\$	98,737,868	\$ 98,796,493	85601
Federal Special Revenue Fund Group				85602
3480 800622 Underground Storage	\$	586,128	\$ 585,782	85603
Tanks				

3480 800624	Leaking Underground Storage Tanks	\$	1,477,606	\$	1,489,717	85604
TOTAL FED Federal Special Revenue						85605
Fund Group		\$	2,063,734	\$	2,075,499	85606
State Special Revenue Fund Group						85607
4B20 800631	Real Estate Appraisal Recovery	\$	35,000	\$	35,000	85608
4H90 800608	Cemeteries	\$	273,465	\$	273,465	85609
4X20 800619	Financial Institutions	\$	2,233,031	\$	2,221,395	85610
5440 800612	Banks	\$	6,703,253	\$	6,753,254	85611
5450 800613	Savings Institutions	\$	2,286,615	\$	2,307,019	85612
5460 800610	Fire Marshal	\$	15,118,673	\$	15,191,721	85613
5460 800639	Fire Department Grants	\$	1,695,198	\$	1,698,802	85614
5470 800603	Real Estate Education/Research	\$	250,000	\$	250,000	85615
5480 800611	Real Estate Recovery	\$	50,000	\$	50,000	85616
5490 800614	Real Estate	\$	3,456,405	\$	3,451,694	85617
5500 800617	Securities	\$	4,761,545	\$	4,411,545	85618
5520 800604	Credit Union	\$	3,627,390	\$	3,627,390	85619
5530 800607	Consumer Finance	\$	5,367,260	\$	5,148,702	85620
5560 800615	Industrial Compliance	\$	25,753,662	\$	26,713,417	85621
5K70 800621	Penalty Enforcement	\$	150,000	\$	150,000	85622
5X60 800623	Video Service	\$	34,476	\$	34,476	85623
6530 800629	UST Registration/Permit Fee	\$	1,433,189	\$	1,431,831	85624
6A40 800630	Real Estate Appraiser-Operating	\$	664,006	\$	664,006	85625
TOTAL SSR State Special Revenue						85626
Fund Group		\$	73,893,168	\$	74,413,717	85627
Liquor Control Fund Group						85628
7043 800601	Merchandising	\$	472,492,696	\$	488,434,277	85629

7043 800627	Liquor Control	\$	13,776,430	\$	14,313,346	85630
	Operating					
7043 800633	Development Assistance	\$	40,565,100	\$	52,412,800	85631
	Debt Service					
7043 800636	Revitalization Debt	\$	15,632,800	\$	20,359,000	85632
	Service					
TOTAL LCF Liquor Control						85633
Fund Group		\$	542,467,026	\$	575,519,423	85634
Volunteer Firefighters' Dependents Fund Group						85635
7085 8000985	Volunteer	\$	300,000	\$	300,000	85636
	Firefighters'					
	Dependents Fund					
TOTAL 085 Volunteer Firefighters'						85637
Dependents Fund Group						
Revenue Distribution Fund Group						85638
7066 800966	Undivided Liquor	\$	14,100,000	\$	14,100,000	85639
	Permits					
TOTAL RDF Revenue Distribution Fund						85640
Group						
TOTAL ALL BUDGET FUND GROUPS						85641
SMALL GOVERNMENT FIRE DEPARTMENTS						85642
Notwithstanding section 3737.17 of the Revised Code, the						85643
foregoing appropriation item 800635, Small Government Fire						85644
Departments, may be used to provide loans to private fire						85645
departments.						85646
UNCLAIMED FUNDS PAYMENTS						85647
The foregoing appropriation item 800625, Unclaimed						85648
Funds-Claims, shall be used to pay claims under section 169.08 of						85649
the Revised Code. If it is determined that additional amounts are						85650
necessary, the amounts are appropriated.						85651
UNCLAIMED FUNDS TRANSFERS						85652

Notwithstanding division (A) of section 169.05 of the Revised Code, on or after December 1, 2009, the Director of Budget and Management shall request the Director of Commerce to transfer to the General Revenue Fund up to \$200,000,000 of unclaimed funds that have been reported by holders of unclaimed funds under section 169.05 of the Revised Code, irrespective of the allocation of the unclaimed funds under that section. After such request has been made, the Director of Commerce shall transfer the funds prior to June 30, 2010.

Notwithstanding division (A) of section 169.05 of the Revised Code, on or after December 1, 2010, the Director of Budget and Management shall request the Director of Commerce to transfer to the General Revenue Fund up to \$85,000,000 of unclaimed funds that have been reported by holders of unclaimed funds under section 169.05 of the Revised Code, irrespective of the allocation of the unclaimed funds under that section. After such request has been made, the Director of Commerce shall transfer the funds prior to June 30, 2011.

FIRE DEPARTMENT GRANTS

Of the foregoing appropriation item 800639, Fire Department Grants, up to \$760,000 in each fiscal year shall be used to make annual grants to volunteer fire departments of up to \$10,000, or up to \$25,000 if the volunteer fire department provides service for an area affected by a natural disaster. The grant program shall be administered by the Fire Marshal. The Fire Marshal shall adopt rules as are necessary for the administration and operation of the grant program.

Of the foregoing appropriation item 800639, Fire Department Grants, up to \$887,140 in each fiscal year shall be used as full or partial reimbursement to local units of government and fire departments for the cost of firefighter training and equipment or gear. Under rules that the department shall adopt, a local unit of

government or fire department may apply to the department for a grant to cover all documented costs that are incurred to provide firefighter training and equipment or gear. The department shall make grants within the limits of the funding provided, with priority given to fire departments that serve small villages and townships.

INCREASED APPROPRIATION - MERCHANDISING

The foregoing appropriation item 800601, Merchandising, shall be used under section 4301.12 of the Revised Code. If it is determined that additional expenditures are necessary, the amounts are appropriated.

DEVELOPMENT ASSISTANCE DEBT SERVICE

The foregoing appropriation item 800633, Development Assistance Debt Service, shall be used to pay debt service and related financing costs at the times they are required to be made during the period from July 1, 2009, to June 30, 2011, for bond service charges on obligations issued under Chapter 166. of the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are appropriated, subject to the limitations set forth in section 166.11 of the Revised Code. An appropriation for this purpose is not required, but is made in this form and in this act for record purposes only.

REVITALIZATION DEBT SERVICE

The foregoing appropriation item 800636, Revitalization Debt Service, shall be used to pay debt service and related financing costs under sections 151.01 and 151.40 of the Revised Code during the period from July 1, 2009, to June 30, 2011. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated. The General Assembly acknowledges the priority of the pledge of a portion of

receipts from that source to obligations issued and to be issued 85716
under Chapter 166. of the Revised Code. 85717

ADMINISTRATIVE ASSESSMENTS 85718

Notwithstanding any other provision of law to the contrary, 85719
the Division of Administration Fund (Fund 1630) is entitled to 85720
receive assessments from all operating funds of the Department in 85721
accordance with procedures prescribed by the Director of Commerce 85722
and approved by the Director of Budget and Management. 85723

Section 241.20. ABOLISHMENT OF THE DIVISION OF LABOR AND 85724
WORKER SAFETY AND THE DIVISION OF INDUSTRIAL COMPLIANCE IN THE 85725
DEPARTMENT OF COMMERCE 85726

The Division of Labor and Worker Safety in the Department of 85727
Commerce and the Division of Industrial Compliance in the 85728
Department of Commerce are hereby abolished on the effective date 85729
of section 121.04 of the Revised Code, as amended by this act. The 85730
Division of Labor shall supersede the Division of Labor and Worker 85731
Safety and Division of Industrial Compliance, and the 85732
Superintendent of Labor shall supersede the Superintendent of 85733
Labor and Worker Safety and the Superintendent of Industrial 85734
Compliance. The Superintendent of Labor or Division of Labor, as 85735
applicable, shall succeed to and have and perform all the duties, 85736
powers, and obligations pertaining to the duties, powers, and 85737
obligations of the Superintendent and Division of Labor and Worker 85738
Safety and the Superintendent and Division of Industrial 85739
Compliance. For the purpose of the institution, conduct, and 85740
completion of matters relating to its succession, the 85741
Superintendent of Labor or the Division of Labor, as applicable, 85742
is deemed to be the continuation of and successor under law to the 85743
Superintendent and Division of Labor and Worker Safety or the 85744
Superintendent and Division of Industrial Compliance, as 85745
applicable. All rules, actions, determinations, commitments, 85746

resolutions, decisions, and agreements pertaining to those duties, 85747
powers, obligations, functions, and rights in force or in effect 85748
on the effective date of section 121.04 of the Revised Code, as 85749
amended by this act, shall continue in force and effect subject to 85750
any further lawful action thereon by the Superintendent or 85751
Division of Labor. Wherever the Superintendent of Labor and Worker 85752
Safety, Division of Labor and Worker Safety, Superintendent of 85753
Industrial Compliance, or Division of Industrial Compliance are 85754
referred to in any provision of law, or in any agreement or 85755
document that pertains to those duties, powers, obligations, 85756
functions, and rights, the reference is to the Superintendent of 85757
Labor or Division of Labor, as appropriate. 85758

All authorized obligations and supplements thereto of the 85759
Superintendent and Division of Labor and Worker Safety and the 85760
Superintendent and Division of Industrial Compliance pertaining to 85761
the duties, powers, and obligations transferred are binding on the 85762
Superintendent or Division of Labor, as applicable, and nothing in 85763
this act impairs the obligations or rights thereunder or under any 85764
contract. The abolition of the Division of Labor and Worker Safety 85765
and the Division of Industrial Compliance and the transfer of the 85766
duties, powers, and obligations of the Superintendent and Division 85767
of Labor and Worker Safety and the Superintendent and Division of 85768
Industrial Compliance do not affect the validity of agreements or 85769
obligations made by those superintendents or divisions pursuant to 85770
Chapters 121., 3703., 3781., 3791., 4104., 4105., and 4740. of the 85771
Revised Code or any other provisions of law. 85772

In connection with the transfer of duties, powers, 85773
obligations, functions, and rights and abolition of the Division 85774
of Labor and Worker Safety and the Division of Industrial 85775
Compliance, all real property and interest therein, documents, 85776
books, money, papers, records, machinery, furnishings, office 85777
equipment, furniture, and all other property over which the 85778

Superintendent and Division of Labor and Worker Safety or the 85779
 Superintendent and Division of Industrial Compliance has control 85780
 pertaining to the duties, powers, and obligations transferred and 85781
 the rights of the Superintendent and Division of Labor and Worker 85782
 Safety and the Superintendent and Division of Industrial 85783
 Compliance to enforce or receive any of the aforesaid is 85784
 automatically transferred to the Superintendent and Division of 85785
 Labor without necessity for further action on the part of the 85786
 Superintendent, Division of Labor, or the Director of Commerce. 85787
 Additionally, all appropriations or reappropriations made to the 85788
 Superintendent and Division of Labor and Worker Safety and the 85789
 Superintendent and Division of Industrial Compliance for the 85790
 purposes of the performance of their duties, powers, and 85791
 obligations, are transferred to the Superintendent and Division of 85792
 Labor to the extent of the remaining unexpended or unencumbered 85793
 balance thereof, whether allocated or unallocated, and whether 85794
 obligated or unobligated. 85795

Section 243.10. OCC OFFICE OF CONSUMERS' COUNSEL 85796

General Services Fund Group 85797
 5F50 053601 Operating Expenses \$ 9,543,196 \$ 9,377,610 85798
 TOTAL GSF General Services Fund \$ 9,543,196 \$ 9,377,610 85799
 Group
 TOTAL ALL BUDGET FUND GROUPS \$ 9,543,196 \$ 9,377,610 85800

Section 245.10. CEB CONTROLLING BOARD 85802

General Revenue Fund 85803
 GRF 911401 Emergency \$ 4,000,000 \$ 4,000,000 85804
 Purposes/Contingencies
 GRF 911404 Mandate Assistance \$ 545,417 \$ 545,417 85805
 GRF 911441 Ballot Advertising \$ 487,600 \$ 487,600 85806
 Costs

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DISASTER SERVICES

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Pursuant to requests submitted by the Department of Public
Safety, the Controlling Board may approve transfers from the
Disaster Services Fund (5E20) to a fund and appropriation item
used by the Department of Public Safety to provide for assistance
to political subdivisions made necessary by natural disasters or
emergencies. These transfers may be requested and approved prior
to the occurrence of any specific natural disasters or emergencies
in order to facilitate the provision of timely assistance. The
Emergency Management Agency of the Department of Public Safety
shall use the funding to fund the State Disaster Relief Program
for disasters that have been declared by the Governor, and the
State Individual Assistance Program for disasters that have been
declared by the Governor and the federal Small Business
Administration. The Ohio Emergency Management Agency shall publish
and make available application packets outlining procedures for
the State Disaster Relief Program and the State Individual
Assistance Program.

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Fund 5E20 shall be used by the Controlling Board, pursuant to
requests submitted by state agencies, to transfer cash and
appropriations to any fund and appropriation item for the payment
of state agency disaster relief program expenses for disasters
declared by the Governor, if the Director of Budget and Management
determines that sufficient funds exist.

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SOUTHERN OHIO CORRECTIONAL FACILITY COST

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The Division of Criminal Justice Services in the Department
of Public Safety and the Public Defender Commission may each
request, upon approval of the Director of Budget and Management,
additional funds from appropriation item 911401, Emergency
Purposes/Contingencies, for costs related to the disturbance that

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occurred on April 11, 1993, at the Southern Ohio Correctional Facility in Lucasville, Ohio. 85869
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MANDATE ASSISTANCE 85871

(A) The foregoing appropriation item 911404, Mandate Assistance, shall be used to provide financial assistance to local units of government and school districts for the cost of the following two state mandates: 85872
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(1) The cost to county prosecutors for prosecuting certain felonies that occur on the grounds of state institutions operated by the Department of Rehabilitation and Correction and the Department of Youth Services; 85876
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(2) The cost to school districts of in-service training for child abuse detection. 85880
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(B) The Division of Criminal Justice Services in the Department of Public Safety and the Department of Education may prepare and submit to the Controlling Board one or more requests to transfer appropriations from appropriation item 911404, Mandate Assistance. The state agencies charged with this administrative responsibility are listed below, as well as the estimated annual amounts that may be used for each program of state financial assistance. 85882
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		ESTIMATED	85890
	ADMINISTERING	ANNUAL	85891
PROGRAM	AGENCY	AMOUNT	85892
Prosecution Costs	Division of Criminal Justice Services	\$125,446	85893 85894
Child Abuse Detection Training Costs	Department of Education	\$419,971	85895

(C) Subject to the total amount appropriated in each fiscal year for appropriation item 911404, Mandate Assistance, the Division of Criminal Justice Services and the Department of 85896
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Education may request from the Controlling Board that amounts 85899
smaller or larger than these estimated annual amounts be 85900
transferred to each program. 85901

(D) In addition to making the initial transfers requested by 85902
the Division of Criminal Justice Services and the Department of 85903
Education, the Controlling Board may transfer appropriations 85904
received by a state agency under this section back to 85905
appropriation item 911404, Mandate Assistance, or to the other 85906
program of state financial assistance identified under this 85907
section. 85908

(E) It is expected that not all costs incurred by local units 85909
of government and school districts under each of the two programs 85910
of state financial assistance identified in this section will be 85911
fully reimbursed by the state. Reimbursement levels may vary by 85912
program and shall be based on: the relationship between the 85913
appropriation transfers requested by the Division of Criminal 85914
Justice Services and the Department of Education and provided by 85915
the Controlling Board for each of the programs; the rules and 85916
procedures established for each program by the administering state 85917
agency; and the actual costs incurred by local units of government 85918
and school districts. 85919

(F) Each of these programs of state financial assistance 85920
shall be carried out as follows: 85921

(1) PROSECUTION COSTS 85922

(a) Appropriations may be transferred to the Division of 85923
Criminal Justice Services to cover local prosecution costs for 85924
aggravated murder, murder, felonies of the first degree, and 85925
felonies of the second degree that occur on the grounds of 85926
institutions operated by the Department of Rehabilitation and 85927
Correction and the Department of Youth Services. 85928

(b) Upon a delinquency filing in juvenile court or the return 85929

of an indictment for aggravated murder, murder, or any felony of 85930
the first or second degree that was committed at a Department of 85931
Youth Services or a Department of Rehabilitation and Correction 85932
institution, the affected county may, in accordance with rules 85933
that the Division of Criminal Justice Services shall adopt, apply 85934
to the Division of Criminal Justice Services for a grant to cover 85935
all documented costs that are incurred by the county prosecutor's 85936
office. 85937

(c) Twice each year, the Division of Criminal Justice 85938
Services shall designate counties to receive grants from those 85939
counties that have submitted one or more applications in 85940
compliance with the rules that have been adopted by the Division 85941
of Criminal Justice Services for the receipt of such grants. In 85942
each year's first round of grant awards, if sufficient 85943
appropriations have been made, up to a total of \$100,000 may be 85944
awarded. In each year's second round of grant awards, the 85945
remaining appropriations available for this purpose may be 85946
awarded. 85947

(d) If for a given round of grants there are insufficient 85948
appropriations to make grant awards to all the eligible counties, 85949
the first priority shall be given to counties with cases involving 85950
aggravated murder and murder; second priority shall be given to 85951
counties with cases involving a felony of the first degree; and 85952
third priority shall be given to counties with cases involving a 85953
felony of the second degree. Within these priorities, the grant 85954
awards shall be based on the order in which the applications were 85955
received, except that applications for cases involving a felony of 85956
the first or second degree shall not be considered in more than 85957
two consecutive rounds of grant awards. 85958

(2) CHILD ABUSE DETECTION TRAINING COSTS 85959

Appropriations may be transferred to the Department of 85960
Education for payment to local school districts as full or partial 85961

reimbursement for the cost of providing in-service training for 85962
child abuse detection. In accordance with rules that the 85963
Department shall adopt, a local school district may apply to the 85964
Department for a grant to cover all documented costs that are 85965
incurred to provide in-service training for child abuse detection. 85966
The department shall make grants within the limits of the funding 85967
provided. 85968

(G) Any moneys allocated within appropriation item 911404, 85969
Mandate Assistance, not fully utilized may, upon application of 85970
the Ohio Public Defender Commission, and with the approval of the 85971
Controlling Board, be paid to boards of county commissioners to 85972
provide additional reimbursement for the costs incurred by 85973
counties in providing defense to indigent defendants pursuant to 85974
Chapter 120. of the Revised Code. Application for the unutilized 85975
funds shall be made by the Ohio Public Defender Commission at the 85976
first June meeting of the Controlling Board. 85977

The amount to be paid to each county shall be allocated 85978
proportionately on the basis of the total amount of reimbursement 85979
paid to each county as a percentage of the amount of reimbursement 85980
paid to all of the counties during the most recent state fiscal 85981
year for which data is available and as calculated by the Ohio 85982
Public Defender Commission. 85983

BALLOT ADVERTISING COSTS 85984

Pursuant to requests submitted by the Ohio Ballot Board, the 85985
Controlling Board shall approve transfers from the foregoing 85986
appropriation item 911441, Ballot Advertising Costs, to an 85987
appropriation item used by the Ohio Ballot Board in order to 85988
reimburse county boards of elections for the cost of public 85989
notices associated with statewide ballot initiatives. 85990

Section 247.10. COS STATE BOARD OF COSMETOLOGY 85991

General Services Fund Group				85992
4K90 879609 Operating Expenses	\$	3,533,679	\$ 3,533,679	85993
TOTAL GSF General Services Fund				85994
Group	\$	3,533,679	\$ 3,533,679	85995
TOTAL ALL BUDGET FUND GROUPS	\$	3,533,679	\$ 3,533,679	85996

Section 249.10. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE 85998
AND FAMILY THERAPIST BOARD 85999

General Services Fund Group				86000
4K90 899609 Operating Expenses	\$	1,179,774	\$ 1,179,774	86001
TOTAL GSF General Services Fund				86002
Group	\$	1,179,774	\$ 1,179,774	86003
TOTAL ALL BUDGET FUND GROUPS	\$	1,179,774	\$ 1,179,774	86004

Section 251.10. CLA COURT OF CLAIMS 86006

General Revenue Fund				86007
GRF 015321 Operating Expenses	\$	2,699,369	\$ 2,780,350	86008
TOTAL GRF General Revenue Fund	\$	2,699,369	\$ 2,780,350	86009
State Special Revenue Fund Group				86010
5K20 015603 CLA Victims of Crime	\$	1,582,684	\$ 1,582,684	86011
TOTAL SSR State Special Revenue				86012
Fund Group	\$	1,582,684	\$ 1,582,684	86013
TOTAL ALL BUDGET FUND GROUPS	\$	4,282,053	\$ 4,363,034	86014

Section 253.10. AFC OHIO CULTURAL FACILITIES COMMISSION 86016

General Revenue Fund				86017
GRF 371321 Operating Expenses	\$	140,909	\$ 140,909	86018
GRF 371401 Lease Rental Payments	\$	26,454,900	\$ 28,301,600	86019
TOTAL GRF General Revenue Fund	\$	26,595,809	\$ 28,442,509	86020
State Special Revenue Fund Group				86021
4T80 371601 Riffe Theatre	\$	81,000	\$ 81,000	86022

	Equipment Maintenance				
4T80 371603	Project	\$	1,302,866	\$	1,302,866 86023
	Administration				
	Services				
TOTAL SSR State Special Revenue		\$	1,383,866	\$	1,383,866 86024
Group					
TOTAL ALL BUDGET FUND GROUPS		\$	27,979,675	\$	29,826,375 86025

LEASE RENTAL PAYMENTS 86026

The foregoing appropriation item 371401, Lease Rental 86027
 Payments, shall be used to meet all payments from the Ohio 86028
 Cultural Facilities Commission to the Treasurer of State during 86029
 the period from July 1, 2009, to June 30, 2011, under the primary 86030
 leases and agreements for those arts and sports facilities made 86031
 under Chapters 152. and 154. of the Revised Code. This 86032
 appropriation is the source of funds pledged for bond service 86033
 charges on related obligations issued under Chapters 152. and 154. 86034
 of the Revised Code. 86035

OPERATING EXPENSES 86036

The foregoing appropriation item 371321, Operating Expenses, 86037
 shall be used by the Ohio Cultural Facilities Commission to carry 86038
 out its responsibilities under this section and Chapter 3383. of 86039
 the Revised Code. 86040

By the tenth day following each calendar quarter in each 86041
 fiscal year, or as soon as possible thereafter, the Director of 86042
 Budget and Management shall determine the amount of cash from 86043
 interest earnings to be transferred from the Cultural and Sports 86044
 Facilities Building Fund (Fund 7030) to the Cultural Facilities 86045
 Commission Administration Fund (Fund 4T80). 86046

As soon as possible after each bond issuance made on behalf 86047
 of the Cultural Facilities Commission, the Director of Budget and 86048
 Management shall determine the amount of cash from any premium 86049

paid on each issuance that is available to be transferred after 86050
all issuance costs have been paid from the Cultural and Sports 86051
Facilities Building Fund (Fund 7030) to the Cultural Facilities 86052
Commission Administration Fund (Fund 4T80). 86053

CAPITAL DONATIONS FUND CERTIFICATIONS AND APPROPRIATIONS 86054

The Executive Director of the Cultural Facilities Commission 86055
shall certify to the Director of Budget and Management the amount 86056
of cash receipts and related investment income, irrevocable 86057
letters of credit from a bank, or certification of the 86058
availability of funds that have been received from a county or a 86059
municipal corporation for deposit into the Capital Donations Fund 86060
(Fund 5A10) and that are related to an anticipated project. These 86061
amounts are hereby appropriated to appropriation item C37146, 86062
Capital Donations. Prior to certifying these amounts to the 86063
Director, the Executive Director shall make a written agreement 86064
with the participating entity on the necessary cash flows required 86065
for the anticipated construction or equipment acquisition project. 86066

Section 255.10. DEN STATE DENTAL BOARD 86067

General Services Fund Group 86068
4K90 880609 Operating Expenses \$ 1,528,749 \$ 1,528,749 86069
TOTAL GSF General Services Fund 86070
Group \$ 1,528,749 \$ 1,528,749 86071
TOTAL ALL BUDGET FUND GROUPS \$ 1,528,749 \$ 1,528,749 86072

Section 257.10. BDP BOARD OF DEPOSIT 86074

General Services Fund Group 86075
4M20 974601 Board of Deposit \$ 1,876,000 \$ 1,876,000 86076
TOTAL GSF General Services Fund 86077
Group \$ 1,876,000 \$ 1,876,000 86078
TOTAL ALL BUDGET FUND GROUPS \$ 1,876,000 \$ 1,876,000 86079

BOARD OF DEPOSIT EXPENSE FUND 86080

Upon receiving certification of expenses from the Treasurer 86081
of State, the Director of Budget and Management shall transfer 86082
cash from the Investment Earnings Redistribution Fund (Fund 6080) 86083
to the Board of Deposit Expense Fund (Fund 4M20). The latter fund 86084
shall be used pursuant to section 135.02 of the Revised Code to 86085
pay for any and all necessary expenses of the Board of Deposit or 86086
for banking charges and fees required for the operation of the 86087
State of Ohio Regular Account. 86088

Section 259.10. DEV DEPARTMENT OF DEVELOPMENT 86089

General Revenue Fund 86090

GRF 195401 Thomas Edison Program \$ 15,796,751 \$ 15,796,751 86091

GRF 195404 Small Business \$ 1,565,770 \$ 1,565,770 86092

Development

GRF 195405 Minority Business \$ 1,238,528 \$ 1,238,528 86093

Enterprise Division

GRF 195407 Travel and Tourism \$ 1,399,410 \$ 1,399,410 86094

GRF 195412 Rapid Outreach Grants \$ 9,000,000 \$ 9,000,000 86095

GRF 195415 Strategic Business \$ 5,882,129 \$ 5,882,129 86096

Investment Division
and Regional Offices

GRF 195416 Governor's Office of \$ 4,508,741 \$ 4,508,741 86097

Appalachia

GRF 195422 Technology Action \$ 3,500,000 \$ 3,500,000 86098

GRF 195426 Clean Ohio \$ 168,365 \$ 168,365 86099

Implementation

GRF 195432 Global Markets \$ 3,889,566 \$ 3,889,566 86100

GRF 195434 Industrial Training \$ 11,334,893 \$ 11,334,893 86101

Grants

GRF 195436 Labor/Management \$ 752,603 \$ 752,603 86102

Cooperation

GRF 195497 CDBG Operating Match \$ 1,056,075 \$ 1,056,075 86103

GRF	195498	State Match Energy	\$	96,820	\$	96,820	86104
GRF	195501	Appalachian Local Development Districts	\$	391,482	\$	391,482	86105
GRF	195502	Appalachian Regional Commission Dues	\$	221,924	\$	221,924	86106
GRF	195507	Travel and Tourism Grants	\$	500,000	\$	500,000	86107
GRF	195520	Ohio Main Street Program	\$	575,000	\$	75,000	86108
GRF	195521	Discover Ohio!	\$	6,800,903	\$	6,800,903	86109
GRF	195522	Targeted Industry Training Grants	\$	3,800,000	\$	3,800,000	86110
GRF	195523	Workforce Retention & Attraction	\$	500,000	\$	500,000	86111
GRF	195905	Third Frontier Research & Development General Obligation Debt Service	\$	20,948,300	\$	29,011,600	86112
GRF	195912	Job Ready Site Development General Obligation Debt Service	\$	5,685,400	\$	10,601,900	86113
TOTAL GRF		General Revenue Fund	\$	99,612,660	\$	112,092,460	86114
		General Services Fund Group					86115
1350	195684	Supportive Services	\$	12,162,444	\$	12,184,444	86116
4W10	195646	Minority Business Enterprise Loan	\$	2,580,597	\$	2,580,597	86117
5AD0	195677	Economic Development Contingency	\$	4,000,000	\$	4,000,000	86118
5DU0	195689	Energy Projects	\$	840,000	\$	840,000	86119
5W50	195690	Travel and Tourism Cooperative Projects	\$	350,000	\$	350,000	86120

6850	195636	Direct Cost Recovery	\$	1,000,000	\$	1,000,000	86121
		Expenditures					
TOTAL GSF General Services Fund							86122
Group			\$	20,933,041	\$	20,955,041	86123
Federal Special Revenue Fund Group							86124
3080	195602	Appalachian Regional	\$	475,000	\$	475,000	86125
		Commission					
3080	195603	Housing and Urban	\$	6,000,000	\$	6,000,000	86126
		Development					
3080	195605	Federal Projects	\$	27,000,000	\$	27,000,000	86127
3080	195609	Small Business	\$	5,011,381	\$	5,011,381	86128
		Administration					
3080	195618	Energy Federal Grants	\$	3,400,000	\$	3,400,000	86129
3350	195610	Energy Conservation	\$	1,800,000	\$	1,100,000	86130
		and Emerging					
		Technology					
3AE0	195643	Workforce Development	\$	17,000,000	\$	16,500,000	86131
		Initiatives					
3K80	195613	Community Development	\$	65,000,000	\$	65,000,000	86132
		Block Grant					
3K90	195611	Home Energy	\$	115,743,608	\$	115,743,608	86133
		Assistance Block					
		Grant					
3K90	195614	HEAP Weatherization	\$	22,000,000	\$	22,000,000	86134
3L00	195612	Community Services	\$	25,235,000	\$	25,235,000	86135
		Block Grant					
3V10	195601	HOME Program	\$	40,000,000	\$	40,000,000	86136
TOTAL FED Federal Special Revenue							86137
Fund Group			\$	328,664,989	\$	327,464,989	86138
State Special Revenue Fund Group							86139
4440	195607	Water and Sewer	\$	500,000	\$	500,000	86140
		Commission Loans					

4500	195624	Minority Business Bonding Program Administration	\$	53,967	\$	53,967	86141
4510	195625	Economic Development Financing Operating	\$	3,433,311	\$	3,433,311	86142
4F20	195639	State Special Projects	\$	400,000	\$	400,000	86143
4F20	195676	Marketing Initiatives	\$	6,100,000	\$	6,100,000	86144
4F20	195699	Utility Provided Funds	\$	500,000	\$	500,000	86145
4S00	195630	Tax Incentive Programs	\$	650,800	\$	650,800	86146
5CG0	195679	Alternative Fuel Transportation	\$	1,000,000	\$	1,000,000	86147
5M40	195659	Low Income Energy Assistance	\$	245,000,000	\$	245,000,000	86148
5M50	195660	Advanced Energy Programs	\$	17,000,000	\$	17,000,000	86149
5W60	195691	International Trade Cooperative Projects	\$	25,000	\$	0	86150
5X10	195651	Exempt Facility Inspection	\$	8,000	\$	0	86151
6110	195631	Water and Sewer Administration	\$	10,000	\$	10,000	86152
6170	195654	Volume Cap Administration	\$	200,000	\$	200,000	86153
6460	195638	Low- and Moderate- Income Housing Trust Fund	\$	53,000,000	\$	53,000,000	86154
TOTAL SSR State Special Revenue							86155
Fund Group			\$	327,881,078	\$	327,848,078	86156
Facilities Establishment Fund Group							86157

4Z60	195647	Rural Industrial Park Loan	\$	3,000,000	\$	3,000,000	86158
5D20	195650	Urban Redevelopment Loans	\$	5,000,000	\$	5,000,000	86159
5S80	195627	Rural Development Initiative	\$	3,000,000	\$	3,000,000	86160
5S90	195628	Capital Access Loan Program	\$	3,000,000	\$	3,000,000	86161
7008	195698	Logistics & Distribution Infrastructure	\$	75,000,000	\$	25,000,000	86162
7009	195664	Innovation Ohio	\$	20,000,000	\$	20,000,000	86163
7010	195665	Research and Development	\$	35,000,000	\$	35,000,000	86164
7037	195615	Facilities Establishment	\$	65,000,000	\$	65,000,000	86165
TOTAL 037 Facilities Establishment Fund Group							86166
							\$ 209,000,000 \$ 159,000,000 86167
Clean Ohio Revitalization Fund							86168
7003	195663	Clean Ohio Operating	\$	964,200	\$	953,300	86169
TOTAL 7003 Clean Ohio Revitalization Fund							\$ 964,200 \$ 953,300 86170
Third Frontier Research & Development Fund Group							86171
7011	195687	Third Frontier Research & Development Projects	\$	55,000,000	\$	55,000,000	86172
7014	195692	Research & Development Taxable Bond Projects	\$	6,000,000	\$	6,000,000	86173
TOTAL 011 Third Frontier Research & Development Fund Group							\$ 61,000,000 \$ 61,000,000 86174
Job Ready Site Development Fund Group							86175

7012	195688	Job Ready Site	\$	1,246,155	\$	1,246,155	86176
		Operating					
TOTAL	012	Job Ready Site	\$	1,246,155	\$	1,246,155	86177
		Development Fund Group					
		Tobacco Master Settlement Agreement Fund Group					86178
5Z30	195694	Jobs Fund Bioproducts	\$	40,000,000	\$	10,000,000	86179
5Z30	195695	Jobs Fund Biomedical	\$	80,000,000	\$	20,000,000	86180
M087	195435	Biomedical Research	\$	1,257,363	\$	1,259,563	86181
		and Technology					
		Transfer					
TOTAL	TSF	Tobacco Master Settlement	\$	121,257,363	\$	31,259,563	86182
		Agreement Fund Group					
TOTAL	ALL	BUDGET FUND GROUPS	\$	1,170,559,486	\$	1,041,819,586	86183

Section 259.10.10. THOMAS EDISON PROGRAM 86185

The foregoing appropriation item 195401, Thomas Edison 86186
Program, shall be used for the purposes of sections 122.28 to 86187
122.38 of the Revised Code. Of the foregoing appropriation item 86188
195401, Thomas Edison Program, not more than ten per cent in each 86189
fiscal year shall be used for operating expenditures in 86190
administering the programs of the Technology and Innovation 86191
Division. 86192

Section 259.10.20. SMALL BUSINESS DEVELOPMENT 86193

The foregoing appropriation item 195404, Small Business 86194
Development, shall be used as matching funds for grants from the 86195
United States Small Business Administration and other federal 86196
agencies, pursuant to Pub. L. No. 96-302 (1980) as amended by Pub. 86197
L. No. 98-395 (1984), and regulations and policy guidelines for 86198
the programs pursuant thereto. This appropriation item also may be 86199
used to provide grants to local organizations to support the 86200
operation of small business development centers and other local 86201

economic development activities that promote small business 86202
development and entrepreneurship. 86203

Section 259.10.30. RAPID OUTREACH GRANTS 86204

The foregoing appropriation item 195412, Rapid Outreach 86205
Grants, shall be used as an incentive for attracting, expanding, 86206
and retaining business opportunities for the state. Projects 86207
offering substantial opportunities for new, expanding, or retained 86208
business operations in Ohio, are eligible for grant funding. The 86209
projects must create or retain a significant number of jobs for 86210
Ohioans. An award of grant funds is reserved for only those 86211
instances in which Ohio's ability to attract, retain, or assist 86212
with an expansion of a project depends on an award of funds from 86213
appropriation item 195412, Rapid Outreach Grants. 86214

The department's primary goal shall be to award funds 86215
directly to business entities considering Ohio for their expansion 86216
or new site location opportunities. Rapid Outreach grants shall be 86217
used by recipients to purchase equipment, make infrastructure 86218
improvements, make real property improvements, or fund other fixed 86219
assets. To meet the particular needs of economic development in a 86220
region, the department may elect to award funds directly to a 86221
political subdivision to assist with making on- or off-site 86222
infrastructure improvements to water and sewage treatment 86223
facilities, electric or gas service connections, fiber optic 86224
access, rail facilities, site preparation, and parking facilities. 86225
The Director of Development may recommend that the funds be used 86226
for alternative purposes when considered appropriate to satisfy an 86227
economic development opportunity or need deemed extraordinary in 86228
nature by the Director. 86229

The foregoing appropriation item 195412, Rapid Outreach 86230
Grants, may be expended only after the submission of a request to 86231
the Controlling Board by the Department of Development outlining 86232

the planned use of the funds, and the subsequent approval of the 86233
request by the Controlling Board. 86234

The foregoing appropriation item 195412, Rapid Outreach 86235
Grants, may be used for, but is not limited to, construction, 86236
rehabilitation, and acquisition projects for rail freight 86237
assistance as requested by the Department of Transportation. The 86238
Director of Transportation shall submit the proposed projects to 86239
the Director of Development for an evaluation of potential 86240
economic benefit. 86241

Section 259.10.40. STRATEGIC BUSINESS INVESTMENT DIVISION AND 86242
REGIONAL OFFICES 86243

The foregoing appropriation item 195415, Strategic Business 86244
Investment Division and Regional Offices, shall be used for the 86245
operating expenses of the Strategic Business Investment Division 86246
and the regional economic development offices and for grants for 86247
cooperative economic development ventures. 86248

Section 259.10.50. GOVERNOR'S OFFICE OF APPALACHIA 86249

The foregoing appropriation item 195416, Governor's Office of 86250
Appalachia, may be used for the administrative costs of planning 86251
and liaison activities for the Governor's Office of Appalachia, to 86252
provide financial assistance to projects in Ohio's Appalachian 86253
counties, and to match federal funds from the Appalachian Regional 86254
Commission. 86255

Section 259.10.60. TECHNOLOGY ACTION 86256

The foregoing appropriation item 195422, Technology Action, 86257
shall be used for operating expenses the Department of Development 86258
incurs for administering sections 184.10 to 184.20 of the Revised 86259
Code. If the appropriation is insufficient to cover the operating 86260
expenses, the Department may request Controlling Board approval to 86261

appropriate the additional amount needed in appropriation item 86262
195686, Third Frontier Operating. The Department shall not request 86263
an amount in excess of the amount needed. 86264
86265

Section 259.10.70. CLEAN OHIO IMPLEMENTATION 86266

The foregoing appropriation item 195426, Clean Ohio 86267
Implementation, shall be used to fund the costs of administering 86268
the Clean Ohio Revitalization program and other urban 86269
revitalization programs that may be implemented by the Department 86270
of Development. 86271

Section 259.10.80. GLOBAL MARKETS 86272

The foregoing appropriation item 195432, Global Markets, 86273
shall be used to administer Ohio's foreign trade and investment 86274
programs, including operation and maintenance of Ohio's 86275
out-of-state trade and investment offices. This appropriation item 86276
also shall be used to fund the Global Markets Division and to 86277
assist Ohio manufacturers, agricultural producers, and service 86278
providers in exporting to foreign countries and to assist in the 86279
attraction of foreign direct investment. 86280

Section 259.10.90. OHIO WORKFORCE GUARANTEE PROGRAM 86281

The foregoing appropriation item 195434, Industrial Training 86282
Grants, may be used for the Ohio Workforce Guarantee Program to 86283
promote training through grants to businesses and, in the case of 86284
a business consortium, training and education providers for the 86285
reimbursement of eligible training expenses. 86286

The foregoing appropriation item 195643, Workforce 86287
Development Initiatives, shall be used to support the Ohio 86288
Workforce Guarantee Grant Program. 86289

Section 259.20.10. OHIO FILM OFFICE 86290

The Ohio Film Office shall promote media productions in the 86291
state and help the industry optimize its production experience in 86292
the state by enhancing local economies through increased 86293
employment and tax revenues and ensuring an accurate portrayal of 86294
Ohio. The Office shall serve as an informational clearinghouse and 86295
provide technical assistance to the media production industry and 86296
business entities engaged in media production in the state. The 86297
Office shall promote Ohio as the ideal site for media production 86298
and help those in the industry benefit from their experience in 86299
the state. 86300

The primary objective of the Office shall be to encourage 86301
development of a strong capital base for electronic media 86302
production in order to achieve an independent, self-supporting 86303
industry in Ohio. Other objectives shall include: 86304

(A) Attracting private investment for the electronic media 86305
production industry; 86306

(B) Developing a tax infrastructure that encourages private 86307
investment; and 86308

(C) Encouraging increased employment opportunities within 86309
this sector and increased competition with other states. 86310

Section 259.20.20. DISCOVER OHIO! 86311

The foregoing appropriation item 195521, Discover Ohio!, 86312
shall be used by the Ohio Tourism Division in the Department of 86313
Development for marketing and promoting Ohio as a tourism 86314
destination and for costs associated with operating such programs. 86315
86316

Section 259.20.30. THIRD FRONTIER RESEARCH & DEVELOPMENT 86317
GENERAL OBLIGATION DEBT SERVICE 86318

The foregoing appropriation item 195905, Third Frontier
Research & Development General Obligation Debt Service, shall be
used to pay all debt service and related financing costs during
the period from July 1, 2009, to June 30, 2011, on obligations
issued for research and development purposes under sections 151.01
and 151.10 of the Revised Code.

JOB READY SITE DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE 86325

The foregoing appropriation item 195912, Job Ready Site
Development General Obligation Debt Service, shall be used to pay
all debt service and related financing costs during the period
from July 1, 2009, to June 30, 2011, on obligations issued for job
ready site development purposes under sections 151.01 and 151.11
of the Revised Code.

Section 259.20.40. SUPPORTIVE SERVICES 86332

The Director of Development may assess divisions of the
department for the cost of central service operations. An
assessment shall contain the characteristics of administrative
ease and uniform application. A division's payments shall be
credited to the Supportive Services Fund (Fund 1350) using an
intrastate transfer voucher.

ECONOMIC DEVELOPMENT CONTINGENCY 86339

The foregoing appropriation item 195677, Economic Development
Contingency, may be used to award funds directly to either (1)
business entities considering Ohio for expansion or new site
location opportunities or (2) political subdivisions to assist
with necessary costs involved in attracting a business entity. In
addition, the Director of Development may award funds for
alternative purposes when appropriate to satisfy an economic
development opportunity or need deemed extraordinary in nature by
the Director.

DIRECT COST RECOVERY EXPENDITURES 86349

The foregoing appropriation item 195636, Direct Cost Recovery 86350
Expenditures, shall be used for reimbursable costs. Revenues to 86351
the General Reimbursement Fund (Fund 6850) shall consist of moneys 86352
charged for administrative costs that are not central service 86353
costs. 86354

Section 259.20.50. HEAP WEATHERIZATION 86355

Fifteen per cent of the federal funds received by the state 86356
for the Home Energy Assistance Block Grant shall be deposited to 86357
the credit of the Home Energy Assistance Block Grant Fund (Fund 86358
3K90) and appropriated to appropriation item 195614, HEAP 86359
Weatherization, to provide home weatherization services in the 86360
state. 86361

STATE SPECIAL PROJECTS 86362

The State Special Projects Fund (Fund 4F20), may be used for 86363
the deposit of private-sector funds from utility companies and for 86364
the deposit of other miscellaneous state funds. State moneys so 86365
deposited shall be used to match federal housing grants for the 86366
homeless and to market economic development opportunities in the 86367
state. Private-sector moneys shall be deposited for use in 86368
appropriation item 195699, Utility Provided Funds, and shall be 86369
used to (1) pay the expenses of verifying the income-eligibility 86370
of HEAP applicants, (2) leverage additional federal funds, (3) 86371
fund special projects to assist homeless individuals, (4) fund 86372
special projects to assist with the energy efficiency of 86373
households eligible to participate in the Percentage of Income 86374
Payment Plan, and (5) assist with training programs for agencies 86375
that administer low-income customer assistance programs. 86376

Section 259.20.60. TAX INCENTIVE PROGRAMS OPERATING 86377

The foregoing appropriation item 195630, Tax Incentive 86378

Programs, shall be used for the operating costs of the Office of 86379
Grants and Tax Incentives. 86380

Section 259.20.70. MINORITY BUSINESS ENTERPRISE LOAN 86381

All repayments from the Minority Development Financing 86382
Advisory Board Loan Program and the Ohio Mini-Loan Guarantee 86383
Program shall be deposited in the State Treasury to the credit of 86384
the Minority Business Enterprise Loan Fund (Fund 4W10). All 86385
operating costs of administering the Minority Business Enterprise 86386
Loan Fund shall be paid from the Minority Business Enterprise Loan 86387
Fund (Fund 4W10). 86388

MINORITY BUSINESS BONDING FUND 86389

Notwithstanding Chapters 122., 169., and 175. of the Revised 86390
Code, the Director of Development may, upon the recommendation of 86391
the Minority Development Financing Advisory Board, pledge up to 86392
\$10,000,000 in the fiscal year 2010-fiscal year 2011 biennium of 86393
unclaimed funds administered by the Director of Commerce and 86394
allocated to the Minority Business Bonding Program under section 86395
169.05 of the Revised Code. The transfer of any cash by the 86396
Director of Budget and Management from the Department of 86397
Commerce's Unclaimed Funds Fund (Fund 5430) to the Department of 86398
Development's Minority Business Bonding Fund (Fund 4490) shall 86399
occur, if requested by the Director of Development, only if such 86400
funds are needed for payment of losses arising from the Minority 86401
Business Bonding Program, and only after proceeds of the initial 86402
transfer of \$2,700,000 by the Controlling Board to the Minority 86403
Business Bonding Program has been used for that purpose. Moneys 86404
transferred by the Director of Budget and Management from the 86405
Department of Commerce for this purpose may be moneys in custodial 86406
funds held by the Treasurer of State. If expenditures are required 86407
for payment of losses arising from the Minority Business Bonding 86408
Program, such expenditures shall be made from appropriation item 86409

195623, Minority Business Bonding Contingency in the Minority Business Bonding Fund, and such amounts are hereby appropriated. 86410
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Section 259.20.80. ALTERNATIVE FUEL TRANSPORTATION 86412

Of the foregoing appropriation item 195679, Alternative Fuel Transportation, not more than ten per cent shall be used by the Director of Development for administrative costs associated with the program under section 122.075 of the Revised Code. 86413
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ADVANCED ENERGY FUND 86417

The foregoing appropriation item 195660, Advanced Energy Programs, shall be used to provide financial assistance to customers for eligible advanced energy projects for residential, commercial, and industrial business, local government, educational institution, nonprofit, and agriculture customers, and to pay for the program's administrative costs as provided in sections 4928.61 to 4928.63 of the Revised Code and rules adopted by the Director of Development. 86418
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GLOBAL ANALYST SETTLEMENT AGREEMENTS PAYMENTS 86426

All payments received by the state pursuant to a series of settlements with ten brokerage firms reached with the United States Securities and Exchange Commission, the National Association of Securities Dealers, the New York Stock Exchange, the New York Attorney General, and other state regulators (henceforth referred to as the "Global Analysts Settlement Agreements"), shall be deposited into the state treasury to the credit of the Economic Development Contingency Fund (Fund 5Y60). The fund shall be used by the Director of Development to support economic development projects. Moneys shall be awarded to either (1) business entities considering Ohio for expansion or new site location opportunities or (2) political subdivisions to assist with necessary costs involved in attracting a business entity. In 86427
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addition, the Director of Development may award funds for 86440
alternative purposes when appropriate to satisfy an economic 86441
development opportunity or need deemed extraordinary by the 86442
Director. Grant funds may be expended only after the submission of 86443
a request to the Controlling Board by the Department outlining the 86444
planned use of the funds and the subsequent approval of the 86445
Controlling Board. 86446

VOLUME CAP ADMINISTRATION 86447

The foregoing appropriation item 195654, Volume Cap 86448
Administration, shall be used for expenses related to the 86449
administration of the Volume Cap Program. Revenues received by the 86450
Volume Cap Administration Fund (Fund 6170) shall consist of 86451
application fees, forfeited deposits, and interest earned from the 86452
custodial account held by the Treasurer of State. 86453

INNOVATION OHIO LOAN FUND 86454

The foregoing appropriation item 195664, Innovation Ohio, 86455
shall be used to provide for innovation Ohio purposes, including 86456
loan guarantees and loans under Chapter 166. and particularly 86457
sections 166.12 to 166.16 of the Revised Code. 86458

RESEARCH AND DEVELOPMENT 86459

The foregoing appropriation item 195665, Research and 86460
Development, shall be used to provide for research and development 86461
purposes, including loans, under Chapter 166. and particularly 86462
sections 166.17 to 166.21 of the Revised Code. 86463

Section 259.20.90. LOGISTICS AND DISTRIBUTION INFRASTRUCTURE 86464

The foregoing appropriation item 195698, Logistics and 86465
Distribution Infrastructure, shall be used for eligible logistics 86466
and distribution infrastructure projects as defined in section 86467
166.01 of the Revised Code. 86468

FACILITIES ESTABLISHMENT FUND 86469

The foregoing appropriation item 195615, Facilities Establishment (Fund 7037), shall be used for the purposes of the Facilities Establishment Fund under Chapter 166. of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, an amount not to exceed \$2,000,000 in cash each fiscal year may be transferred from the Facilities Establishment Fund (Fund 7037) to the Economic Development Financing Operating Fund (Fund 4510). The transfer is subject to Controlling Board approval under division (B) of section 166.03 of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, an amount not to exceed \$5,000,000 in cash each fiscal year may be transferred during the biennium from the Facilities Establishment Fund (Fund 7037) to the Urban Redevelopment Loans Fund (Fund 5D20) for the purpose of removing barriers to urban core redevelopment. The Director of Development shall develop program guidelines for the transfer and release of funds, including, but not limited to, the completion of all appropriate environmental assessments before state assistance is committed to a project. The transfers shall be subject to approval by the Controlling Board upon the submission of a request by the Department of Development.

Notwithstanding Chapter 166. of the Revised Code, an amount not to exceed \$3,000,000 in cash each fiscal year may be transferred from the Facilities Establishment Fund (Fund 7037) to the Rural Industrial Park Loan Fund (Fund 4Z60). The transfer is subject to Controlling Board approval under section 166.03 of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, on the first day of July of each year of the biennium, or as soon as possible thereafter, the Director of Budget and Management, at the request of the Director of Development, shall transfer \$6,102,500 in cash from the Facilities Establishment Fund (Fund 7037) to the

General Revenue Fund. The amount transferred is hereby 86502
appropriated for each fiscal year in appropriation item 195412, 86503
Rapid Outreach Grants. 86504

Notwithstanding Chapter 166. of the Revised Code, on the 86505
first day of July of each year of the biennium, or as soon as 86506
possible thereafter, the Director of Budget and Management, at the 86507
request of the Director of Development, shall transfer \$4,275,000 86508
cash from the Facilities Establishment Fund (Fund 7037) to the Job 86509
Development Initiatives Fund (Fund 5AD0). The amount transferred 86510
is hereby appropriated in each fiscal year in appropriation item 86511
195677, Economic Development Contingency. 86512

ALTERNATIVE FUEL TRANSPORTATION GRANT FUND 86513

Notwithstanding Chapter 166. of the Revised Code, an amount 86514
not to exceed \$1,000,000 in cash in fiscal year 2010 and \$500,000 86515
in cash in fiscal year 2011 shall be transferred from moneys in 86516
the Facilities Establishment Fund (Fund 7037) to the Alternative 86517
Fuel Transportation Grant Fund (Fund 5CG0) in the Department of 86518
Development. 86519

RURAL DEVELOPMENT INITIATIVE FUND 86520

(A)(1) The Rural Development Initiative Fund (Fund 5S80) is 86521
entitled to receive moneys from the Facilities Establishment Fund 86522
(Fund 7037). The Director of Development may make grants from the 86523
Rural Development Initiative Fund as specified in division (A)(2) 86524
of this section to eligible applicants in Appalachian counties and 86525
in rural counties in the state that are designated as distressed 86526
under section 122.25 of the Revised Code. Preference shall be 86527
given to eligible applicants located in Appalachian counties 86528
designated as distressed by the federal Appalachian Regional 86529
Commission. 86530

(2) The Director of Development shall make grants from the 86531
Rural Development Initiative Fund (Fund 5S80) only to eligible 86532

applicants who also qualify for and receive funding under the 86533
Rural Industrial Park Loan Program as specified in sections 122.23 86534
to 122.27 of the Revised Code. Eligible applicants shall use the 86535
grants for the purposes specified in section 122.24 of the Revised 86536
Code. All projects supported by grants from the fund are subject 86537
to Chapter 4115. of the Revised Code as specified in division (E) 86538
of section 166.02 of the Revised Code. The Director shall develop 86539
program guidelines for the transfer and release of funds. The 86540
release of grant moneys to an eligible applicant is subject to 86541
Controlling Board approval. 86542

(B) Notwithstanding Chapter 166. of the Revised Code, the 86543
Director of Budget and Management may transfer an amount not to 86544
exceed \$3,000,000 in cash each fiscal year on an as-needed basis 86545
at the request of the Director of Development from the Facilities 86546
Establishment Fund (Fund 7037) to the Rural Development Initiative 86547
Fund (Fund 5S80). The transfer is subject to Controlling Board 86548
approval under section 166.03 of the Revised Code. 86549

CAPITAL ACCESS LOAN PROGRAM 86550

The foregoing appropriation item 195628, Capital Access Loan 86551
Program, shall be used for operating, program, and administrative 86552
expenses of the program. Funds of the Capital Access Loan Program 86553
shall be used to assist participating financial institutions in 86554
making program loans to eligible businesses that face barriers in 86555
accessing working capital and obtaining fixed-asset financing. 86556

Notwithstanding Chapter 166. of the Revised Code, the 86557
Director of Budget and Management may transfer an amount not to 86558
exceed \$3,000,000 in cash each fiscal year on an as-needed basis 86559
at the request of the Director of Development from the Facilities 86560
Establishment Fund (Fund 7037) to the Capital Access Loan Program 86561
Fund (Fund 5S90). The transfer is subject to Controlling Board 86562
approval under section 166.03 of the Revised Code. 86563

Section 259.30.10. CLEAN OHIO OPERATING EXPENSES	86564
The foregoing appropriation item 195663, Clean Ohio	86565
Operating, shall be used by the Department of Development in	86566
administering sections 122.65 to 122.658 of the Revised Code.	86567
Section 259.30.20. THIRD FRONTIER RESEARCH AND DEVELOPMENT	86568
PROJECTS AND RESEARCH AND DEVELOPMENT TAXABLE BOND PROJECTS	86569
The foregoing appropriation items 195687, Third Frontier	86570
Research and Development Projects, and 195692, Research and	86571
Development Taxable Bond Projects, shall be used by the Department	86572
of Development to fund selected projects. Eligible costs are those	86573
costs of research and development projects to which the proceeds	86574
of the Third Frontier Research and Development Fund (Fund 7011)	86575
and the Research & Development Taxable Bond Project Fund (Fund	86576
7014) are to be applied.	86577
TRANSFERS OF THIRD FRONTIER APPROPRIATIONS	86578
The Director of Budget and Management may approve written	86579
requests from the Director of Development for the transfer of	86580
appropriations between appropriation items 195687, Third Frontier	86581
Research and Development Projects, and 195692, Research and	86582
Development Taxable Bond Projects, based upon awards recommended	86583
by the Third Frontier Commission. The transfers are subject to	86584
approval by the Controlling Board.	86585
On or before June 30, 2010, any unexpended and unencumbered	86586
portions of the foregoing appropriation items 195687, Third	86587
Frontier Research & Development Projects, and 195692, Research &	86588
Development Taxable Bond Projects, for fiscal year 2010 are hereby	86589
reappropriated to the Department of Development for the same	86590
purposes for fiscal year 2011.	86591
AUTHORITY TO ISSUE AND SELL ORIGINAL OBLIGATIONS	86592

The Ohio Public Facilities Commission, upon request of the Department of Development, is hereby authorized to issue and sell, in accordance with Section 2p of Article VIII, Ohio Constitution, and particularly sections 151.01 and 151.10 of the Revised Code, original obligations of the State of Ohio in an aggregate amount not to exceed \$100,000,000 in addition to the original issuance of obligations authorized by prior acts of the General Assembly. The authorized obligations shall be issued and sold from time to time and in amounts necessary to ensure sufficient moneys to the credit of the Third Frontier Research and Development Fund (Fund 7011) to pay costs of research and development projects.

Section 259.30.30. JOB READY SITE OPERATING

The foregoing appropriation item 195688, Job Ready Site Operating, shall be used for operating expenses incurred by the Department of Development in administering the Job Ready Sites Program authorized under sections 122.085 to 122.0820 of the Revised Code. Operating expenses include, but are not limited to, certain expenses of the District Public Works Integrating Committees, as applicable, engineering review of submitted applications by the State Architect or a third party engineering firm, audit and accountability activities, and costs associated with formal certifications verifying that site infrastructure is in place and is functional.

Section 259.30.40. THIRD FRONTIER BIOMEDICAL RESEARCH AND COMMERCIALIZATION PROGRAM

The General Assembly and the Governor recognize the role that the biomedical industry has in job creation, innovation, and economic development throughout Ohio. It is the intent of the General Assembly, the Governor, the Director of Development, and the Director of Budget and Management to work together in

continuing to provide comprehensive state support for the 86623
biomedical industry as a whole through the Third Frontier 86624
Biomedical Research and Commercialization Program. 86625

Section 259.30.50. JOBS FUND BIOPRODUCTS AND BIOMEDICAL 86626

The foregoing appropriation item 195694, Jobs Fund 86627
Bioproducts, shall be used for the Ohio Bioproducts Development 86628
Program established in section 184.25 of the Revised Code. Of the 86629
foregoing appropriation item 195694, Jobs Fund Bioproducts, not 86630
more than five per cent in each fiscal year shall be used for 86631
operating expenditures in administering the program. 86632

The foregoing appropriation item 195695, Jobs Fund 86633
Biomedical, shall be used for the Ohio Biomedical Development 86634
Program established in section 184.26 of the Revised Code. Of the 86635
foregoing appropriation item 195695, Jobs Fund Biomedical, not 86636
more than five per cent in each fiscal year shall be used for 86637
operating expenditures in administering the program. 86638

Section 259.30.60. JOBS FUND CASH TRANSFER 86639

On June 30, 2011, or as soon as possible thereafter, the 86640
Director of Budget and Management shall transfer the unexpended 86641
and unencumbered cash balance in the Jobs Fund (Fund 5Z30) to the 86642
General Revenue Fund. Upon completion of the transfer, the Jobs 86643
Fund is abolished. 86644

Section 259.30.70. UNCLAIMED FUNDS TRANSFER 86645

(A) Notwithstanding division (A) of section 169.05 of the 86646
Revised Code, upon the request of the Director of Budget and 86647
Management, the Director of Commerce, before June 30, 2010, shall 86648
transfer to the Job Development Initiatives Fund (Fund 5AD0) an 86649
amount not to exceed \$4,000,000 in cash of the unclaimed funds 86650
that have been reported by the holders of unclaimed funds under 86651

section 169.05 of the Revised Code, regardless of the allocation 86652
of the unclaimed funds described under that section. 86653

Notwithstanding division (A) of section 169.05 of the Revised 86654
Code, upon the request of the Director of Budget and Management, 86655
the Director of Commerce, before June 30, 2011, shall transfer to 86656
the Job Development Initiatives Fund (Fund 5AD0) an amount not to 86657
exceed \$4,000,000 in cash of the unclaimed funds that have been 86658
reported by the holders of unclaimed funds under section 169.05 of 86659
the Revised Code, regardless of the allocation of the unclaimed 86660
funds described under that section. 86661

(B) Notwithstanding division (A) of section 169.05 of the 86662
Revised Code, upon the request of the Director of Budget and 86663
Management, the Director of Commerce, before June 30, 2010, shall 86664
transfer to the State Special Projects Fund (Fund 4F20) an amount 86665
not to exceed \$6,100,000 of the unclaimed funds that have been 86666
reported by the holders of unclaimed funds under section 169.05 of 86667
the Revised Code, regardless of the allocation of the unclaimed 86668
funds described under that section. 86669

Notwithstanding division (A) of section 169.05 of the Revised 86670
Code, upon the request of the Director of Budget and Management, 86671
the Director of Commerce, prior to June 30, 2011, shall transfer 86672
to the State Special Projects Fund (Fund 4F20) an amount not to 86673
exceed \$6,100,000 in cash of the unclaimed funds that have been 86674
reported by the holders of unclaimed funds under section 169.05 of 86675
the Revised Code, regardless of the allocation of the unclaimed 86676
funds described under that section. 86677

Section 259.30.80. THIRD FRONTIER NEXTGEN NETWORK 86678

Any unexpended, unencumbered amounts of the foregoing 86679
appropriation items 195687, Third Frontier Research & Development 86680
Projects, and 195692, Research & Development Taxable Bond 86681
Projects, that were previously allocated for implementation of the 86682

NextGen Network in fiscal years 2008 and 2009 are hereby 86683
reappropriated for the same purpose in fiscal years 2010 and 2011. 86684

Section 259.30.90. WORKFORCE DEVELOPMENT 86685

The Director of Development and the Director of Job and 86686
Family Services may enter into one or more interagency agreements 86687
between the two departments and take other actions the directors 86688
consider appropriate to further integrate workforce development 86689
into a larger economic development strategy, to implement the 86690
recommendations of the Workforce Policy Board, and to complete 86691
activities related to the transition of the administration of 86692
employment programs identified by the board. Subject to the 86693
approval of the Director of Budget and Management, the Department 86694
of Development and the Department of Job and Family Services may 86695
expend moneys to support the recommendations of the Workforce 86696
Policy Board in the area of integration of employment functions as 86697
described in this paragraph and to complete implementation and 86698
transition activities from the appropriations to those 86699
departments. 86700

Section 261.10. OBD OHIO BOARD OF DIETETICS 86701

General Services Fund Group 86702
4K90 860609 Operating Expenses \$ 348,964 \$ 348,964 86703
TOTAL GSF General Services Fund 86704
Group \$ 348,964 \$ 348,964 86705
TOTAL ALL BUDGET FUND GROUPS \$ 348,964 \$ 348,964 86706

Section 263.10. CDR COMMISSION ON DISPUTE RESOLUTION AND 86708
CONFLICT MANAGEMENT 86709

General Revenue Fund 86710
GRF 145401 Commission Operations \$ 349,600 \$ 349,600 86711
TOTAL GRF General Revenue Fund \$ 349,600 \$ 349,600 86712

General Services Fund Group				86713
4B60 145601 Dispute Resolution	\$	140,000	\$ 140,000	86714
Programs				
TOTAL GSF General Services Fund	\$	140,000	\$ 140,000	86715
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	489,600	\$ 489,600	86716

Section 265.10. EDU DEPARTMENT OF EDUCATION 86718

General Revenue Fund				86719
GRF 200100 Personal Services	\$	12,153,147	\$ 12,153,147	86720
GRF 200320 Maintenance and	\$	3,495,350	\$ 3,495,350	86721
Equipment				
GRF 200408 Early Childhood	\$	34,768,341	\$ 34,768,341	86722
Education				
GRF 200416 Career-Technical	\$	2,233,195	\$ 2,233,195	86723
Education Match				
GRF 200420 Computer/Application/	\$	5,394,826	\$ 5,394,826	86724
Network Development				
GRF 200421 Alternative Education	\$	10,015,885	\$ 10,015,885	86725
Programs				
GRF 200422 School Management	\$	20,904,572	\$ 22,490,572	86726
Assistance				
GRF 200424 Policy Analysis	\$	1,056,687	\$ 1,056,687	86727
GRF 200425 Tech Prep Consortia	\$	1,594,373	\$ 1,594,373	86728
Support				
GRF 200426 Ohio Educational	\$	27,411,025	\$ 27,411,025	86729
Computer Network				
GRF 200427 Academic Standards	\$	5,789,861	\$ 5,789,861	86730
GRF 200431 School Improvement	\$	9,859,997	\$ 9,859,997	86731
Initiatives				
GRF 200437 Student Assessment	\$	71,909,814	\$ 71,909,814	86732
GRF 200439 Accountability/Report	\$	6,828,650	\$ 6,828,650	86733

Cards						
GRF	200442	Child Care Licensing	\$	1,302,495	\$ 1,302,495	86734
GRF	200446	Education Management	\$	15,621,135	\$ 15,621,135	86735
Information System						
GRF	200447	GED Testing	\$	1,250,353	\$ 1,250,353	86736
GRF	200448	Educator Preparation	\$	2,030,000	\$ 2,030,000	86737
GRF	200455	Community Schools	\$	497,404,384	\$ 533,686,539	86738
GRF	200457	STEM Initiatives	\$	2,000,000	\$ 4,500,000	86739
GRF	200458	Public School	\$	1,128,600	\$ 1,128,600	86740
Employees Health Care Board						
GRF	200502	Pupil Transportation	\$	438,222,619	\$ 438,222,619	86741
GRF	200503	Bus Purchase Allowance	\$	10,850,000	\$ 10,850,000	86742
GRF	200505	School Lunch Match	\$	11,798,025	\$ 11,798,025	86743
GRF	200511	Auxiliary Services	\$	131,740,457	\$ 131,740,457	86744
GRF	200532	Nonpublic	\$	59,810,517	\$ 59,810,517	86745
Administrative Cost Reimbursement						
GRF	200540	Special Education	\$	135,436,252	\$ 138,009,540	86746
Enhancements						
GRF	200541	Special Education - Federal Stimulus	\$	224,806,500	\$ 224,806,500	86747
GRF	200545	Career-Technical Education Enhancements	\$	7,752,662	\$ 7,802,699	86748
GRF	200550	Foundation Funding	\$	4,888,191,136	\$ 4,851,912,026	86749
GRF	200551	Foundation Funding - Federal Stimulus	\$	277,583,913	\$ 532,449,362	86750
GRF	200555	Teach Ohio	\$	6,100,000	\$ 6,100,000	86751
GRF	200578	Violence Prevention and School Safety	\$	1,384,924	\$ 1,384,924	86752
GRF	200609	Poverty Funding - Federal Stimulus	\$	236,199,000	\$ 236,199,000	86753
GRF	200901	Property Tax	\$	1,008,262,363	\$ 1,020,655,157	86754

		Allocation - Education				
GRF 221100	Personal Services -	\$	8,713,704	\$	8,713,704	86755
	OSD					
GRF 221200	Maintenance - OSD	\$	905,035	\$	905,035	86756
GRF 221300	Equipment - OSD	\$	78,650	\$	78,650	86757
GRF 226100	Personal Services -	\$	7,326,155	\$	7,326,155	86758
	OSB					
GRF 226200	Maintenance - OSB	\$	688,363	\$	688,363	86759
GRF 226300	Equipment - OSB	\$	72,783	\$	72,783	86760
TOTAL GRF	General Revenue Fund	\$	8,190,075,748	\$	8,464,046,361	86761
	General Services Fund Group					86762
1380 200606	Computer	\$	7,600,091	\$	7,600,091	86763
	Services-Operational					
	Support					
4520 200638	Miscellaneous	\$	275,000	\$	275,000	86764
	Educational Services					
4H80 226602	Education Reform	\$	61,000	\$	61,000	86765
	Grants - OSB					
4L20 200681	Teacher Certification	\$	6,323,994	\$	6,323,994	86766
	and Licensure					
4M10 221602	Education Reform	\$	76,000	\$	76,000	86767
	Grants - OSD					
5960 200656	Ohio Career	\$	529,761	\$	529,761	86768
	Information System					
5H30 200687	School District	\$	18,000,000	\$	18,000,000	86769
	Solvency Assistance					
TOTAL GSF	General Services					86770
Fund Group		\$	32,865,846	\$	32,865,846	86771
	Federal Special Revenue Fund Group					86772
3090 200601	Educationally	\$	8,405,512	\$	8,405,512	86773
	Disadvantaged					
	Programs					

3100	226626	Coordinating Unit - OSB	\$	2,527,105	\$	2,527,105	86774
3110	221625	Coordinating Unit - OSD	\$	2,460,135	\$	2,460,135	86775
3670	200607	School Food Services	\$	6,088,737	\$	6,088,738	86776
3680	200614	Veterans' Training	\$	745,892	\$	745,892	86777
3690	200616	Career-Technical Education Federal Enhancement	\$	5,000,000	\$	4,990,960	86778
3700	200624	Education of Exceptional Children	\$	2,664,000	\$	2,755,000	86779
3740	200647	Troops to Teachers	\$	100,000	\$	100,000	86780
3780	200660	Learn and Serve	\$	619,211	\$	619,211	86781
3AD0	221604	VREAL Ohio	\$	25,000	\$	25,000	86782
3AF0	200603	Schools Medicaid Administrative Claims	\$	639,000	\$	639,000	86783
3AN0	200671	School Improvement Grants	\$	17,909,676	\$	17,936,675	86784
3AX0	200698	Improving Health and Educational Outcomes of Young People	\$	630,954	\$	630,954	86785
3BK0	200628	Longitudinal Data Systems	\$	100,000	\$	0	86786
3BV0	200636	Character Education	\$	700,000	\$	0	86787
3C50	200661	Early Childhood Education	\$	14,189,711	\$	14,554,749	86788
3CF0	200644	Foreign Language Assistance	\$	25,000	\$	0	86789
3CG0	200646	Teacher Incentive Fund	\$	3,007,975	\$	1,157,834	86790
3D10	200664	Drug Free Schools	\$	13,347,966	\$	13,347,966	86791
3D20	200667	Honors Scholarship Program	\$	6,665,000	\$	6,665,000	86792

3H90	200605	Head Start Collaboration Project	\$	225,000	\$	225,000	86793
3L60	200617	Federal School Lunch	\$	263,071,332	\$	263,071,332	86794
3L70	200618	Federal School Breakfast	\$	72,208,118	\$	72,208,119	86795
3L80	200619	Child/Adult Food Programs	\$	75,159,405	\$	75,159,405	86796
3L90	200621	Career-Technical Education Basic Grant	\$	48,029,701	\$	48,029,701	86797
3M00	200623	ESEA Title 1A	\$	514,000,000	\$	514,000,000	86798
3M10	200678	Innovative Education	\$	250,000	\$	0	86799
3M20	200680	Individuals with Disabilities Education Act	\$	405,000,000	\$	405,000,000	86800
3P50	226643	Medicaid Professional Services Reimbursement - OSB	\$	50,000	\$	50,000	86801
3R00	221684	Medicaid Professional Services Reimbursement - OSD	\$	35,000	\$	35,000	86802
3S20	200641	Education Technology	\$	5,000,000	\$	5,000,000	86803
3T40	200613	Public Charter Schools	\$	14,212,922	\$	14,212,922	86804
3Y10	221686	Early Childhood Grant	\$	300,000	\$	300,000	86805
3Y20	200688	21st Century Community Learning Centers	\$	28,700,000	\$	28,700,000	86806
3Y40	200632	Reading First	\$	27,366,373	\$	24,455,172	86807
3Y60	200635	Improving Teacher Quality	\$	101,778,397	\$	101,778,400	86808
3Y70	200689	English Language Acquisition	\$	8,000,000	\$	8,000,000	86809
3Y80	200639	Rural and Low Income	\$	1,500,000	\$	1,500,000	86810

		Technical Assistance					
3Z20	200690	State Assessments	\$	12,883,799	\$	12,883,799	86811
3Z30	200645	Consolidated Federal	\$	8,499,279	\$	8,499,280	86812
		Grant Administration					
3Z70	200697	General Supervisory	\$	840,567	\$	0	86813
		Enhancement Grant					
TOTAL FED		Federal Special					86814
Revenue Fund Group				\$ 1,672,960,767	\$ 1,666,757,861		86815
State Special Revenue Fund Group							86816
4540	200610	Guidance and Testing	\$	400,000	\$	400,000	86817
4550	200608	Commodity Foods	\$	24,000,000	\$	24,000,000	86818
4M00	221601	Educational Program	\$	190,000	\$	190,000	86819
		Expenses					
4M50	226601	Work Study and	\$	250,000	\$	250,000	86820
		Technology Investment					
4R70	200695	Indirect Operational	\$	5,810,464	\$	5,810,464	86821
		Support					
4V70	200633	Interagency	\$	868,788	\$	868,788	86822
		Operational Support					
5980	200659	Auxiliary Services	\$	1,328,910	\$	1,328,910	86823
		Reimbursement					
5BB0	200696	State Action for	\$	1,250,000	\$	600,000	86824
		Education Leadership					
5BJ0	200626	Half-Mill Maintenance	\$	10,700,000	\$	10,700,000	86825
		Equalization					
5H60	221609	Even Start Fees and	\$	250,716	\$	250,716	86826
		Gifts					
5U20	200685	National Education	\$	300,000	\$	300,000	86827
		Statistics					
5W20	200663	Early Learning	\$	2,200,000	\$	2,200,000	86828
		Initiative					
5X90	200911	NGA STEM	\$	50,000	\$	0	86829
6200	200615	Educational	\$	3,000,000	\$	3,000,000	86830

Improvement Grants					
TOTAL SSR State Special Revenue				86831	
Fund Group	\$	50,598,878	\$	49,898,878	86832
Lottery Profits Education Fund Group				86833	
7017 200612 Foundation Funding	\$	705,000,000	\$	711,000,000	86834
TOTAL LPE Lottery Profits				86835	
Education Fund Group	\$	705,000,000	\$	711,000,000	86836
Revenue Distribution Fund Group				86837	
7047 200909 School District	\$	1,150,207,366	\$	1,150,207,366	86838
Property Tax					
Replacement-Business					
7053 200900 School District	\$	91,123,523	\$	91,123,523	86839
Property Tax					
Replacement-Utility					
TOTAL RDF Revenue Distribution				86840	
Fund Group	\$	1,241,330,889	\$	1,241,330,889	86841
TOTAL ALL BUDGET FUND GROUPS	\$	11,892,832,128	\$	12,165,899,835	86842

Section 265.10.10. PERSONAL SERVICES 86844

The foregoing appropriation item 200100, Personal Services, 86845
 may be used to pay fees for the Department's membership in the 86846
 Education Commission of the States, an interstate nonprofit, 86847
 nonpartisan organization that supports states with the development 86848
 of education policy. 86849

Of the foregoing appropriation item 200100 Personal Services, 86850
 up to \$25,000 in each fiscal year may be expended to provide for 86851
 travel expenses for the members of the State Board of Education. 86852

Of the foregoing appropriation item 200100, Personal 86853
 Services, up to \$150,000 in each fiscal year shall be used by the 86854
 Department of Education to support Ohio's Partnership for 86855
 Continued Learning at the direction of the Office of the Governor. 86856
 Ohio's Partnership for Continued Learning replaces and broadens 86857

the former Joint Council of the Department of Education and the Board of Regents. The Partnership shall advise and make recommendations to promote collaboration among relevant state entities in an effort to help local communities develop coherent and successful "P-16" learning systems. The Governor, or the Governor's designee, shall serve as the chairperson.

Of the foregoing appropriation item 200100, Personal Services, up to \$500,000 in each fiscal year shall be used to support administration and activities including travel, contract services, and other expenses of the Governor's Closing the Achievement Gap Initiative in the Department.

Of the foregoing appropriation item 200100, Personal Services, up to \$200,000 in each fiscal year shall be used to support administration and activities of the Office of Urban and Rural Student Success in the Department.

Of the foregoing appropriation item 200100, Personal Services, up to \$200,000 in each fiscal year shall be used to support administration and activities of the Center for Creativity and Innovation in the Department.

Section 265.10.20. EARLY CHILDHOOD EDUCATION

The Department of Education shall distribute the foregoing appropriation item 200408, Early Childhood Education, to pay the costs of early childhood education programs.

(A) As used in this section:

(1) "Provider" means a city, local, exempted village, or joint vocational school district, or an educational service center.

(2) In the case of a city, local, or exempted village school district, "new eligible provider" means a district that did not receive state funding for Early Childhood Education in the

previous fiscal year or demonstrates a need for early childhood programs as defined in division (D) of this section. 86888
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(3) "Eligible child" means a child who is at least three years of age as of the district entry date for kindergarten, is not of the age to be eligible for kindergarten, and whose family earns not more than two hundred per cent of the federal poverty guidelines as defined in division (A)(3) of section 5101.46 of the Revised Code. Children with an Individualized Education Program and where the Early Childhood Education program is the least restrictive environment may be enrolled on their third birthday. 86890
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(B) In each fiscal year, up to two per cent of the total appropriation may be used by the Department for program support and technical assistance. The Department shall distribute the remainder of the appropriation in each fiscal year to serve eligible children. 86898
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(C) The Department shall provide an annual report to the Governor, the Speaker of the House of Representatives, and the President of the Senate and post the report to the Department's web site, regarding early childhood education programs operated under this section and the early learning program guidelines. 86903
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(D) After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2010, the Department shall distribute funds first to recipients of funds for early childhood education programs under Section 269.10.20 of Am. Sub. H.B. 119 of the 127th General Assembly in the previous fiscal year and the balance to new eligible providers of early childhood education programs under this section or to existing providers to serve more eligible children or for purposes of program expansion, improvement, or special projects to promote quality and innovation. 86908
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After setting aside the amounts to make payments due from the 86918

previous fiscal year, in fiscal year 2011, the Department shall 86919
distribute funds first to providers of early childhood education 86920
programs under this section in the previous fiscal year and the 86921
balance to new eligible providers or to existing providers to 86922
serve more eligible children or for purposes of program expansion, 86923
improvement, or special projects to promote quality and 86924
innovation. 86925

Awards under this section shall be distributed on a per-pupil 86926
basis, and in accordance with division (H) of this section. The 86927
Department may adjust the per-pupil amount so that the per-pupil 86928
amount multiplied by the number of eligible children enrolled and 86929
receiving services, as defined by the Department, reported on the 86930
first day of December or the first business day following that 86931
date equals the amount allocated under this section. 86932

(E) Costs for developing and administering an early childhood 86933
education program may not exceed fifteen per cent of the total 86934
approved costs of the program. 86935

All providers shall maintain such fiscal control and 86936
accounting procedures as may be necessary to ensure the 86937
disbursement of, and accounting for, these funds. The control of 86938
funds provided in this program, and title to property obtained 86939
therefrom, shall be under the authority of the approved provider 86940
for purposes provided in the program unless, as described in 86941
division (J) of this section, the program waives its right for 86942
funding or a program's funding is eliminated or reduced due to its 86943
inability to meet financial or early learning program guidelines. 86944
The approved provider shall administer and use such property and 86945
funds for the purposes specified. 86946

(F) The Department may examine a provider's financial and 86947
program records. If the financial practices of the program are not 86948
in accordance with standard accounting principles or do not meet 86949
financial standards outlined under division (E) of this section, 86950

or if the program fails to substantially meet the early learning 86951
program guidelines or exhibits below average performance as 86952
measured against the guidelines, the early childhood education 86953
program shall propose and implement a corrective action plan that 86954
has been approved by the Department. The approved corrective 86955
action plan shall be signed by the chief executive officer and the 86956
executive of the official governing body of the provider. The 86957
corrective action plan shall include a schedule for monitoring by 86958
the Department. Such monitoring may include monthly reports, 86959
inspections, a timeline for correction of deficiencies, and 86960
technical assistance to be provided by the Department or obtained 86961
by the early childhood education program. The Department may 86962
withhold funding pending corrective action. If an early childhood 86963
education program fails to satisfactorily complete a corrective 86964
action plan, the Department may deny expansion funding to the 86965
program or withdraw all or part of the funding to the program and 86966
establish a new eligible provider through a selection process 86967
established by the Department. 86968

(G) Each early childhood education program shall do all of 86969
the following: 86970

(1) Meet teacher qualification requirements prescribed by 86971
section 3301.311 of the Revised Code; 86972

(2) Align curriculum to the early learning content standards 86973
developed by the Department; 86974

(3) Meet any child or program assessment requirements 86975
prescribed by the Department; 86976

(4) Require teachers, except teachers enrolled and working to 86977
obtain a degree pursuant to section 3301.311 of the Revised Code, 86978
to attend a minimum of twenty hours every two years of 86979
professional development as prescribed by the Department; 86980

(5) Document and report child progress as prescribed by the 86981

Department; 86982

(6) Meet and report compliance with the early learning 86983
program guidelines as prescribed by the Department. 86984

(H) Per-pupil funding for programs subject to this section 86985
shall be sufficient to provide eligible children with services for 86986
a standard early childhood schedule which shall be defined in this 86987
section as one-half of the statewide average length of the school 86988
day, as determined by the Department, for the minimum school year 86989
as defined in sections 3313.48, 3313.481, and 3313.482 of the 86990
Revised Code. Nothing in this section shall be construed to 86991
prohibit program providers from utilizing other funds to serve 86992
eligible children in programs that exceed the statewide average 86993
length of the school day or that exceed the minimum school year. 86994
For any provider for which a standard early childhood education 86995
does not meet the local need or creates a hardship, the provider 86996
may submit a waiver to the Department requesting an alternate 86997
schedule. If the Department approves a waiver for an alternate 86998
schedule that provides services for less time than the standard 86999
early childhood education schedule, the Department shall reduce 87000
the provider's annual allocation proportionately. Under no 87001
circumstances shall an annual allocation be increased because of 87002
the approval of an alternate schedule. 87003

(I) Each provider shall develop a sliding fee scale based on 87004
family incomes and shall charge families who earn more than two 87005
hundred per cent of the federal poverty guidelines, as defined in 87006
division (A)(3) of section 5101.46 of the Revised Code, for the 87007
early childhood education program. 87008

(J) If an early childhood education program voluntarily 87009
waives its right for funding, or has its funding eliminated for 87010
not meeting financial standards or the early learning program 87011
guidelines, the provider shall transfer control of title to 87012
property, equipment, and remaining supplies obtained through the 87013

program to providers designated by the Department and return any 87014
unexpended funds to the Department along with any reports 87015
prescribed by the Department. The funding made available from a 87016
program that waives its right for funding or has its funding 87017
eliminated or reduced may be used by the Department for new grant 87018
awards or expansion grants. The Department may award new grants or 87019
expansion grants to eligible providers who apply. The eligible 87020
providers who apply must do so in accordance with the selection 87021
process established by the Department. 87022

(K) As used in this section, "early learning program 87023
guidelines" means the guidelines established by the Department 87024
pursuant to division (C)(3) of Section 206.09.54 of Am. Sub. H.B. 87025
66 of the 126th General Assembly. 87026

Section 265.10.30. CAREER-TECHNICAL EDUCATION MATCH 87027

The foregoing appropriation item 200416, Career-Technical 87028
Education Match, shall be used by the Department of Education to 87029
provide vocational administration matching funds under 20 U.S.C. 87030
2311. 87031

COMPUTER/APPLICATION/NETWORK DEVELOPMENT 87032

The foregoing appropriation item 200420, 87033
Computer/Application/Network Development, shall be used to support 87034
the development and implementation of information technology 87035
solutions designed to improve the performance and services of the 87036
Department of Education. Funds may be used for personnel, 87037
maintenance, and equipment costs related to the development and 87038
implementation of these technical system projects. Implementation 87039
of these systems shall allow the Department to provide greater 87040
levels of assistance to school districts and to provide more 87041
timely information to the public, including school districts, 87042
administrators, and legislators. Funds may also be used to support 87043
data-driven decision-making and differentiated instruction, as 87044

well as to communicate academic content standards and curriculum 87045
models to schools through web-based applications. 87046

Section 265.10.40. ALTERNATIVE EDUCATION PROGRAMS 87047

The foregoing appropriation item 200421, Alternative 87048
Education Programs, shall be used for the renewal of successful 87049
implementation grants and for competitive matching grants to the 87050
21 urban school districts as defined in division (O) of section 87051
3317.02 of the Revised Code as it existed prior to July 1, 1998, 87052
and for the renewal of successful implementation grants and for 87053
competitive matching grants to rural and suburban school districts 87054
for alternative educational programs for existing and new at-risk 87055
and delinquent youth. Programs shall be focused on youth in one or 87056
more of the following categories: those who have been expelled or 87057
suspended, those who have dropped out of school or who are at risk 87058
of dropping out of school, those who are habitually truant or 87059
disruptive, or those on probation or on parole from a Department 87060
of Youth Services facility. Grants shall be awarded according to 87061
the criteria established by the Alternative Education Advisory 87062
Council in 1999. Grants shall be awarded only to programs in which 87063
the grant will not serve as the program's primary source of 87064
funding. These grants shall be administered by the Department of 87065
Education. 87066

The Department of Education may waive compliance with any 87067
minimum education standard established under section 3301.07 of 87068
the Revised Code for any alternative school that receives a grant 87069
under this section on the grounds that the waiver will enable the 87070
program to more effectively educate students enrolled in the 87071
alternative school. 87072

Of the foregoing appropriation item 200421, Alternative 87073
Education Programs, a portion may be used for program 87074
administration, monitoring, technical assistance, support, 87075

research, and evaluation. 87076

Section 265.10.50. SCHOOL MANAGEMENT ASSISTANCE 87077

Of the foregoing appropriation item 200422, School Management 87078
Assistance, up to \$1,000,000 in each fiscal year shall be used by 87079
the Auditor of State in consultation with the Department of 87080
Education for expenses incurred in the Auditor of State's role 87081
relating to fiscal caution, fiscal watch, and fiscal emergency 87082
activities as defined in Chapter 3316. of the Revised Code and may 87083
also be used to conduct performance audits with priority given to 87084
districts in fiscal distress. Expenses include duties related to 87085
the completion of performance audits for school districts that the 87086
Superintendent of Public Instruction determines are employing 87087
fiscal practices or experiencing budgetary conditions that could 87088
produce a state of fiscal watch or fiscal emergency. 87089
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Of the foregoing appropriation item 200422, School Management 87091
Assistance, up to \$350,000 in each fiscal year shall be used by 87092
the Department of Education to work with school districts and 87093
entities that serve school districts to develop and deploy 87094
analytical tools that allow districts and other stakeholders to 87095
analyze more thoroughly district spending patterns in order to 87096
promote more effective and efficient use of resources. 87097

Of the foregoing appropriation item 200422, School Management 87098
Assistance, up to \$1,000,000 in each fiscal year shall be used to 87099
fund the studies directed under division (C) of the section of 87100
this act entitled CLEVELAND MUNICIPAL SCHOOL DISTRICT EARLY 87101
ADOPTER PROJECT, and for the Department to assist with training 87102
for and implementation of this project. 87103

Of the foregoing appropriation item 200422, School Management 87104
Assistance, up to \$16,394,000 in fiscal year 2010 and up to 87105
\$17,980,000 in fiscal year 2011 shall be used by the Department of 87106

Education to contract with the Auditor of State or another 87107
identified vendor as determined by the Department and approved by 87108
the Controlling Board to conduct performance audits of school 87109
districts and community schools on a five year cycle. The Office 87110
of School Resource Management in the Department shall determine 87111
the scope of audits, not limited to operations, in consultation 87112
with the Auditor of State and the Office of Budget and Management. 87113
Priority may be given to districts in fiscal distress as 87114
determined by the Auditor of State and the Superintendent of 87115
Public Instruction. A portion of this amount in each fiscal year 87116
shall be used by the Department to contract with the Auditor of 87117
State or another identified vendor as determined by the Department 87118
and approved by the Controlling Board to conduct performance 87119
audits of educational service centers and joint vocational school 87120
districts (JVSDs). The purpose of such audits shall be to assist 87121
educational service centers and JVSDs in identifying and 87122
implementing operational efficiencies, setting statewide 87123
benchmarks in certain operations, evaluating quality of services 87124
provided to school districts, and using findings to inform and 87125
develop recommendations for a new educational service center and 87126
JVSD funding model to be implemented in the fiscal year 2012-2013 87127
biennium. 87128

The remainder of foregoing appropriation item 200422, School 87129
Management Assistance, shall be used by the Department of 87130
Education to provide fiscal technical assistance and inservice 87131
education for school district management personnel and to 87132
administer, monitor, and implement the fiscal watch and fiscal 87133
emergency provisions under Chapter 3316. of the Revised Code. 87134

Section 265.10.60. POLICY ANALYSIS 87135

The foregoing appropriation item 200424, Policy Analysis, 87136
shall be used by the Department of Education to support a system 87137

of administrative, statistical, and legislative education 87138
information to be used for policy analysis. Staff supported by 87139
this appropriation shall administer the development of reports, 87140
analyses, and briefings to inform education policymakers of 87141
current trends in education practice, efficient and effective use 87142
of resources, and evaluation of programs to improve education 87143
results. The database shall be kept current at all times. These 87144
research efforts shall be used to supply information and analysis 87145
of data to the General Assembly and other state policymakers, 87146
including the Office of Budget and Management and the Legislative 87147
Service Commission. 87148

Of the foregoing appropriation item 200424, Policy Analysis, 87149
up to \$600,000 in each fiscal year shall be used to support the 87150
Office of School Resource Management in the Department of 87151
Education. A portion of this amount shall be used in conjunction 87152
with appropriation item 200439, Accountability/Report Cards, to 87153
develop a fiscal reporting dimension to the school report card for 87154
publication beginning in fiscal year 2011. The fiscal information 87155
contained therein shall be updated and reported annually in a form 87156
and in a manner as determined by the Department. 87157

The Department of Education may use funding from this 87158
appropriation item to purchase or contract for the development of 87159
software systems or contract for policy studies that will assist 87160
in the provision and analysis of policy-related information. 87161
Funding from this appropriation item also may be used to monitor 87162
and enhance quality assurance for research-based policy analysis 87163
and program evaluation to enhance the effective use of education 87164
information to inform education policymakers. 87165

TECH PREP CONSORTIA SUPPORT 87166

The foregoing appropriation item 200425, Tech Prep Consortia 87167
Support, shall be used by the Department of Education to support 87168
state-level activities designed to support, promote, and expand 87169

tech prep programs. Use of these funds shall include, but not be 87170
limited to, administration of grants, program evaluation, 87171
professional development, curriculum development, assessment 87172
development, program promotion, communications, and statewide 87173
coordination of tech prep consortia. 87174

Section 265.10.70. OHIO EDUCATIONAL COMPUTER NETWORK 87175

The foregoing appropriation item 200426, Ohio Educational 87176
Computer Network, shall be used by the Department of Education to 87177
maintain a system of information technology throughout Ohio and to 87178
provide technical assistance for such a system in support of the 87179
P-16 State Education Technology Plan under section 3301.07 of the 87180
Revised Code developed in conjunction with the Chancellor of the 87181
Board of Regents. 87182

Of the foregoing appropriation item 200426, Ohio Educational 87183
Computer Network, up to \$15,874,498 in each fiscal year shall be 87184
used by the Department of Education to support connection of all 87185
public school buildings and participating chartered nonpublic 87186
schools to the state's education network, to each other, and to 87187
the Internet. In each fiscal year the Department of Education 87188
shall use these funds to assist information technology centers or 87189
school districts with the operational costs associated with this 87190
connectivity. The Department of Education shall develop a formula 87191
and guidelines for the distribution of these funds to information 87192
technology centers or individual school districts. As used in this 87193
section, "public school building" means a school building of any 87194
city, local, exempted village, or joint vocational school 87195
district, any community school established under Chapter 3314. of 87196
the Revised Code, any educational service center building used for 87197
instructional purposes, the Ohio School for the Deaf and the Ohio 87198
School for the Blind, or high schools chartered by the Ohio 87199
Department of Youth Services and high schools operated by Ohio 87200

Department of Rehabilitation and Corrections' Ohio Central School System. 87201
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Of the foregoing appropriation item 200426, Ohio Educational Computer Network, up to \$2,163,657 in each fiscal year shall be used for the Union Catalog and InfOhio Network and to support the provision of electronic resources with priority given to resources that support the teaching of state academic content standards in all public schools. Consideration shall be given by the Department of Education to coordinating the allocation of these moneys with the efforts of Libraries Connect Ohio, whose members include OhioLINK, the Ohio Public Information Network, and the State Library of Ohio. 87203
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Of the foregoing appropriation item 200426, Ohio Educational Computer Network, up to \$7,942,391 in each fiscal year shall be used, through a formula and guidelines devised by the Department, to subsidize the activities of designated information technology centers, as defined by State Board of Education rules, to provide school districts and chartered nonpublic schools with computer-based student and teacher instructional and administrative information services, including approved computerized financial accounting, and to ensure the effective operation of local automated administrative and instructional systems. 87213
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The remainder of appropriation item 200426, Ohio Educational Computer Network, shall be used to support development, maintenance, and operation of a network of uniform and compatible computer-based information and instructional systems. This technical assistance shall include, but not be restricted to, development and maintenance of adequate computer software systems to support network activities. In order to improve the efficiency of network activities, the Department and information technology centers may jointly purchase equipment, materials, and services 87224
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from funds provided under this appropriation for use by the 87233
network and, when considered practical by the Department, may 87234
utilize the services of appropriate state purchasing agencies. 87235

Section 265.10.80. ACADEMIC STANDARDS 87236

The foregoing appropriation item 200427, Academic Standards, 87237
shall be used by the Department of Education to develop, revise, 87238
and communicate to school districts academic content standards and 87239
curriculum models. 87240

Section 265.10.90. SCHOOL IMPROVEMENT INITIATIVES 87241

Of the foregoing appropriation item 200431, School 87242
Improvement Initiatives, up to \$510,990 in each fiscal year shall 87243
be used by the Department of Education to support educational 87244
media centers to provide Ohio public schools with instructional 87245
resources and services, with priority given to resources and 87246
services aligned with state academic content standards. 87247

Of the foregoing appropriation item 200431, School 87248
Improvement Initiatives, up to \$9,349,007 in each fiscal year 87249
shall be used to support districts in the development and 87250
implementation of their continuous improvement plans as required 87251
in section 3302.04 of the Revised Code and to provide technical 87252
assistance and support in accordance with Title I of the "No Child 87253
Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317. 87254

Section 265.20.10. STUDENT ASSESSMENT 87255

Of the foregoing appropriation item 200437, Student 87256
Assessment, up to \$212,486 in each fiscal year may be used to 87257
support the assessments required under section 3301.0715 of the 87258
Revised Code. 87259

The Superintendent of Public Instruction and the Chancellor 87260
of the Ohio Board of Regents shall determine a percentage of the 87261

foregoing appropriation item 200437, Student Assessment, that 87262
shall be used in each fiscal year to pay for all or a portion of 87263
the following: (1) a college readiness exam for high school 87264
juniors enrolled in Ohio secondary schools and (2) preparation, 87265
practice examinations, and diagnostics related to a college 87266
readiness exam, including, but not limited to, the PSAT, PLAN, and 87267
EXPLORE. The Superintendent shall develop a plan, to be approved 87268
by the Chancellor of the Board of Regents, to determine how to 87269
allocate these funds in a manner which maximizes the number of 87270
students who will be fully assessed for college readiness and in a 87271
manner which allows for pre-college level remediation at the 87272
earliest level possible. For examinations paid in whole or in part 87273
by these funds and where scores may be submitted to institutions 87274
of higher education, all students must submit their scores to the 87275
University System of Ohio. Upon approval by the Chancellor, the 87276
Superintendent shall submit the plan to the Controlling Board for 87277
approval. 87278

The Superintendent and the Chancellor jointly may negotiate 87279
terms to enter into contracts with providers of preparatory 87280
courses for the purpose of assisting students enrolled in Ohio 87281
secondary schools prepare for student assessments. 87282

Of the foregoing appropriation item 200437, Student 87283
Assessments, a portion may be used by the Superintendent of Public 87284
Instruction to reimburse public school districts for (1) a portion 87285
of costs associated with Advanced Placement testing and Advanced 87286
Placement programming, including teacher training, teaching 87287
materials, and student supplies and equipment and (2) a portion of 87288
costs associated with taking the International Baccalaureate 87289
Examination. The Superintendent shall develop a plan, to be 87290
approved by the Chancellor of the Board of Regents, to determine 87291
how to allocate these funds in a manner which maximizes the number 87292
of students who receive college credit through the Advanced 87293

Placement testing process. Upon approval by the Chancellor, the 87294
Superintendent shall submit the plan to the Controlling Board for 87295
approval. 87296

The remainder of appropriation item 200437, Student 87297
Assessment, shall be used to develop, field test, print, 87298
distribute, score, report results, and support other associated 87299
costs for the tests required under sections 3301.0710 and 87300
3301.0711 of the Revised Code and for similar purposes as required 87301
by section 3301.27 of the Revised Code. If funds remain in this 87302
appropriation after these purposes have been fulfilled, the 87303
Department may use the remainder of the appropriation to develop 87304
end-of-course exams. 87305

Section 265.20.20. ACCOUNTABILITY/REPORT CARDS 87306

Of the foregoing appropriation item 200439, 87307
Accountability/Report Cards, up to \$2,378,976 in each fiscal year 87308
shall be used to train district and regional specialists and 87309
district educators in the use of the value-added progress 87310
dimension and in the use of data as it relates to improving 87311
student achievement. This funding shall be used in consultation 87312
with a credible nonprofit organization with expertise in 87313
value-added progress dimensions. 87314

The remainder of appropriation item 200439, 87315
Accountability/Report Cards, shall be used by the Department to 87316
incorporate a statewide pilot value-added progress dimension into 87317
performance ratings for school districts and for the development 87318
of an accountability system that includes the preparation and 87319
distribution of school report cards under section 3302.03 of the 87320
Revised Code. 87321

CHILD CARE LICENSING 87322

The foregoing appropriation item 200442, Child Care 87323

Licensing, shall be used by the Department of Education to license 87324
and to inspect preschool and school-age child care programs under 87325
sections 3301.52 to 3301.59 of the Revised Code. 87326

Section 265.20.30. EDUCATION MANAGEMENT INFORMATION SYSTEM 87327

The foregoing appropriation item 200446, Education Management 87328
Information System, shall be used by the Department of Education 87329
to improve the Education Management Information System (EMIS). 87330

Of the foregoing appropriation item 200446, Education 87331
Management Information System, up to \$1,276,761 in each fiscal 87332
year shall be distributed to designated information technology 87333
centers for costs relating to processing, storing, and 87334
transferring data for the effective operation of the EMIS. These 87335
costs may include, but are not limited to, personnel, hardware, 87336
software development, communications connectivity, professional 87337
development, and support services, and to provide services to 87338
participate in the State Education Technology Plan pursuant to 87339
section 3301.07 of the Revised Code. 87340

Of the foregoing appropriation item 200446, Education 87341
Management Information System, up to \$7,874,541 in each fiscal 87342
year shall be distributed on a per-pupil basis to school 87343
districts, community schools established under Chapter 3314. of 87344
the Revised Code, educational service centers, joint vocational 87345
school districts, and any other education entity that reports data 87346
through EMIS. From this funding, each school district or community 87347
school established under Chapter 3314. of the Revised Code with 87348
enrollment greater than 100 students and each vocational school 87349
district shall receive a minimum of \$5,000 in each fiscal year. 87350
Each school district or community school established under Chapter 87351
3314. of the Revised Code with enrollment between one and one 87352
hundred and each educational service center and each county board 87353
of MR/DD that submits data through EMIS shall receive \$3,000 in 87354

each fiscal year. This subsidy shall be used for costs relating to 87355
reporting, processing, storing, transferring, and exchanging data 87356
necessary to meet requirements of the Department of Education's 87357
data system. 87358

The remainder of appropriation item 200446, Education 87359
Management Information System, shall be used to develop and 87360
support a common core of data definitions and standards as adopted 87361
by the Education Management Information System Advisory Board, 87362
including the ongoing development and maintenance of the data 87363
dictionary and data warehouse. In addition, such funds shall be 87364
used to support the development and implementation of data 87365
standards and the design, development, and implementation of a new 87366
data exchange system. 87367

Any provider of software meeting the standards approved by 87368
the Education Management Information System Advisory Board shall 87369
be designated as an approved vendor and may enter into contracts 87370
with local school districts, community schools, information 87371
technology centers, or other educational entities for the purpose 87372
of collecting and managing data required under Ohio's education 87373
management information system (EMIS) laws. On an annual basis, the 87374
Department of Education shall convene an advisory group of school 87375
districts, community schools, and other education-related entities 87376
to review the Education Management Information System data 87377
definitions and data format standards. The advisory group shall 87378
recommend changes and enhancements based upon surveys of its 87379
members, education agencies in other states, and current industry 87380
practices, to reflect best practices, align with federal 87381
initiatives, and meet the needs of school districts. 87382

School districts and community schools not implementing a 87383
common and uniform set of data definitions and data format 87384
standards for Education Management Information System purposes 87385
shall have all EMIS funding withheld until they are in compliance. 87386

Section 265.20.40. GED TESTING 87387

The foregoing appropriation item 200447, GED Testing, shall 87388
be used to provide General Educational Development (GED) testing 87389
at no cost to applicants, under rules adopted by the State Board 87390
of Education. The Department of Education may reimburse in fiscal 87391
year 2010 school districts and community schools, created under 87392
Chapter 3314. of the Revised Code, for a portion of the costs 87393
incurred in providing summer instructional or intervention 87394
services to students who have not graduated because of their 87395
inability to pass one or more parts of the state's Ohio Graduation 87396
Test. School districts shall also provide such services to 87397
students who are residents of the district under section 3313.64 87398
of the Revised Code, but who are enrolled in chartered, nonpublic 87399
schools. The services shall be provided in the public school, in 87400
nonpublic schools, in public centers, or in mobile units located 87401
on or off the nonpublic school premises. No school district shall 87402
provide summer instructional or intervention services to nonpublic 87403
school students as authorized by this section unless such services 87404
are available to students attending the public schools within the 87405
district. No school district shall provide services for use in 87406
religious courses, devotional exercises, religious training, or 87407
any other religious activity. Chartered, nonpublic schools shall 87408
pay for any unreimbursed costs incurred by school districts for 87409
providing summer instruction or intervention services to students 87410
enrolled in chartered, nonpublic schools. School districts may 87411
provide these services to students directly or contract with 87412
postsecondary or nonprofit community-based institutions in 87413
providing instruction. 87414

Section 265.20.50. EDUCATOR PREPARATION 87415

Of the foregoing appropriation item 200448, Educator 87416
Preparation, up to \$350,000 in each fiscal year shall be used for 87417

training and professional development of school administrators, 87418
school treasurers, and school business officials. 87419

The remainder of appropriation item 200448, Educator 87420
Preparation, may be used by the Department to support the Educator 87421
Standards Board under section 3319.61 of the Revised Code as it 87422
develops and recommends to the State Board of Education standards 87423
for educator training and standards for teacher and other school 87424
leadership positions. Also, any remaining funds may be used by the 87425
Department to develop alternative preparation programs for school 87426
leaders and coordination of a career ladder for teachers. 87427

Section 265.20.60. COMMUNITY SCHOOLS 87428

Of the foregoing appropriation item 200455, Community 87429
Schools, up to \$1,308,661 in each fiscal year may be used by the 87430
Department of Education for additional services and 87431
responsibilities under section 3314.11 of the Revised Code. 87432

Of the foregoing appropriation item 200455, Community 87433
Schools, up to \$225,000 in each fiscal year may be used by the 87434
Department of Education for developing and conducting training 87435
sessions for sponsors and prospective sponsors of community 87436
schools as prescribed in division (A)(1) of section 3314.015 of 87437
the Revised Code. In developing the training sessions, the 87438
Department shall collect and disseminate examples of best 87439
practices used by sponsors of independent charter schools in Ohio 87440
and other states. 87441

STEM INITIATIVES 87442

The foregoing appropriation item 200457, STEM Initiatives, 87443
shall be used for initiatives that support innovative mathematics 87444
and science education and mathematics and science professional 87445
development for teachers. Such initiatives may include on-site 87446
laboratories, job-embedded professional development, and mentoring 87447

and coaching. 87448

PUBLIC SCHOOL EMPLOYEES HEALTH CARE BOARD 87449

The foregoing appropriation item 200458, Public School 87450
Employees Health Care Board, shall be used by the School Employees 87451
Health Care Board to hire staff to provide administrative support 87452
to the Board as the Board accomplishes its duties under section 87453
9.901 of the Revised Code. 87454

Section 265.20.70. PUPIL TRANSPORTATION 87455

Of the foregoing appropriation item 200502, Pupil 87456
Transportation, up to \$838,930 in each fiscal year may be used by 87457
the Department of Education for training prospective and 87458
experienced school bus drivers in accordance with training 87459
programs prescribed by the Department. Up to \$60,469,220 in each 87460
fiscal year may be used by the Department of Education for special 87461
education transportation reimbursements to school districts and 87462
county MR/DD boards for transportation operating costs as provided 87463
in division (J) of section 3317.024 of the Revised Code. The 87464
remainder of appropriation item 200502, Pupil Transportation, 87465
shall be used for the state reimbursement of public school 87466
districts' costs in transporting pupils to and from the school 87467
they attend in accordance with the district's policy, State Board 87468
of Education standards, and division (J) of section 3306.12 of the 87469
Revised Code. 87470

Section 265.20.80. BUS PURCHASE ALLOWANCE 87471

The foregoing appropriation item 200503, Bus Purchase 87472
Allowance, shall be distributed to school districts, educational 87473
service centers, and county MR/DD boards pursuant to rules adopted 87474
under section 3317.07 of the Revised Code. Up to 28 per cent of 87475
the amount appropriated may be used to reimburse school districts 87476
and educational service centers for the purchase of buses to 87477

transport students with disabilities and nonpublic school students 87478
and to county MR/DD boards, the Ohio School for the Deaf, and the 87479
Ohio School for the Blind for the purchase of buses to transport 87480
students with disabilities. 87481

SCHOOL LUNCH MATCH 87482

The foregoing appropriation item 200505, School Lunch Match, 87483
shall be used to provide matching funds to obtain federal funds 87484
for the school lunch program. 87485

Any remaining appropriation after providing matching funds 87486
for the school lunch program shall be used to partially reimburse 87487
school buildings within school districts that are required to have 87488
a school breakfast program under section 3313.813 of the Revised 87489
Code, at a rate decided by the Department. 87490

Section 265.20.90. AUXILIARY SERVICES 87491

The foregoing appropriation item 200511, Auxiliary Services, 87492
shall be used by the Department of Education for the purpose of 87493
implementing section 3317.06 of the Revised Code. Of the 87494
appropriation, up to \$2,121,800 in each fiscal year may be used 87495
for payment of the Post-Secondary Enrollment Options Program for 87496
nonpublic students. Notwithstanding section 3365.10 of the Revised 87497
Code, the Department shall distribute funding according to rules 87498
adopted by the Department in accordance with Chapter 119. of the 87499
Revised Code. 87500

Section 265.30.10. NONPUBLIC ADMINISTRATIVE COST 87501
REIMBURSEMENT 87502

The foregoing appropriation item 200532, Nonpublic 87503
Administrative Cost Reimbursement, shall be used by the Department 87504
of Education for the purpose of implementing section 3317.063 of 87505
the Revised Code. 87506

Section 265.30.20. SPECIAL EDUCATION ENHANCEMENTS 87507

Of the foregoing appropriation item 200540, Special Education 87508
Enhancements, up to \$2,906,875 in each fiscal year shall be used 87509
for home instruction for children with disabilities. 87510

Of the foregoing appropriation item 200540, Special Education 87511
Enhancements, up to \$47,518,582 in fiscal year 2010 and up to 87512
\$48,421,435 in fiscal year 2011 shall be used to fund special 87513
education and related services at county boards of mental 87514
retardation and developmental disabilities for eligible students 87515
under section 3317.20 of the Revised Code and at institutions for 87516
eligible students under section 3317.201 of the Revised Code. 87517
Notwithstanding the distribution formulas under sections 3317.20 87518
and 3317.201 of the Revised Code, funding for MR/DD boards and 87519
institutions in fiscal year 2010 and fiscal year 2011 shall be 87520
determined by inflating the per pupil amount received by each 87521
MR/DD board and institution in the prior fiscal year by 1.9 per 87522
cent and providing that inflated per pupil amount for each student 87523
served in the current fiscal year. 87524

The remainder of appropriation item 200540, Special Education 87525
Enhancements, shall be distributed by the Department of Education 87526
to county boards of mental retardation and developmental 87527
disabilities, educational service centers, and school districts 87528
for preschool special education units and preschool supervisory 87529
units under section 3317.052 of the Revised Code. To the greatest 87530
extent possible, the Department of Education shall allocate these 87531
units to school districts and educational service centers. 87532

The Department may reimburse county MR/DD boards, educational 87533
service centers, and school districts for services provided by 87534
instructional assistants, related services as defined in rule 87535
3301-51-11 of the Administrative Code, physical therapy services 87536
provided by a licensed physical therapist or physical therapist 87537

assistant under the supervision of a licensed physical therapist 87538
as required under Chapter 4755. of the Revised Code and Chapter 87539
4755-27 of the Administrative Code and occupational therapy 87540
services provided by a licensed occupational therapist or 87541
occupational therapy assistant under the supervision of a licensed 87542
occupational therapist as required under Chapter 4755. of the 87543
Revised Code and Chapter 4755-7 of the Administrative Code. 87544
Nothing in this section authorizes occupational therapy assistants 87545
or physical therapist assistants to generate or manage their own 87546
caseloads. 87547

The Department of Education shall require school districts, 87548
educational service centers, and county MR/DD boards serving 87549
preschool children with disabilities to document child progress 87550
using research-based indicators prescribed by the Department and 87551
report results annually. The reporting dates and method shall be 87552
determined by the Department. 87553

Section 265.30.30. CAREER-TECHNICAL EDUCATION ENHANCEMENTS 87554

Of the foregoing appropriation item 200545, Career-Technical 87555
Education Enhancements, up to \$2,633,531 in fiscal year 2010 and 87556
up to \$2,683,568 in fiscal year 2011 shall be used to fund 87557
secondary career-technical education at institutions. 87558
Notwithstanding sections 3317.05, 3317.052, and 3317.053 of the 87559
Revised Code, the Department of Education shall distribute funding 87560
to institutions for career-technical programming on a grant basis. 87561

Of the foregoing appropriation item 200545, Career-Technical 87562
Education Enhancements, up to \$2,228,281 in each fiscal year shall 87563
be used by the Department of Education to fund competitive grants 87564
to tech prep consortia that expand the number of students enrolled 87565
in tech prep programs. These grant funds shall be used to directly 87566
support expanded tech prep programs provided to students enrolled 87567
in school districts, including joint vocational school districts, 87568

and affiliated higher education institutions. This support may 87569
include the purchase of equipment. 87570

Of the foregoing appropriation item 200545, Career-Technical 87571
Education Enhancements, up to \$2,890,850 in each fiscal year shall 87572
be used by the Department of Education to support existing High 87573
Schools That Work (HSTW) sites, develop and support new sites, 87574
fund technical assistance, and support regional centers and middle 87575
school programs. The purpose of HSTW is to combine challenging 87576
academic courses and modern career-technical studies to raise the 87577
academic achievement of students. HSTW provides intensive 87578
technical assistance, focused staff development, targeted 87579
assessment services, and ongoing communications and networking 87580
opportunities. 87581

Section 265.30.40. FOUNDATION FUNDING 87582

The foregoing appropriation item 200550, Foundation Funding, 87583
includes \$75,000,000 in each fiscal year for the state education 87584
aid offset due to the change in public utility valuation as a 87585
result of Am. Sub. S.B. 3 and Am. Sub. S.B. 287, both of the 123rd 87586
General Assembly. This amount represents the total state education 87587
aid offset due to the valuation change for school districts and 87588
joint vocational school districts from all relevant appropriation 87589
line item sources. Upon certification by the Department of 87590
Education, in consultation with the Department of Taxation, to the 87591
Director of Budget and Management of the actual state aid offset, 87592
the cash transfer from the School District Property Tax 87593
Replacement - Utility Fund (Fund 7053) to the General Revenue Fund 87594
shall be decreased or increased by the Director of Budget and 87595
Management to match the certification in accordance with section 87596
5727.84 of the Revised Code. 87597

The foregoing appropriation item 200550, Foundation Funding, 87598
includes \$106,768,866 in fiscal year 2010 and \$238,511,467 in 87599

fiscal year 2011 for the state education aid offset because of the 87600
changes in tangible personal property valuation as a result of Am. 87601
Sub. H.B. 66 of the 126th General Assembly. This amount represents 87602
the total state education aid offset because of the valuation 87603
change for school districts and joint vocational school districts 87604
from all relevant appropriation item sources. Upon certification 87605
by the Department of Education of the actual state education aid 87606
offset to the Director of Budget and Management, the cash transfer 87607
from the School District Tangible Property Tax Replacement - 87608
Business Fund (Fund 7047) to the General Revenue Fund shall be 87609
decreased or increased by the Director of Budget and Management to 87610
match the certification in accordance with section 5751.21 of the 87611
Revised Code. 87612

Of the foregoing appropriation item 200550, Foundation 87613
Funding, up to \$425,000 shall be expended in each fiscal year for 87614
court payments under section 2151.362 of the Revised Code and up 87615
to \$15,000,000 in each fiscal year shall be reserved for payments 87616
under sections 3317.026, 3317.027, and 3317.028 of the Revised 87617
Code except that the Controlling Board may increase the 87618
\$15,000,000 amount if presented with such a request from the 87619
Department of Education. 87620

Of the foregoing appropriation item 200550, Foundation 87621
Funding, up to \$10,000,000 in each fiscal year shall be used to 87622
provide additional state aid to school districts for special 87623
education students under division (C)(3) of section 3317.022 of 87624
the Revised Code, except that the Controlling Board may increase 87625
these amounts if presented with such a request from the Department 87626
of Education at the final meeting of the fiscal year; up to 87627
\$2,000,000 in each fiscal year shall be reserved for Youth 87628
Services tuition payments under section 3317.024 of the Revised 87629
Code; and up to \$42,300,000 in each fiscal year shall be reserved 87630
to fund the state reimbursement of educational service centers 87631

under section 3317.11 of the Revised Code and the section of this 87632
act entitled "EDUCATIONAL SERVICE CENTERS FUNDING." 87633

Of the foregoing appropriation item 200550, Foundation 87634
Funding, an amount shall be available in each fiscal year to be 87635
used by the Department of Education for transitional aid for 87636
school districts under section 3306.19 of the Revised Code. 87637

Of the foregoing appropriation item 200550, Foundation 87638
Funding, up to \$1,000,000 in each fiscal year shall be used by the 87639
Department of Education for a program to pay for educational 87640
services for youth who have been assigned by a juvenile court or 87641
other authorized agency to any of the facilities described in 87642
division (A) of the section of this act entitled "PRIVATE 87643
TREATMENT FACILITY PROJECT." 87644

Of the foregoing appropriation item 200550, Foundation 87645
Funding, up to \$8,686,000 in fiscal year 2010 and up to \$8,722,860 87646
in fiscal year 2011 shall be used to operate the school choice 87647
program. 87648

Of the portion of the funds distributed to the Cleveland 87649
Municipal School District under this section, up to \$11,901,887 in 87650
each fiscal year shall be used to operate the school choice 87651
program in the Cleveland Municipal School District under sections 87652
3313.974 to 3313.979 of the Revised Code. Notwithstanding 87653
divisions (B) and (C) of section 3313.978 and division (C) of 87654
section 3313.979 of the Revised Code, up to \$1,000,000 in each 87655
fiscal year of this amount shall be used by the Cleveland 87656
Municipal School District to provide tutorial assistance as 87657
provided in division (H) of section 3313.974 of the Revised Code. 87658
The Cleveland Municipal School District shall report the use of 87659
these funds in the district's three-year continuous improvement 87660
plan as described in section 3302.04 of the Revised Code in a 87661
manner approved by the Department of Education. 87662

Of the foregoing appropriation item 200550, Foundation 87663
Funding, \$263,184,858 for fiscal year 2010 and \$268,185,371 for 87664
fiscal year 2011 shall be paid to joint vocational school 87665
districts in accordance with the section of this act entitled 87666
"FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS." 87667

Appropriation items 200455, Community Schools, 200502, Pupil 87668
Transportation, 200540, Special Education Enhancements, 200541, 87669
Special Education - Federal Stimulus, 200550, Foundation Funding, 87670
200551, Foundation Funding - Federal Stimulus, and 200609, Poverty 87671
Funding - Federal Stimulus, other than specific set-asides, are 87672
collectively used in each fiscal year to pay state formula aid 87673
obligations for school districts, community schools, and joint 87674
vocational school districts under this act and Chapter 3306. of 87675
the Revised Code. The first priority of these appropriation items, 87676
with the exception of specific set-asides, is to fund state 87677
formula aid obligations. It may be necessary to reallocate funds 87678
among these appropriation items or use excess funds from other 87679
general revenue fund appropriation items in the Department of 87680
Education's budget in each fiscal year, in order to meet state 87681
formula aid obligations. If it is determined that it is necessary 87682
to transfer funds among these appropriation items or to transfer 87683
funds from other General Revenue Fund appropriations in the 87684
Department of Education's budget to meet state formula aid 87685
obligations, the Department of Education shall seek approval from 87686
the Controlling Board to transfer funds as needed. 87687

Section 265.30.50. FUNDING FOR JOINT VOCATIONAL SCHOOL 87688
DISTRICTS 87689

(A) The Department of Education shall distribute funds within 87690
appropriation item 200550, Foundation Funding, for joint 87691
vocational funding in each fiscal year to each joint vocational 87692
school district that received joint vocational funding in fiscal 87693

year 2009. The Department shall distribute to each such district 87694
joint vocational funding in an amount equal to the district's 87695
joint vocational funding from the previous fiscal year inflated by 87696
1.9 per cent. 87697

(B)(1) A district's fiscal year 2009 joint vocational funding 87698
equals the sum of the following, as reconciled by the Department: 87699
87700

(a) Base-cost funding under division (B) of section 3317.16 87701
of the Revised Code; 87702

(b) Special education and related services additional 87703
weighted funding under division (D)(1) of section 3317.16 of the 87704
Revised Code; 87705

(c) Speech services funding under division (D)(2) of section 87706
3317.16 of the Revised Code; 87707

(d) Vocational education additional weighted funding under 87708
division (C) of section 3317.16 of the Revised Code; 87709

(e) GRADS funding under division (N) of section 3317.024 of 87710
the Revised Code; 87711

(f) Any transitional aid computed for the district under 87712
Section 269.30.90 of Am. Sub. H.B. 119 of the 127th General 87713
Assembly. 87714

(2) The joint vocational funding for each fiscal year for 87715
each district is the amount specified in division (A) or (B) of 87716
this section less any general revenue fund spending reductions 87717
ordered by the Governor under section 126.05 of the Revised Code. 87718

Section 265.30.60. TEACH OHIO 87719

Of the foregoing appropriation item 200555, Teach Ohio, 87720
\$1,000,000 in each fiscal year shall be used to support the 87721
program established under division (A) of section 3333.39 of the 87722

Revised Code to encourage high school students interested in 87723
entering the teaching profession. 87724

The remainder of the appropriation shall be used to support 87725
alternative teacher licensure programs under section 3319.26 and 87726
division (C) of section 3333.39 of the Revised Code developed in 87727
partnership with the Department of Education, educational service 87728
centers, and institutions of higher education. Programs shall 87729
support teacher licensure in laboratory-based science, advanced 87730
mathematics, or foreign language at the secondary education level 87731
and employment with an Ohio school district designated by the 87732
Department as a hard-to-staff school. The programs shall be 87733
consistent with the State Board of Education's alternative 87734
licensure requirements. 87735

Section 265.30.70. VIOLENCE PREVENTION AND SCHOOL SAFETY 87736

Of the foregoing appropriation item 200578, Violence 87737
Prevention and School Safety, up to \$224,250 in each fiscal year 87738
shall be used to fund a safe school center to provide resources 87739
for parents and for school and law enforcement personnel. 87740

The remainder of the appropriation shall be distributed based 87741
on guidelines developed by the Department of Education to enhance 87742
school safety. The guidelines shall provide a list of 87743
research-based best practices and programs from which local 87744
grantees shall select based on local needs. These practices shall 87745
include, but not be limited to, school resource officers and safe 87746
and drug free school coordinators and social-emotional development 87747
programs. 87748

Section 265.30.80. PROPERTY TAX ALLOCATION - EDUCATION 87749

The Superintendent of Public Instruction shall not request, 87750
and the Controlling Board shall not approve, the transfer of 87751
appropriation from appropriation item 200901, Property Tax 87752

Allocation - Education, to any other appropriation item. 87753

The appropriation item 200901, Property Tax Allocation - 87754
Education, is appropriated to pay for the state's costs incurred 87755
because of the homestead exemption, the property tax rollback, and 87756
payments required under division (C) of section 5705.2110 of the 87757
Revised Code. In cooperation with the Department of Taxation, the 87758
Department of Education shall distribute these funds directly to 87759
the appropriate school districts of the state, notwithstanding 87760
sections 321.24 and 323.156 of the Revised Code, which provide for 87761
payment of the homestead exemption and property tax rollback by 87762
the Tax Commissioner to the appropriate county treasurer and the 87763
subsequent redistribution of these funds to the appropriate local 87764
taxing districts by the county auditor. 87765

Upon receipt of these amounts, each school district shall 87766
distribute the amount among the proper funds as if it had been 87767
paid as real or tangible personal property taxes. Payments for the 87768
costs of administration shall continue to be paid to the county 87769
treasurer and county auditor as provided for in sections 319.54, 87770
321.26, and 323.156 of the Revised Code. 87771

Any sums, in addition to the amount specifically appropriated 87772
in appropriation items 200901, Property Tax Allocation - 87773
Education, for the homestead exemption and the property tax 87774
rollback payments, and payments required under division (C) of 87775
section 5705.2110 of the Revised Code, which are determined to be 87776
necessary for these purposes, are hereby appropriated. 87777

Section 265.30.90. TEACHER CERTIFICATION AND LICENSURE 87778

The foregoing appropriation item 200681, Teacher 87779
Certification and Licensure, shall be used by the Department of 87780
Education in each year of the biennium to administer and support 87781
teacher certification and licensure activities. 87782

SCHOOL DISTRICT SOLVENCY ASSISTANCE 87783

Of the foregoing appropriation item 200687, School District 87784
Solvency Assistance, \$9,000,000 in each fiscal year shall be 87785
allocated to the School District Shared Resource Account and 87786
\$9,000,000 in each fiscal year shall be allocated to the 87787
Catastrophic Expenditures Account. These funds shall be used to 87788
provide assistance and grants to school districts to enable them 87789
to remain solvent under section 3316.20 of the Revised Code. 87790
Assistance and grants shall be subject to approval by the 87791
Controlling Board. Any required reimbursements from school 87792
districts for solvency assistance shall be made to the appropriate 87793
account in the School District Solvency Assistance Fund (Fund 87794
5H30). 87795

Notwithstanding any provision of law to the contrary, upon 87796
the request of the Superintendent of Public Instruction, the 87797
Director of Budget and Management may make transfers to the School 87798
District Solvency Assistance Fund (Fund 5H30) from any fund used 87799
by the Department of Education or the General Revenue Fund to 87800
maintain sufficient cash balances in Fund 5H30 in fiscal years 87801
2010 and 2011. Any cash transferred is hereby appropriated. The 87802
transferred cash may be used by the Department of Education to 87803
provide assistance and grants to school districts to enable them 87804
to remain solvent and to pay unforeseeable expenses of a temporary 87805
or emergency nature that the school district is unable to pay from 87806
existing resources. The Director of Budget and Management shall 87807
notify the members of the Controlling Board of any such transfers. 87808
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Section 265.40.10. SCHOOLS MEDICAID ADMINISTRATIVE CLAIMS 87810

Upon the request of the Superintendent of Public Instruction, 87811
the Director of Budget and Management may transfer up to \$639,000 87812
cash in each fiscal year from the General Revenue Fund to the 87813

Schools Medicaid Administrative Claims Fund (Fund 3AF0). The 87814
transferred cash is to be used by the Department of Education to 87815
pay the expenses the Department incurs in administering the 87816
Medicaid School Component of the Medicaid program established 87817
under sections 5111.71 to 5111.715 of the Revised Code. On June 1 87818
of each fiscal year, or as soon as possible thereafter, the 87819
Director of Budget and Management shall transfer cash from Fund 87820
3AF0 back to the General Revenue Fund in an amount equal to the 87821
total amount transferred to Fund 3AF0 in that fiscal year. 87822

The money deposited into Fund 3AF0 under division (B) of 87823
section 5111.714 of the Revised Code is hereby appropriated for 87824
fiscal years 2010 and 2011 and shall be used in accordance with 87825
division (D) of section 5111.714 of the Revised Code. 87826

Section 265.40.20. READING FIRST 87827

The foregoing appropriation item 200632, Reading First, shall 87828
be used by school districts to administer federal diagnostic tests 87829
as well as other functions permitted by federal statute. 87830
Notwithstanding section 3301.079 of the Revised Code, federal 87831
diagnostic tests may be recognized as meeting the state diagnostic 87832
testing requirements outlined in section 3301.079 of the Revised 87833
Code. 87834

HALF-MILL MAINTENANCE EQUALIZATION 87835

The foregoing appropriation item 200626, Half-Mill 87836
Maintenance Equalization, shall be used to make payments pursuant 87837
to section 3318.18 of the Revised Code. 87838

Section 265.40.30. START-UP FUNDS 87839

Funds appropriated for the purpose of providing start-up 87840
grants to Title IV-A Head Start and Title IV-A Head Start Plus 87841
agencies in fiscal year 2004 and fiscal year 2005 for the 87842
provision of services to children eligible for Title IV-A services 87843

under the Title IV-A Head Start or Title IV-A Head Start Plus 87844
programs shall be reimbursed to the General Revenue Fund as 87845
follows: 87846

(A) If, for fiscal years 2010 or 2011, an entity that was a 87847
Title IV-A Head Start or Title IV-A Head Start Plus agency will 87848
not be an early learning agency or early learning provider, the 87849
entity shall repay the entire amount of the start-up grant it 87850
received in fiscal year 2004 and fiscal year 2005 not later than 87851
June 30, 2019, in accordance with a payment schedule agreed to by 87852
the Department of Education. 87853

(B) If an entity that was a Title IV-A Head Start or Title 87854
IV-A Head Start Plus agency in fiscal year 2004 or fiscal year 87855
2005 will be an early learning agency or early learning provider 87856
in fiscal year 2010 and fiscal year 2011, the entity shall be 87857
allowed to retain any amount of the start-up grant it received, 87858
unless division (D) of this section applies to the entity. In that 87859
case, the entity shall repay the entire amount of the obligation 87860
described in that division not later than June 30, 2019. 87861

(C) Within ninety days after the closure of an early learning 87862
agency or early learning provider that was a Title IV-A Head Start 87863
Plus agency in fiscal year 2004 or fiscal year 2005, the former 87864
Title IV-A Head Start agencies, Title IV-A Head Start Plus 87865
agencies, and the Department of Education shall determine the 87866
repayment schedule for amounts owed under division (A) of this 87867
section. These amounts shall be paid to the state not later than 87868
June 30, 2019. 87869

(D) If an entity that was a Title IV-A Head Start or Title 87870
IV-A Head Start Plus agency in fiscal year 2004 or fiscal year 87871
2005 owed the state any portion of the start-up grant amount 87872
during fiscal year 2006 or fiscal year 2007 but failed to repay 87873
the entire amount of the obligation by June 30, 2007, the entity 87874
shall be given an extension for repayment through June 30, 2019, 87875

before any amounts remaining due and payable to the state are 87876
referred to the Attorney General for collection under section 87877
131.02 of the Revised Code. 87878

(E) Any Title IV-A Head Start or Title IV-A Head Start Plus 87879
start-up grants that are retained by early learning agencies or 87880
early learning providers pursuant to this section shall be 87881
reimbursed to the General Revenue Fund when the early learning 87882
program ceases or is no longer funded from Title IV-A or if an 87883
early learning agency's or early learning provider's participation 87884
in the early learning program ceases or is terminated. 87885

Section 265.40.40. AUXILIARY SERVICES REIMBURSEMENT 87886

Notwithstanding section 3317.064 of the Revised Code, if the 87887
unexpended, unencumbered cash balance is sufficient, the Treasurer 87888
of State shall transfer \$1,500,000 in fiscal year 2010 within 87889
thirty days after the effective date of this section, and 87890
\$1,500,000 in fiscal year 2011 by August 1, 2010, from the 87891
Auxiliary Services Personnel Unemployment Compensation Fund to the 87892
Auxiliary Services Reimbursement Fund (Fund 5980) used by the 87893
Department of Education. 87894

Section 265.40.50. LOTTERY PROFITS EDUCATION FUND 87895

Appropriation item 200612, Foundation Funding (Fund 7017), 87896
shall be used in conjunction with appropriation item 200550, 87897
Foundation Funding (GRF), to provide payments to school districts 87898
under Chapter 3306. of the Revised Code. 87899

The Department of Education, with the approval of the 87900
Director of Budget and Management, shall determine the monthly 87901
distribution schedules of appropriation item 200550, Foundation 87902
Funding (GRF), and appropriation item 200612, Foundation Funding 87903
(Fund 7017). If adjustments to the monthly distribution schedule 87904
are necessary, the Department of Education shall make such 87905

adjustments with the approval of the Director of Budget and Management. 87906
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Section 265.40.60. LOTTERY PROFITS EDUCATION RESERVE FUND 87908

(A) There is hereby created the Lottery Profits Education Reserve Fund (Fund 7018) in the State Treasury. Investment earnings of the Lottery Profits Education Reserve Fund shall be credited to the fund. The Superintendent of Public Instruction may certify cash balances exceeding \$75,000,000 in Fund 7018 to the Director of Budget and Management in June of any given fiscal year. Prior to making the certification, the Superintendent of Public Instruction shall determine whether the funds above the \$75,000,000 threshold are needed to help pay for foundation program obligations for that fiscal year under Chapter 3306. of the Revised Code. 87909
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For fiscal years 2010 and 2011, notwithstanding any provisions of law to the contrary, amounts necessary to make loans authorized by sections 3317.0210, 3317.0211, and 3317.62 of the Revised Code are hereby appropriated to Fund 7018. Loan repayments from loans made in previous years shall be deposited to the fund. 87920
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(B) On July 15, 2009, or as soon as possible thereafter, the Director of the Ohio Lottery Commission shall certify to the Director of Budget and Management the amount by which lottery profit transfers received by the Lottery Profits Education Fund (Fund 7017) exceeded \$667,900,000 in fiscal year 2009. The Director of Budget and Management may transfer the amount so certified, plus the cash balance in Fund 7017, to Fund 7018. 87926
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(C) On July 15, 2010, or as soon as possible thereafter, the Director of the Ohio Lottery Commission shall certify to the Director of Budget and Management the amount by which lottery profit transfers received by Fund 7017 exceeded \$705,000,000 in 87933
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fiscal year 2010. The Director of Budget and Management may 87937
transfer the amount so certified, plus the cash balance in Fund 87938
7017, to Fund 7018. 87939

(D) Any amounts transferred under division (B) or (C) of this 87940
section may be made available by the Controlling Board in fiscal 87941
years 2010 or 2011, at the request of the Superintendent of Public 87942
Instruction, to provide assistance and grants to school districts 87943
to enable them to remain solvent and to pay unforeseeable expenses 87944
of a temporary or emergency nature that they are unable to pay 87945
from existing resources under section 3316.20 of the Revised Code, 87946
and to provide payments to school districts under Chapter 3306. of 87947
the Revised Code. 87948

Section 265.40.70. GENERAL REVENUE FUND TRANSFERS TO SCHOOL 87949
DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 7047) 87950

Notwithstanding any provision of law to the contrary, in 87951
fiscal year 2010 and fiscal year 2011 the Director of Budget and 87952
Management may make temporary transfers between the General 87953
Revenue Fund and the School District Property Tax Replacement - 87954
Business Fund (Fund 7047) in the Department of Education to ensure 87955
sufficient balances in Fund 7047 and to replenish the General 87956
Revenue Fund for such transfers. 87957

Section 265.40.80. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - 87958
BUSINESS 87959

The foregoing appropriation item 200909, School District 87960
Property Tax Replacement - Business, shall be used by the 87961
Department of Education, in consultation with the Department of 87962
Taxation, to make payments to school districts and joint 87963
vocational school districts under section 5751.21 of the Revised 87964
Code. If it is determined by the Director of Budget and Management 87965
that additional appropriations are necessary for this purpose, 87966

such amounts are hereby appropriated. 87967

SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - UTILITY 87968

The foregoing appropriation item 200900, School District 87969
Property Tax Replacement-Utility, shall be used by the Department 87970
of Education, in consultation with the Department of Taxation, to 87971
make payments to school districts and joint vocational school 87972
districts under section 5727.85 of the Revised Code. If it is 87973
determined by the Director of Budget and Management that 87974
additional appropriations are necessary for this purpose, such 87975
amounts are hereby appropriated. 87976

DISTRIBUTION FORMULAS 87977

The Department of Education shall report the following to the 87978
Director of Budget and Management and the Legislative Service 87979
Commission: 87980

(A) Changes in formulas for distributing state 87981
appropriations, including administratively defined formula 87982
factors; 87983

(B) Discretionary changes in formulas for distributing 87984
federal appropriations; 87985

(C) Federally mandated changes in formulas for distributing 87986
federal appropriations. 87987

Any such changes shall be reported two weeks prior to the 87988
effective date of the change. 87989

Section 265.40.90. CLEVELAND MUNICIPAL SCHOOL DISTRICT EARLY 87990
ADOPTER PROJECT 87991

There is hereby established the Cleveland Municipal School 87992
District Early Adopter Project. The project shall consist of the 87993
following: 87994

(A) The Cleveland Municipal School District shall be fully 87995

funded under the provisions of Chapter 3306. of the Revised Code 87996
in fiscal years 2010 and 2011. 87997

(B) Upon the expiration of any collective bargaining 87998
agreement reached under Chapter 4117. of the Revised Code and 87999
notwithstanding any provisions of agreements between employee 88000
organizations and public employers made pursuant to Chapter 4117. 88001
of the Revised Code, the chief executive officer of the District 88002
may assign teachers based upon the needs of students in individual 88003
organizational units. 88004

(C)(1) A curriculum audit shall be conducted by an 88005
organization with the requisite experience in conducting such 88006
studies of urban districts. The curriculum audit shall review the 88007
district's curriculum management system and make recommendations 88008
to address the District's: 88009

(a) Control of resources, programs, and personnel to improve 88010
academic success; 88011

(b) Establishment of clear and valid objectives for students; 88012

(c) Internal consistency and rational equity in academic 88013
program development and implementation; 88014

(d) Use of the results from district designed or adopted 88015
assessments to adjust, improve, or terminate ineffective practices 88016
or programs; 88017

(e) Productivity through the District's curriculum management 88018
system; and 88019

(f) Any other factor as determined by the Superintendent of 88020
Public Instruction, in consultation with the District's chief 88021
executive officer. 88022

(2) A business and operational management study shall be 88023
conducted by an organization with the requisite experience in 88024
conducting such studies for urban districts. The study shall 88025

review the District's business and operational management systems 88026
and make recommendations to address the District's: 88027

(a) Financial operations, business services, human resources, 88028
school facilities, technology systems, and other services 88029
identified by the Superintendent of Public Instruction to increase 88030
their effectiveness and efficiency; 88031

(b) Overall leadership, management, and organizational 88032
structure to improve the productivity of the District; 88033

(c) Alignment of instructional and business operations to 88034
achieve the District's academic mission; and 88035

(d) Any other factors determined by the Superintendent of 88036
Public Instruction, in consultation with the District's chief 88037
executive officer. 88038

(3) The Superintendent of Public Instruction, in consultation 88039
with the District's chief executive officer, shall select a vendor 88040
to provide the services identified under divisions (C)(1) and (2) 88041
of this section. The selected vendor must meet the minimum 88042
qualifications as set forth in divisions (C)(1) and (2) of this 88043
section and any other qualifications established by the 88044
Superintendent of Public Instruction. 88045

(D) The chief executive officer of the District shall use the 88046
recommendations of the studies under division (C) of this section 88047
and the District's Human Ware Audit to work collaboratively with 88048
the District's system redesign advisory council to identify 88049
systems redesign and school improvement strategies that will 88050
improve the District's ability to effectively and efficiently meet 88051
its mission. The chief executive officer of the District shall 88052
utilize systems redesign and school improvement strategies to 88053
create a five-year strategic plan. When creating the five-year 88054
plan, the chief executive officer shall implement the 88055
recommendations of the studies conducted under division (C) of 88056

this section unless a waiver is obtained from the Superintendent 88057
of Public Instruction. The District Board of Education shall adopt 88058
and monitor the implementation of the District's five-year 88059
strategic plan. 88060

(E) The District shall hire a chief systems redesign officer 88061
who shall report directly to the chief executive officer. The 88062
chief systems redesign officer shall use relevant data from the 88063
studies conducted under division (C) of this section to work 88064
collaboratively with the Department of Education, the systems 88065
redesign advisory council, and the transformational leadership 88066
team of each organizational unit in the District under division 88067
(G) of this section to create a five-year redesign plan for each 88068
organizational unit. When creating the plans for each 88069
organizational unit, the chief executive officer and the chief 88070
systems redesign officer shall incorporate all applicable 88071
recommendations of the studies conducted under division (C) of 88072
this section for each organizational unit in the District unless a 88073
waiver is obtained from the Superintendent of Public Instruction. 88074
The District Board of Education shall adopt and monitor the 88075
implementation of the five-year strategic plan for each 88076
organizational unit in the District. 88077

(F) The District shall create a district-level systems 88078
redesign advisory council to assist the chief systems redesign 88079
officer hired under division (E) of this section. The advisory 88080
council shall make recommendations to the chief systems redesign 88081
officer regarding the implementation of the systems redesign of 88082
each organizational unit, the implementation of the 88083
recommendations of the reports made pursuant to division (C) of 88084
this section, the implementation of the recommendations of the 88085
District's Human Ware Audit, and any other matters that the chief 88086
systems redesign officer requests. The advisory council shall 88087
consist of the following: 88088

- (1) The chief executive officer or designee, who shall serve as chair; 88089
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- (2) A representative from a philanthropic organization in the city of Cleveland; 88091
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- (3) A parent of a student enrolled in the District, appointed by the chief executive officer of the District; 88093
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- (4) A principal employed by the District, appointed by the chief executive officer of the District; 88095
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- (5) A lead teacher employed by the District, appointed by the chief executive officer of the District; 88097
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- (6) A collective bargaining representative from the District representing teachers, appointed by the collective bargaining unit for teachers in the District; 88099
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- (7) A collective bargaining representative from the District representing support staff, appointed by the collective bargaining unit for support staff in the District; 88102
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- (8) A representative of the community at large, appointed by the chief executive officer of the District; 88105
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- (9) A family and community engagement coordinator employed by the District, appointed by the chief executive officer of the District; 88107
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- (10) A representative from an institution of higher education in the Cleveland metropolitan area, appointed by the Chancellor of the Board of Regents; 88110
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- (11) A representative from the Department of Education, appointed by the Superintendent of Public Instruction; 88113
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- (12) A student from the eleventh or twelfth grade of a 9-12 organizational unit, appointed by the chief executive officer of the District. 88115
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(G) The District shall create a transformational leadership team in each organizational unit in order to implement a systems redesign of each organizational unit in the District based upon best practices of systems redesign and school improvement, the recommendations of the District's Human Ware Audit, and any applicable recommendations made under division (C) of this section. Each transformational leadership team shall also define student success for the organizational unit in terms that align with the vision, mission, and goals of the strategic plan developed by the Superintendent of Public Instruction. Each team shall include at least the following:

(1) The principal from that organizational unit, who shall serve as co-chair;

(2) The collective bargaining unit representative for teachers from that organizational unit, who shall serve as co-chair;

(3) The collective bargaining unit representative for support staff from that organizational unit;

(4) The lead teacher from that organizational unit;

(5) A parent of a student who attends the organizational unit, selected by the principal;

(6) A representative of the community at large, selected by the principal;

(7) A family and community engagement coordinator from that organizational unit;

(8) A student from the seventh or eighth grade of a K-8 organizational unit, or a student from the eleventh or twelfth grade of a 9-12 organizational unit, selected by the principal.

(H) The Superintendent of Public Instruction shall provide technical assistance and monitoring in order to assist the

District in implementing the District and organizational unit 88148
redesign plans. 88149

(I) The chief executive officer of the District shall issue a 88150
progress report at the end of each fiscal year to the Governor and 88151
Superintendent of Public Instruction. The progress report shall 88152
demonstrate the District's progress toward meeting the 88153
recommendations of the curriculum audit and business and 88154
operations management study. If the Superintendent determines that 88155
there has not been sufficient progress toward meeting the 88156
recommendations of the curriculum audit and business and 88157
operations management study in fiscal year 2010, the District 88158
shall be ineligible in fiscal year 2011 for funds provided for the 88159
Early Adopter Project in appropriation item 200422, School 88160
Management Assistance, and transitional aid under section 3306.19 88161
of the Revised Code. 88162

Section 265.50.10. EDUCATIONAL SERVICE CENTERS FUNDING 88163

Notwithstanding divisions (F) and (H) of section 3317.11 of 88164
the Revised Code, state funding for each educational service 88165
center under those divisions in fiscal years 2010 and 2011 shall 88166
be equal to 90 per cent of the funding provided to the center for 88167
fiscal year 2009 under those divisions and Section 269.50.30 of 88168
Am. Sub. H.B. 119 of the 127th General Assembly. 88169

Section 265.50.20. WAIVER OF PUPIL TO TEACHER RATIO 88170

For the school year commencing July 1, 2009, or the school 88171
year commencing July 1, 2010, or both, the Superintendent of 88172
Public Instruction may waive for the board of education of any 88173
school district the ratio of teachers to pupils in kindergarten 88174
through fourth grade required under paragraph (A)(3) of rule 88175
3301-35-05 of the Administrative Code if the following conditions 88176
apply: 88177

(A) The board of education requests the waiver.	88178
(B) After the Department of Education conducts an on-site evaluation of the district related to meeting the required ratio, the board of education demonstrates to the satisfaction of the Superintendent of Public Instruction that providing the facilities necessary to meet the required ratio during the district's regular school hours with pupils in attendance would impose an extreme hardship on the district.	88179 88180 88181 88182 88183 88184 88185
(C) The board of education provides assurances that are satisfactory to the Superintendent of Public Instruction that the board will act in good faith to meet the required ratio as soon as possible.	88186 88187 88188 88189
Section 265.50.30. PRIVATE TREATMENT FACILITY PROJECT	88190
(A) As used in this section:	88191
(1) The following are "participating residential treatment centers":	88192 88193
(a) Private residential treatment facilities that have entered into a contract with the Department of Youth Services to provide services to children placed at the facility by the Department and which, in fiscal year 2010 or fiscal year 2011 or both, the Department pays through appropriation item 470401, Care and Custody;	88194 88195 88196 88197 88198 88199
(b) Abraxas, in Shelby;	88200
(c) Paint Creek, in Bainbridge;	88201
(d) Act One, in Akron;	88202
(e) F.I.R.S.T., in Mansfield.	88203
(2) "Education program" means an elementary or secondary education program or a special education program and related services.	88204 88205 88206

(3) "Served child" means any child receiving an education program pursuant to division (B) of this section. 88207
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(4) "School district responsible for tuition" means a city, exempted village, or local school district that, if tuition payment for a child by a school district is required under law that existed in fiscal year 1998, is the school district required to pay that tuition. 88209
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(5) "Residential child" means a child who resides in a participating residential treatment center and who is receiving an educational program under division (B) of this section. 88214
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(B) A youth who is a resident of the state and has been assigned by a juvenile court or other authorized agency to a residential treatment facility specified in division (A) of this section shall be enrolled in an approved educational program located in or near the facility. Approval of the educational program shall be contingent upon compliance with the criteria established for such programs by the Department of Education. The educational program shall be provided by a school district or educational service center, or by the residential facility itself. Maximum flexibility shall be given to the residential treatment facility to determine the provider. In the event that a voluntary agreement cannot be reached and the residential facility does not choose to provide the educational program, the educational service center in the county in which the facility is located shall provide the educational program at the treatment center to children under twenty-two years of age residing in the treatment center. 88217
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(C) Any school district responsible for tuition for a residential child shall, notwithstanding any conflicting provision of the Revised Code regarding tuition payment, pay tuition for the child for fiscal year 2010 and fiscal year 2011 to the education program provider and in the amount specified in this division. If 88234
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there is no school district responsible for tuition for a 88239
residential child and if the participating residential treatment 88240
center to which the child is assigned is located in the city, 88241
exempted village, or local school district that, if the child were 88242
not a resident of that treatment center, would be the school 88243
district where the child is entitled to attend school under 88244
sections 3313.64 and 3313.65 of the Revised Code, that school 88245
district, notwithstanding any conflicting provision of the Revised 88246
Code, shall pay tuition for the child for fiscal year 2010 and 88247
fiscal year 2011 under this division unless that school district 88248
is providing the educational program to the child under division 88249
(B) of this section. 88250

A tuition payment under this division shall be made to the 88251
school district, educational service center, or residential 88252
treatment facility providing the educational program to the child. 88253

The amount of tuition paid shall be: 88254

(1) The amount of tuition determined for the district under 88255
division (A) of section 3317.08 of the Revised Code; 88256

(2) In addition, for any student receiving special education 88257
pursuant to an individualized education program as defined in 88258
section 3323.01 of the Revised Code, a payment for excess costs. 88259
This payment shall equal the actual cost to the school district, 88260
educational service center, or residential treatment facility of 88261
providing special education and related services to the student 88262
pursuant to the student's individualized education program, minus 88263
the tuition paid for the child under division (C)(1) of this 88264
section. 88265

A school district paying tuition under this division shall 88266
not include the child for whom tuition is paid in the district's 88267
average daily membership certified under division (A) of section 88268
3317.03 of the Revised Code. 88269

(D) In each of fiscal years 2010 and 2011, the Department of Education shall reimburse, from appropriations made for the purpose, a school district, educational service center, or residential treatment facility, whichever is providing the service, that has demonstrated that it is in compliance with the funding criteria for each served child for whom a school district must pay tuition under division (C) of this section. The amount of the reimbursement shall be the amount appropriated for this purpose divided by the full-time equivalent number of children for whom reimbursement is to be made.

(E) Funds provided to a school district, educational service center, or residential treatment facility under this section shall be used to supplement, not supplant, funds from other public sources for which the school district, service center, or residential treatment facility is entitled or eligible.

(F) The Department of Education shall track the utilization of funds provided to school districts, educational service centers, and residential treatment facilities under this section and monitor the effect of the funding on the educational programs they provide in participating residential treatment facilities. The Department shall monitor the programs for educational accountability.

Section 265.50.40. SCHOOL DISTRICT PARTICIPATION IN NATIONAL ASSESSMENT OF EDUCATION PROGRESS

The General Assembly intends for the Superintendent of Public Instruction to provide for school district participation in the administration of the National Assessment of Education Progress in accordance with section 3301.27 of the Revised Code. Each school and school district selected for participation by the Superintendent of Public Instruction shall participate.

Section 265.50.50. DEPARTMENT OF EDUCATION APPROPRIATION 88300
TRANSFERS FOR STUDENT ASSESSMENT 88301

In fiscal year 2010 and fiscal year 2011, if the 88302
Superintendent of Public Instruction determines that additional 88303
funds are needed to fully fund the requirements of Am. Sub. H.B. 3 88304
of the 125th General Assembly and this act for assessments of 88305
student performance, the Superintendent of Public Instruction may 88306
recommend the reallocation of unexpended and unencumbered General 88307
Revenue Fund appropriations within the Department of Education to 88308
appropriation item 200437, Student Assessment, to the Director of 88309
Budget and Management. If the Director of Budget and Management 88310
determines that such a reallocation is required, the Director of 88311
Budget and Management may transfer unexpended and unencumbered 88312
appropriations within the Department of Education as necessary to 88313
appropriation item 200437, Student Assessment. If these 88314
transferred appropriations are not sufficient to fully fund the 88315
assessment requirements in fiscal year 2010 or fiscal year 2011, 88316
the Superintendent of Public Instruction may request that the 88317
Controlling Board transfer up to \$9,000,000 cash from the Lottery 88318
Profits Education Reserve Fund (Fund 7018) to the General Revenue 88319
Fund. Upon approval of the Controlling Board, these transferred 88320
funds are hereby appropriated for the same purpose as 88321
appropriation item 200437, Student Assessment. 88322

Section 265.50.60. COMMUNITY SCHOOL FUNDING GUARANTEE FOR SBH 88323
STUDENTS 88324

(A) As used in this section: 88325

(1) "IEP" has the same meaning as in section 3323.01 of the 88326
Revised Code. 88327

(2) "SBH student" means a student receiving special education 88328
and related services for severe behavior disabilities pursuant to 88329

an IEP. 88330

(B) This section applies only to a community school 88331
established under Chapter 3314. of the Revised Code that in each 88332
of fiscal years 2010 and 2011 enrolls a number of SBH students 88333
equal to at least fifty per cent of the total number of students 88334
enrolled in the school in the applicable fiscal year. 88335

(C) In addition to any payments made under Chapter 3306. of 88336
the Revised Code, in each of fiscal years 2010 and 2011, the 88337
Department of Education shall pay to a community school to which 88338
this section applies a subsidy equal to the difference between the 88339
aggregate amount calculated and paid in fiscal year 2009 to the 88340
community school for special education and related services 88341
additional weighted costs for the SBH students enrolled in the 88342
school and the aggregate amount that would have been calculated 88343
for the school for special education and related services 88344
additional weighted costs for those same students in fiscal year 88345
2001. If the difference is a negative number, the amount of the 88346
subsidy shall be zero. 88347

(D) The amount of any subsidy paid to a community school 88348
under this section shall not be deducted from the school district 88349
in which any of the students enrolled in the community school are 88350
entitled to attend school under section 3313.64 or 3313.65 of the 88351
Revised Code. The amount of any subsidy paid to a community school 88352
under this section shall be paid from funds appropriated to the 88353
Department of Education in appropriation item 200550, Foundation 88354
Funding. 88355

Section 265.50.70. EARMARK ACCOUNTABILITY 88356

At the request of the Superintendent of Public Instruction, 88357
any entity that receives a budget earmark under the Department of 88358
Education shall submit annually to the chairpersons of the 88359
committees of the House of Representatives and the Senate 88360

primarily concerned with education and to the Department of 88361
Education a report that includes a description of the services 88362
supported by the funds, a description of the results achieved by 88363
those services, an analysis of the effectiveness of the program, 88364
and an opinion as to the program's applicability to other school 88365
districts. For an earmarked entity that received state funds from 88366
an earmark in the prior fiscal year, no funds shall be provided by 88367
the Department of Education to an earmarked entity for a fiscal 88368
year until its report for the prior fiscal year has been 88369
submitted. 88370

Section 265.50.80. PROHIBITION FROM OPERATING FROM HOME 88371

No community school established under Chapter 3314. of the 88372
Revised Code that was not open for operation as of May 1, 2005, 88373
shall operate from a home, as defined in section 3313.64 of the 88374
Revised Code. 88375

Section 265.50.90. EARLY COLLEGE START UP COMMUNITY SCHOOL 88376

(A) As used in this section: 88377

(1) "Big eight school district" has the same meaning as in 88378
section 3314.02 of the Revised Code. 88379

(2) "Early college high school" means a high school that 88380
provides students with a personalized learning plan based on an 88381
accelerated curriculum combining high school and college-level 88382
coursework. 88383

(B) Any early college high school that is operated by a big 88384
eight school district in partnership with a private university may 88385
operate as a new start-up community school under Chapter 3314. of 88386
the Revised Code beginning in the 2007-2008 school year, if all of 88387
the following conditions are met: 88388

(1) The governing authority and sponsor of the school enter 88389

into a contract in accordance with section 3314.03 of the Revised Code and, notwithstanding division (D) of section 3314.02 of the Revised Code, both parties adopt and sign the contract by July 9, 2007.

(2) Notwithstanding division (A) of section 3314.016 of the Revised Code, the school's governing authority enters into a contract with the private university under which the university will be the school's operator.

(3) The school provides the same educational program the school provided while part of the big eight school district.

Section 265.60.10. PILOT PROGRAM FOR SCHOOL SITE VISITS

Notwithstanding section 3301.83 of the Revised Code, the Department of Education shall provide a pilot program of school site visits. The pilot program shall contain all of the elements of section 3301.83 of the Revised Code. Not later than December 31, 2010, the Department shall report to the Governor and the General Assembly as to the progress of the site visits conducted under the pilot program as well as recommendations to provide for full implementation of section 3301.83 of the Revised Code.

Section 265.60.20. TASK FORCE ON TEACHER COMPENSATION AND PERFORMANCE

(A) There is hereby established the Task Force on Teacher Compensation and Performance. The membership of the Task Force shall consist of the Superintendent of Public Instruction, or the Superintendent's designee, who shall act as chair, and the following members appointed by the Governor:

(1) Two persons employed as teachers in a school district;

(2) Two persons who are retired educators;

(3) Two persons employed as superintendents of a school

district;	88419
(4) Two persons employed as treasurers of a school district;	88420
(5) Two persons employed as principals in a school district;	88421
(6) Two persons employed as faculty at a higher education institution;	88422 88423
(7) Two persons representing Ohio philanthropic organizations;	88424 88425
(8) One person representing the business community;	88426
(9) One person representing the general public.	88427
The members of the Task Force shall serve without compensation.	88428 88429
(B) Initial appointments to the Task Force shall be completed within 90 days of the effective date of this section. The Governor shall convene the Task Force not more than 30 days after the final appointment has been made.	88430 88431 88432 88433
(C) The Task Force shall examine the existing structures and systems that support compensation and retirement benefits and develop recommendations designed to improve the connections among compensation, teaching excellence, and higher levels of student learning. The Department of Education shall provide the Task Force with data and staff assistance as requested by the Task Force.	88434 88435 88436 88437 88438 88439
(D) The Task Force shall provide its recommendations in a written report to the Governor, the General Assembly, the State Board of Education, the Superintendent of Public Instruction, and the Chancellor of the Board of Regents not later than December 1, 2010. Upon completion of its report, the Task Force shall cease to exist.	88440 88441 88442 88443 88444 88445
Section 265.60.30. USE OF VOLUNTEERS	88446
The Department of Education may utilize the services of	88447

volunteers to accomplish any of the purposes of the Department. 88448
The Superintendent of Public Instruction shall approve for what 88449
purposes volunteers may be used and for these purposes may 88450
recruit, train, and oversee the services of volunteers. The 88451
Superintendent may reimburse volunteers for necessary and 88452
appropriate expenses in accordance with state guidelines and may 88453
designate volunteers as state employees for the purpose of motor 88454
vehicle accident liability insurance under section 9.83 of the 88455
Revised Code, for immunity under section 9.86 of the Revised Code, 88456
and for indemnification from liability incurred in the performance 88457
of their duties under section 9.87 of the Revised Code. 88458

Section 260.60.40. SCHOOL FOR THE BLIND AND SCHOOL FOR THE 88459
DEAF MOVED TO DEPARTMENT OF EDUCATION 88460

(A) Effective July 1, 2009, the State School for the Blind 88461
and the State School for the Deaf are hereby moved to the 88462
Department of Education. On and after that date, the schools shall 88463
be part of the Department and shall operate in accordance with 88464
Chapter 3325. of the Revised Code, as amended by this act. 88465

(B) The Department is thereupon and thereafter successor to 88466
and assumes the obligations of the State School for the Blind and 88467
the State School for the Deaf. 88468

(C) Any business commenced but not completed by the State 88469
School for the Blind or the State School for the Deaf shall be 88470
completed by the Department in the same manner, and with the same 88471
effect, as if completed by the respective school. No validation, 88472
cure, right, privilege, remedy, obligation, or liability is lost 88473
or impaired by reason of moving the schools to the Department. 88474

(D) As prescribed in section 3325.041 of the Revised Code, 88475
teachers, nurses, and other staff of the State School for the 88476
Blind and the State School for the Deaf shall cease to be 88477
employees of the respective school and shall become employees of 88478

the Department in accordance with that section. 88479

(E) No judicial or administrative action or proceeding in 88480
which the State School for the Blind or the State School for the 88481
Deaf is a party that is pending on July 1, 2009, is affected by 88482
reason of moving the respective school to the Department. Such 88483
action or proceeding shall be prosecuted or defended in the name 88484
of the Department. On application to the court or other tribunal, 88485
the Department shall be substituted for the State School for the 88486
Blind or the State School for the Deaf, as applicable, as a party 88487
to such action or proceeding. 88488

(F) All books, records, documents, files, transcripts, 88489
equipment, furniture, supplies, and other materials assigned to or 88490
in the possession of the State School for the Blind and the State 88491
School for the Deaf shall be transferred to the Department. 88492

(G) Any operating or capital appropriation to the State 88493
School for the Blind or the School for the Deaf outstanding on 88494
July 1, 2009, shall be used for the same purpose, but as if 88495
appropriated to the Department of Education. 88496

(H) The Director of Budget and Management is authorized to 88497
take the actions described in section 126.21 of the Revised Code 88498
with respect to budget changes, program transfers, the creation of 88499
new funds, and the consolidation of funds made necessary by 88500
administrative reorganization of the Ohio State School for the 88501
Blind and the Ohio School for the Deaf into the Department of 88502
Education. The Director of Budget and Management shall establish 88503
accounts indicating the source and amount of funds for each 88504
appropriation made in this act for the Ohio State School for the 88505
Blind and the Ohio School for the Deaf, and shall determine the 88506
form and manner in which appropriation accounts shall be 88507
maintained. 88508

Section 265.60.50. FUNDING STUDY FOR SCHOOLS FOR THE BLIND 88509

AND DEAF 88510

The Superintendent of Public Instruction shall study the 88511
viability of partially or fully funding the Ohio State School for 88512
the Blind and the Ohio State School for the Deaf through the 88513
evidence-based funding model prescribed by Chapter 3306. of the 88514
Revised Code. The Superintendent shall consider the merit of using 88515
the model for those schools and possible methods of incorporating 88516
the schools into the model. Not later than June 30, 2010, the 88517
Superintendent shall prepare a written report of the 88518
Superintendent's findings. The report shall include 88519
recommendations for a funding mechanism for the schools that 88520
ensures that their funding streams are transparent and 88521
sustainable. Copies of the report shall be provided to the 88522
Governor, General Assembly, and State Board of Education. 88523

Section 265.60.60. EDUCATOR STANDARDS BOARD 88524

(A) The State Board of Education shall appoint a school 88525
district treasurer or business manager to the Educator Standards 88526
Board under division (A)(1)(c) of section 3319.60 of the Revised 88527
Code, as amended by this act, not later than sixty days after the 88528
effective date of this section. The term of office of that member 88529
shall expire July 1, 2012. Thereafter, the term of the school 88530
district treasurer or business manager appointed to the Educator 88531
Standards Board shall be for two years. 88532

(B) The State Board of Education shall appoint a parent to 88533
the Educator Standards Board under division (A)(1)(e) of section 88534
3319.60 of the Revised Code, as amended by this act, not later 88535
than sixty days after the effective date of this section. The term 88536
of office of that member shall expire July 1, 2011. Thereafter, 88537
the term of the parent representative appointed to the Educator 88538
Standards Board shall be for two years. 88539

(C) The higher education representatives appointed by the State Board of Education to the Educator Standards Board prior to the effective date of this section under former division (A)(5) of section 3319.60 of the Revised Code shall serve for the remainder of their terms. The Chancellor of the Ohio Board of Regents shall appoint higher education representatives to the Educator Standards Board under division (A)(2) of section 3319.60 of the Revised Code, as amended by this act, as the terms of the higher education representatives appointed under former division (A)(5) of that section expire, each for a term of two years. The Chancellor also shall fill any vacancies that occur during the term of a higher education representative appointed under former division (A)(5) of that section.

Section 265.60.70. RESTRICTION OF LIABILITY FOR CERTAIN REIMBURSEMENTS

(A) Except as expressly required under a court judgment not subject to further appeals or a settlement agreement with a school district, in the case of a school district for which the formula ADM for fiscal year 2005, as reported for that fiscal year under division (A) of section 3317.03 of the Revised Code, was reduced based on enrollment reports for community schools, made under section 3314.08 of the Revised Code, regarding students entitled to attend school in the district, which reduction of formula ADM resulted in a reduction of foundation funding or transitional aid funding for fiscal year 2005, 2006, or 2007, no school district, except a district named in the court's judgment or the settlement agreement, shall have a legal claim for reimbursement of the amount of such reduction in foundation funding or transitional aid funding, and the state shall not have liability for reimbursement of the amount of such reduction in foundation funding or transitional aid funding.

(B) As used in this section:	88571
(1) "Community school" means a community school established under Chapter 3314. of the Revised Code.	88572 88573
(2) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code.	88574 88575 88576
(3) "Foundation funding" means payments calculated for the respective fiscal year under Chapter 3317. of the Revised Code.	88577 88578
(4) "Transitional aid funding" means payments calculated for the respective fiscal year under Section 41.37 of Am. Sub. H.B. 95 of the 125th General Assembly, as subsequently amended; and Section 206.09.39 of Am. Sub. H.B. 66 of the 126th General Assembly, as subsequently amended.	88579 88580 88581 88582 88583
Section 265.60.80. COMMITTEE TO UPDATE STANDARDS AND CURRICULA	88584 88585
Not later than July 15, 2009, the State Board of Education shall convene a committee of national experts, state experts, and local practitioners to provide advice and guidance in the design of the updated standards and curricula required by section 3301.079 of the Revised Code, as amended by this act.	88586 88587 88588 88589 88590
Section 265.60.90. TRANSFER OF SCHOOL EMPLOYEES HEALTH CARE BOARD	88591 88592
All duties, powers, obligations, and functions performed by, all rights exercised by, and the remaining unexpended, unencumbered balance of any money appropriated or reappropriated to the Department of Administrative Services with regard to the School Employees Health Care Board under section 9.901 of the Revised Code, whether obligated or unobligated, are transferred to the Department of Education on July 1, 2009. The Department of	88593 88594 88595 88596 88597 88598 88599

Education thereupon succeeds to, and shall assume, all duties, 88600
powers, obligations, and functions performed by, all rights 88601
exercised by, and the remaining unexpended, unencumbered balance 88602
of any money appropriated or reappropriated to the Department of 88603
Administrative Services with regard to the School Employees Health 88604
Care Board under section 9.901 of the Revised Code. 88605

Any aspect of the board's operations commenced but not 88606
completed by the Department of Administrative Services on July 1, 88607
2009, shall be completed by the Superintendent of Public 88608
Instruction or staff of the Department of Education in the same 88609
manner, and with the same effect, as if completed by the 88610
Department of Administrative Services or the staff of the 88611
Department of Administrative Services. Any validation, cure, 88612
right, privilege, remedy, obligation, or liability related to the 88613
board's operations is neither lost nor impaired by reason of the 88614
transfer and shall be administered by the Department of Education. 88615

All of the rules, orders, and determinations of the 88616
Department of Administrative Services in relation to the board's 88617
operations continue in effect as rules, orders, and determinations 88618
of the Superintendent of Public Instruction until modified or 88619
rescinded by the Superintendent. At the request of the 88620
Superintendent, and if necessary to ensure the integrity of the 88621
numbering of the Administrative Code, the Director of the 88622
Legislative Service Commission shall renumber the rules of the 88623
board to reflect the transfer to the Department of Education. 88624

The Department of Administrative Services and the 88625
Superintendent shall identify the employees of the board to be 88626
transferred to the Department of Education. The employees shall be 88627
transferred on July 1, 2009, or as soon as possible thereafter. 88628

Whenever the Department of Administrative Services is 88629
referred to in relation to the board in any law, contract, or 88630
other document, the reference shall be deemed to refer to the 88631

Department of Education in relation to the board. 88632

Any action or proceeding that is related to the board's 88633
operations and that is pending on the effective date of this 88634
section is not affected by the transfer and shall be prosecuted or 88635
defended in the name of the Superintendent or the Department of 88636
Education. In all such actions and proceedings, the Superintendent 88637
or the Department of Education, upon application to the court or 88638
agency, shall be substituted as a party. 88639

On or after July 1, 2009, notwithstanding any provision of 88640
law to the contrary, the Director of Budget and Management shall 88641
take any action with respect to budget changes made necessary by 88642
the transfer, including the creation of new funds and the 88643
consolidation of funds. The Director may transfer cash balances 88644
between funds. The Director may cancel encumbrances and 88645
re-establish encumbrances or parts of encumbrances as needed in 88646
the fiscal year in the appropriate fund and appropriation item for 88647
the same purpose and to the same vendor. As determined by the 88648
Director, encumbrances re-established in the fiscal year in a 88649
different fund or appropriation item used by an agency or between 88650
agencies are appropriated. The Director shall reduce each year's 88651
appropriation balances by the amount of the encumbrance canceled 88652
in their respective funds and appropriation item. Any unencumbered 88653
or unallocated appropriation balances from the previous fiscal 88654
year may be transferred to the appropriate appropriation item to 88655
be used for the same purposes, as determined by the Director. 88656

Section 265.70.10. CENTER FOR EARLY CHILDHOOD DEVELOPMENT 88657

(A) The Superintendent of Public Instruction, in consultation 88658
with the Governor, shall create the Center for Early Childhood 88659
Development in the Department of Education comprised of staff from 88660
the Department of Education, the Department of Job and Family 88661
Services, the Department of Health, and any other state agency as 88662

determined necessary by the Superintendent. The Superintendent 88663
also shall hire a Director of the Center. The Center, under the 88664
supervision of the Director, shall research and make 88665
recommendations about the coordination of early childhood programs 88666
and services for children, beginning with prenatal care and 88667
continuing until entry into kindergarten, and the eventual 88668
transfer of the authority to implement those programs and services 88669
from other state agencies to the Department of Education. 88670

(B) The Director of the Early Childhood Cabinet, in 88671
partnership with staff from the Department of Education shall 88672
submit an implementation plan to the Superintendent and the 88673
Governor not later than August 31, 2009. The implementation plan 88674
shall include research and recommendations regarding all of the 88675
following: 88676

(1) The identification of programs, services, and funding 88677
sources to be transferred from other state agencies to the 88678
Department of Education; 88679

(2) A new administrative structure within the Department of 88680
Education for the purpose of implementing early childhood programs 88681
and services; 88682

(3) Statutory changes necessary to implement the new 88683
administrative structure within the Department of Education; 88684

(4) A timeline for the transition from the current 88685
administrative structure within other state agencies to the new 88686
administrative structure within the Department of Education. 88687

(C) The Director of Budget and Management may seek 88688
Controlling Board approval to do any of the following to support 88689
the preparation of an implementation plan to create a new 88690
administrative structure for early childhood programs and services 88691
within the Department of Education: 88692

(1) Create new funds and non-GRF appropriation items; 88693

(2) Transfer cash between funds; 88694

(3) Transfer appropriation within the same fund used by the 88695
same state agency. 88696

Any transfers of cash approved by the Controlling Board under 88697
this section are hereby appropriated. 88698

Section 265.70.20. EARLY CHILDHOOD FINANCING WORKGROUP 88699

The Early Childhood Advisory Council shall establish an Early 88700
Childhood Financing Workgroup. The chairperson of the Early 88701
Childhood Advisory Council shall serve as chairperson of the Early 88702
Childhood Financing Workgroup. The Early Childhood Financing 88703
Workgroup shall develop recommendations that explore the 88704
implementation of a single financing system for early care and 88705
education programs that includes aligned payment mechanisms and 88706
consistent eligibility and co-payment policies. Not later than 88707
December 31, 2009, the Early Childhood Financing Workgroup shall 88708
submit its recommendations to the Governor. Upon the order of the 88709
Early Childhood Advisory Council, the Early Childhood Financing 88710
Workgroup shall cease to exist. 88711

Section 267.10. ELC OHIO ELECTIONS COMMISSION 88712

General Revenue Fund 88713

GRF 051321	Operating Expenses	\$	381,578	\$	381,578	88714
TOTAL GRF	General Revenue Fund	\$	381,578	\$	381,578	88715

General Services Fund Group 88716

4P20 051601	Ohio Elections	\$	250,000	\$	255,000	88717
Commission Fund						
TOTAL GSF	General Services Fund	\$	250,000	\$	255,000	88718

Group

TOTAL ALL BUDGET FUND GROUPS		\$	631,578	\$	636,578	88719
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Section 269.10. FUN STATE BOARD OF EMBALMERS AND FUNERAL 88721

DIRECTORS				88722
General Services Fund Group				88723
4K90 881609 Operating Expenses	\$	646,414	\$ 646,562	88724
TOTAL GSF General Services				88725
Fund Group	\$	646,414	\$ 646,562	88726
TOTAL ALL BUDGET FUND GROUPS	\$	646,414	\$ 646,562	88727

Section 271.10. PAY EMPLOYEE BENEFITS FUNDS 88729

Accrued Leave Liability Fund Group				88730
8060 995666 Accrued Leave Fund	\$	65,200,000	\$ 67,200,000	88731
8070 995667 Disability Fund	\$	27,400,000	\$ 28,100,000	88732
TOTAL ALF Accrued Leave Liability				88733
Fund Group	\$	92,600,000	\$ 95,300,000	88734
Agency Fund Group				88735
1240 995673 Payroll Deductions	\$	881,573,000	\$ 943,283,110	88736
8080 995668 State Employee Health	\$	551,795,580	\$ 598,643,430	88737
Benefit Fund				
8090 995669 Dependent Care	\$	2,969,635	\$ 2,969,635	88738
Spending Account				
8100 995670 Life Insurance	\$	2,229,834	\$ 2,229,834	88739
Investment Fund				
8110 995671 Parental Leave	\$	3,900,000	\$ 4,000,000	88740
Benefit Fund				
8130 995672 Health Care Spending	\$	8,977,689	\$ 12,000,000	88741
Account				
TOTAL AGY Agency Fund Group	\$	1,451,445,738	\$ 1,563,126,009	88742
TOTAL ALL BUDGET FUND GROUPS	\$	1,544,045,738	\$ 1,658,426,009	88743

ACCRUED LEAVE LIABILITY FUND 88744

The foregoing appropriation item 995666, Accrued Leave Fund, 88745
shall be used to make payments from the Accrued Leave Liability 88746
Fund (Fund 8060) pursuant to section 125.211 of the Revised Code. 88747

If it is determined by the Director of Budget and Management that 88748
additional amounts are necessary, the amounts are hereby 88749
appropriated. 88750

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND 88751

The foregoing appropriation item 995667, Disability Fund, 88752
shall be used to make payments from the State Employee Disability 88753
Leave Benefit Fund (Fund 8070) pursuant to section 124.83 of the 88754
Revised Code. If it is determined by the Director of Budget and 88755
Management that additional amounts are necessary, the amounts are 88756
hereby appropriated. 88757

PAYROLL WITHHOLDING FUND 88758

The foregoing appropriation item 995673, Payroll Deductions, 88759
shall be used to make payments from the Payroll Withholding Fund 88760
(Fund 1240). If it is determined by the Director of Budget and 88761
Management that additional appropriation amounts are necessary, 88762
the amounts are hereby appropriated. 88763

STATE EMPLOYEE HEALTH BENEFIT FUND 88764

The foregoing appropriation item 995668, State Employee 88765
Health Benefit Fund, shall be used to make payments from the State 88766
Employee Health Benefit Fund (Fund 8080) pursuant to section 88767
124.87 of the Revised Code. If it is determined by the Director of 88768
Budget and Management that additional amounts are necessary, the 88769
amounts are hereby appropriated. 88770

DEPENDENT CARE SPENDING FUND 88771

The foregoing appropriation item 995669, Dependent Care 88772
Spending Account, shall be used to make payments from the 88773
Dependent Care Spending Fund (Fund 8090) to employees eligible for 88774
dependent care expenses. If it is determined by the Director of 88775
Budget and Management that additional amounts are necessary, the 88776
amounts are hereby appropriated. 88777

LIFE INSURANCE INVESTMENT FUND 88778

The foregoing appropriation item 995670, Life Insurance 88779
Investment Fund, shall be used to make payments from the Life 88780
Insurance Investment Fund (Fund 8100) for the costs and expenses 88781
of the state's life insurance benefit program pursuant to section 88782
125.212 of the Revised Code. If it is determined by the Director 88783
of Budget and Management that additional amounts are necessary, 88784
the amounts are hereby appropriated. 88785

PARENTAL LEAVE BENEFIT FUND 88786

The foregoing appropriation item 995671, Parental Leave 88787
Benefit Fund, shall be used to make payments from the Parental 88788
Leave Benefit Fund (Fund 8110) to employees eligible for parental 88789
leave benefits pursuant to section 124.137 of the Revised Code. If 88790
it is determined by the Director of Budget and Management that 88791
additional amounts are necessary, the amounts are hereby 88792
appropriated. 88793

HEALTH CARE SPENDING ACCOUNT FUND 88794

The foregoing appropriation item 995672, Health Care Spending 88795
Account, shall be used to make payments from the Health Care 88796
Spending Account Fund (Fund 8130) for payments pursuant to state 88797
employees' participation in a flexible spending account for 88798
non-reimbursed health care expenses and section 124.821 of the 88799
Revised Code. If it is determined by the Director of 88800
Administrative Services that additional appropriation amounts are 88801
necessary, the Director of Administrative Services may request 88802
that the Director of Budget and Management increase such amounts. 88803
Such amounts are hereby appropriated. 88804

At the request of the Director of Administrative Services, 88805
the Director of Budget and Management may transfer up to \$145,000 88806
from the General Revenue Fund to the Health Care Spending Account 88807
Fund during fiscal years 2010 and 2011. This cash shall be 88808

transferred as needed to provide adequate cash flow for the Health 88809
Care Spending Account Fund during fiscal year 2010 and fiscal year 88810
2011. If funds are available at the end of fiscal years 2010 and 88811
2011, the Director of Budget and Management shall transfer cash up 88812
to the amount previously transferred in the respective year, plus 88813
interest income, from the Health Care Spending Account (Fund 8130) 88814
to the General Revenue Fund. 88815

Section 273.10. ERB STATE EMPLOYMENT RELATIONS BOARD 88816

General Revenue Fund 88817

GRF 125321 Operating Expenses \$ 4,090,876 \$ 4,090,876 88818

TOTAL GRF General Revenue Fund \$ 4,090,876 \$ 4,090,876 88819

General Services Fund Group 88820

5720 125603 Training and \$ 105,000 \$ 105,000 88821

Publications

TOTAL GSF General Services 88822

Fund Group \$ 105,000 \$ 105,000 88823

TOTAL ALL BUDGET FUND GROUPS \$ 4,195,878 \$ 4,195,878 88824

Section 273.20. CONSOLIDATION OF SERVICES WITH STATE 88826

EMPLOYMENT RELATIONS BOARD 88827

(A) Beginning on July 1, 2009, the Chairperson of the State 88828

Employment Relations Board is the appointing authority for all 88829

employees of the State Personnel Board of Review and the State 88830

Employment Relations Board. After conferring with the Chairperson 88831

of the State Personnel Board of Review, the Chairperson of the 88832

State Employment Relations Board shall identify the employees, 88833

equipment, assets, and records of the State Personnel Board of 88834

Review to be transferred to the State Employment Relations Board. 88835

The State Employment Relations Board and the State Personnel Board 88836

of Review shall enter into an interagency agreement to transfer to 88837

the State Employment Relations Board employees, equipment, assets, 88838

and records of the State Personnel Board of Review by July 1, 88839
2009, or as soon as possible thereafter. The agreement may include 88840
provisions to transfer property and any other provisions necessary 88841
for the continued administration of program activities. The 88842
employees of the State Personnel Board of Review that the 88843
Chairperson of the State Employment Relations Board identifies for 88844
transfer, and any equipment assigned to those employees, are 88845
hereby transferred to the State Employment Relations Board. Any 88846
employees of the State Personnel Board of Review so transferred 88847
shall retain the rights specified in sections 124.321 to 124.328 88848
of the Revised Code, and any employee transferred to the State 88849
Employment Relations Board retains the employee's respective 88850
classification, but the Chairperson of the State Employment 88851
Relations Board may reassign and reclassify the employee's 88852
position and compensation as the Chairperson determines to be in 88853
the interest of efficient office administration. Pursuant to 88854
division (B)(2)(b) of section 4117.02 of the Revised Code, as 88855
amended by this act, to the extent determined necessary by the 88856
Chairperson of the State Employment Relations Board, the State 88857
Personnel Board of Review shall utilize employees of the State 88858
Employment Relations Board in the exercise of the powers and the 88859
performance of the duties of the State Personnel Board of Review. 88860

(B) Effective July 1, 2009, and pursuant to section 124.03 of 88861
the Revised Code, the State Personnel Board of Review shall 88862
exercise its duties and exist as a separate entity within the 88863
State Employment Relations Board. The costs of the State Personnel 88864
Board of Review shall be supported by the foregoing appropriation 88865
item 125321, Operating Expenses. 88866

On July 1, 2009, or as soon as possible thereafter, the 88867
Director of Budget and Management shall transfer the cash balance 88868
of the Transcript and Other Documents Fund (Fund 6360) used by the 88869
State Personnel Board of Review to the Training, Publications, and 88870

Grants Fund (Fund 5720) used by the State Employment Relations Board. Upon completion of the transfer, Fund 6360 is abolished. The Director shall cancel any existing encumbrances against appropriation item 124601, Records and Reporting Support, and re-establish them against appropriation item 125603, Training and Publications. The re-established encumbrance amounts are hereby appropriated.

Any business commenced but not completed under Fund 6360 by July 1, 2009, shall be completed under Fund 5720 in the same manner, and with the same effect, as if completed with regard to Fund 6360. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer and shall be administered with regard to Fund 5720.

On and after July 1, 2009, where the Transcript and Other Documents Fund is referred to in any statute, rule, contract, grant, or other document, the reference is hereby deemed to refer to the Training, Publications, and Grants Fund.

Section 275.10. ENG STATE BOARD OF ENGINEERS AND SURVEYORS

General Services Fund Group				88889
4K90 892609 Operating Expenses	\$	1,058,881	\$ 1,058,881	88890
TOTAL GSF General Services				88891
Fund Group	\$	1,058,881	\$ 1,058,881	88892
TOTAL ALL BUDGET FUND GROUPS	\$	1,058,881	\$ 1,058,881	88893

Section 277.10. EPA ENVIRONMENTAL PROTECTION AGENCY

General Services Fund Group				88896
1990 715602 Laboratory Services	\$	935,907	\$ 983,929	88897
2190 715604 Central Support	\$	16,625,314	\$ 17,282,762	88898
Indirect				
4A10 715640 Operating Expenses	\$	3,731,000	\$ 3,731,000	88899
TOTAL GSF General Services				88900

Fund Group		\$	21,292,221	\$	21,997,691	88901
Federal Special Revenue Fund Group						88902
3530 715612	Public Water Supply	\$	2,933,812	\$	2,941,282	88903
3540 715614	Hazardous Waste Management - Federal	\$	4,193,000	\$	4,193,000	88904
3570 715619	Air Pollution Control - Federal	\$	6,282,777	\$	6,310,203	88905
3620 715605	Underground Injection Control - Federal	\$	111,874	\$	111,874	88906
3BU0 715684	Water Quality Protection	\$	5,870,000	\$	5,825,000	88907
3C50 715688	Federal NRD Settlements	\$	100,000	\$	100,000	88908
3F20 715630	Revolving Loan Fund - Operating	\$	1,129,696	\$	907,543	88909
3F30 715632	Federally Supported Cleanup and Response	\$	2,159,486	\$	2,159,551	88910
3F50 715641	Nonpoint Source Pollution Management	\$	6,880,000	\$	6,095,000	88911
3K40 715634	DOD Monitoring and Oversight	\$	729,130	\$	732,280	88912
3N40 715657	DOE Monitoring and Oversight	\$	878,578	\$	884,050	88913
3T30 715669	Drinking Water State Revolving Fund	\$	2,238,848	\$	2,273,323	88914
3V70 715606	Agencywide Grants	\$	500,000	\$	500,000	88915
TOTAL FED	Federal Special Revenue Fund Group	\$	34,007,201	\$	33,033,106	88916 88917
State Special Revenue Fund Group						88918
4J00 715638	Underground Injection Control	\$	448,579	\$	456,714	88919
4K20 715648	Clean Air - Non Title	\$	3,456,261	\$	3,587,176	88920

		V				
4K30	715649	Solid Waste	\$	15,819,897	\$	16,317,606 88921
4K40	715650	Surface Water Protection	\$	7,965,000	\$	8,915,000 88922
4K40	715686	Environmental Lab Service	\$	2,132,000	\$	2,132,000 88923
4K50	715651	Drinking Water Protection	\$	7,487,198	\$	7,699,007 88924
4P50	715654	Cozart Landfill	\$	100,000	\$	100,000 88925
4R50	715656	Scrap Tire Management	\$	5,125,000	\$	5,125,000 88926
4R90	715658	Voluntary Action Program	\$	1,032,098	\$	1,032,098 88927
4T30	715659	Clean Air - Title V Permit Program	\$	17,673,097	\$	18,073,104 88928
4U70	715660	Construction and Demolition Debris	\$	888,970	\$	885,554 88929
5000	715608	Immediate Removal Special Account	\$	643,903	\$	643,903 88930
5030	715621	Hazardous Waste Facility Management	\$	11,215,448	\$	11,318,132 88931
5050	715623	Hazardous Waste Cleanup	\$	13,927,338	\$	14,139,930 88932
5050	715674	Clean Ohio Environmental Review	\$	109,725	\$	109,725 88933
5410	715670	Site Specific Cleanup	\$	34,650	\$	34,650 88934
5420	715671	Risk Management Reporting	\$	146,188	\$	146,188 88935
5920	715627	Anti Tampering Settlement	\$	6,707	\$	6,707 88936
5BC0	715617	Clean Ohio	\$	741,000	\$	741,000 88937
5BC0	715622	Local Air Pollution Control	\$	1,827,000	\$	2,035,000 88938
5BC0	715624	Surface Water	\$	13,034,000	\$	13,198,000 88939

5BC0	715667	Groundwater	\$	1,594,000	\$	1,594,000	88940
5BC0	715672	Air Pollution Control	\$	7,269,000	\$	7,607,000	88941
5BC0	715673	Drinking Water	\$	3,838,000	\$	3,838,000	88942
5BC0	715675	Hazardous Waste	\$	116,000	\$	116,000	88943
5BC0	715676	Assistance and Prevention	\$	775,000	\$	775,000	88944
5BC0	715677	Laboratory	\$	1,454,000	\$	1,454,000	88945
5BC0	715678	Corrective Actions	\$	1,180,000	\$	1,180,000	88946
5BC0	715687	Areawide Planning Agencies	\$	450,000	\$	450,000	88947
5BT0	715679	C&DD Groundwater Monitoring	\$	200,000	\$	203,800	88948
5BY0	715681	Auto Emissions Test	\$	14,385,892	\$	14,803,470	88949
5CD0	715682	Clean Diesel School Buses	\$	600,000	\$	600,000	88950
5H40	715664	Groundwater Support	\$	1,872,193	\$	1,884,247	88951
5N20	715613	Dredge and Fill	\$	45,000	\$	45,000	88952
5Y30	715685	Surface Water Improvement	\$	2,000,000	\$	500,000	88953
6440	715631	ER Radiological Safety	\$	286,114	\$	286,114	88954
6600	715629	Infectious Waste Management	\$	100,000	\$	100,000	88955
6760	715642	Water Pollution Control Loan Administration	\$	4,610,529	\$	4,832,682	88956
6780	715635	Air Toxic Release	\$	174,600	\$	179,746	88957
6790	715636	Emergency Planning	\$	2,623,395	\$	2,628,647	88958
6960	715643	Air Pollution Control Administration	\$	750,000	\$	750,000	88959
6990	715644	Water Pollution Control Administration	\$	750,000	\$	750,000	88960
6A10	715645	Environmental Education	\$	1,500,000	\$	1,500,000	88961

TOTAL SSR State Special Revenue	\$	150,387,782	\$	152,774,200	88962
Fund Group					
Clean Ohio Conservation Fund Group					88963
5S10 715607 Clean Ohio -	\$	291,174	\$	291,174	88964
Operating					
TOTAL CLF Clean Ohio Conservation	\$	291,174	\$	291,174	88965
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	205,978,378	\$	208,096,171	88966

AUTOMOBILE EMISSIONS TESTING PROGRAM OPERATION AND OVERSIGHT 88967

On July 1, 2009, or as soon as possible thereafter, the 88968
Director of Budget and Management shall transfer up to \$1,500,000 88969
in cash from the Central Support Indirect Fund (Fund 2190) to the 88970
Auto Emissions Test Fund (Fund 5BY0) for the operation and 88971
oversight of the auto emissions testing program. Upon the 88972
determination by the Director of Environmental Protection Agency 88973
that Fund 5BY0 has accrued sufficient receipts in order to 88974
maintain the auto emissions testing program, the Director of 88975
Budget and Management may transfer up to \$1,500,000 in cash from 88976
Fund 5BY0 to Fund 2190 over the course of the FY 2010 - FY 2011 88977
biennium. The amounts transferred back shall not exceed the amount 88978
originally transferred from Fund 2190 to Fund 5BY0. 88979

Effective September 30, 2009, or as soon as possible 88980
thereafter, the Director of Budget and Management shall transfer 88981
the cash balance in the Motor Vehicle Inspection and Maintenance 88982
Fund (Fund 6020) to Fund 5BY0. Fund 6020 is abolished in division 88983
(D) of section 3704.14 of the Revised Code as amended by this act. 88984

AREAWIDE PLANNING AGENCIES 88985

The Director of Environmental Protection Agency shall award 88986
grants from appropriation item 715687, Areawide Planning Agencies, 88987
to areawide planning agencies engaged in areawide water quality 88988
management and planning activities in accordance with Section 208 88989

of the "Federal Clean Water Act," 33 U.S.C. 1288. 88990

CORRECTIVE CASH TRANSFER FOR COPPERWELD BANKRUPTCY SETTLEMENT 88991

On July 1, 2009, or as soon as possible thereafter, the 88992
Director of Budget and Management shall transfer \$1,323,933.19 in 88993
cash, which the Agency received from the Copperweld bankruptcy 88994
settlement, that was mistakenly deposited in the Hazardous Waste 88995
Cleanup Fund (Fund 5050) to the Environmental Protection 88996
Remediation Fund (Fund 5410). 88997

Section 279.10. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION 88998

General Revenue Fund 88999

GRF 172321	Operating Expenses	\$	487,000	\$	487,000	89000
TOTAL GRF	General Revenue Fund	\$	487,000	\$	487,000	89001
TOTAL ALL BUDGET FUND GROUPS		\$	487,000	\$	487,000	89002

Section 281.10. ETC ETECH OHIO 89004

General Revenue Fund 89005

GRF 935401	Statehouse News	\$	219,960	\$	219,960	89006
	Bureau					
GRF 935402	Ohio Government	\$	716,417	\$	716,417	89007
	Telecommunications					
	Services					
GRF 935408	General Operations	\$	2,150,917	\$	2,164,444	89008
GRF 935409	Technology Operations	\$	3,594,504	\$	3,602,446	89009
GRF 935410	Content Development,	\$	4,137,306	\$	4,138,244	89010
	Acquisition, and					
	Distribution					
GRF 935411	Technology	\$	6,963,226	\$	6,977,487	89011
	Integration and					
	Professional					
	Development					
GRF 935412	Information	\$	1,387,062	\$	1,350,394	89012

Technology			
TOTAL GRF General Revenue Fund	\$	19,169,392	\$ 19,169,392 89013
General Services Fund Group			89014
4F30 935603 Affiliate Services	\$	450,000	\$ 50,000 89015
4T20 935605 Government	\$	25,000	\$ 25,000 89016
Television/Telecommunications			
Operating			
TOTAL GSF General Services Fund	\$	475,000	\$ 475,000 89017
Group			
Federal Special Revenue Fund Group			89018
3S30 935606 Enhancing Education	\$	163,000	\$ 163,000 89019
Technology			
3X80 935604 IDEA	\$	18,892	\$ 0 89020
TOTAL FED Federal Special Revenue	\$	181,892	\$ 163,000 89021
Fund Group			
State Special Revenue Fund Group			89022
4W90 935630 Telecommunity	\$	25,000	\$ 25,000 89023
4X10 935634 Distance Learning	\$	23,734	\$ 24,150 89024
5D40 935640 Conference/Special	\$	1,471,396	\$ 1,473,527 89025
Purposes			
5FK0 935608 Media Services	\$	300,000	\$ 300,000 89026
5T30 935607 Gates Foundation	\$	200,000	\$ 200,000 89027
Grants			
TOTAL SSR State Special Revenue	\$	2,020,130	\$ 2,022,677 89028
Fund Group			
TOTAL ALL BUDGET FUND GROUPS	\$	21,846,414	\$ 21,430,069 89029
Section 281.20. STATEHOUSE NEWS BUREAU			89031
The foregoing appropriation item 935401, Statehouse News			89032
Bureau, shall be used solely to support the operations of the Ohio			89033
Statehouse News Bureau.			89034
OHIO GOVERNMENT TELECOMMUNICATIONS SERVICES			89035

The foregoing appropriation item 935402, Ohio Government Telecommunications Services, shall be used solely to support the operations of Ohio Government Telecommunications Services which include providing multimedia support to the state government and its affiliated organizations and broadcasting the activities of the legislative, judicial, and executive branches of state government, among its other functions.

TECHNOLOGY OPERATIONS

The foregoing appropriation item 935409, Technology Operations, shall be used by eTech Ohio to pay expenses of eTech Ohio's network infrastructure, which includes the television and radio transmission infrastructure and infrastructure that shall link all public K-12 classrooms to each other and to the Internet, and provide access to voice, video, other communication services, and data educational resources for students and teachers.

CONTENT DEVELOPMENT, ACQUISITION, AND DISTRIBUTION

The foregoing appropriation 935410, Content Development, Acquisition, and Distribution, shall be used for the development, acquisition, and distribution of information resources by public media and radio reading services and for educational use in the classroom and online.

Of the foregoing appropriation item 935410, Content Development, Acquisition, and Distribution, up to \$1,104,605 in fiscal year 2010 and up to \$1,104,905 in fiscal year 2011 shall be allocated equally among the 12 Ohio educational television stations and used with the advice and approval of eTech Ohio. Funds shall be used for the production of interactive instructional programming series with priority given to resources aligned with state academic content standards in consultation with the Ohio Department of Education and for teleconferences to support eTech Ohio. The programming shall be targeted to the needs

of the poorest two hundred school districts as determined by the 89067
district's adjusted valuation per pupil as defined in former 89068
section 3317.0213 of the Revised Code as that section existed 89069
prior to June 30, 2005. 89070

Of the foregoing appropriation item 935410, Content 89071
Development, Acquisition, and Distribution, up to \$2,695,736 in 89072
fiscal year 2010 and up to \$2,696,336 in fiscal year 2011 shall be 89073
distributed by eTech Ohio to Ohio's qualified public educational 89074
television stations and educational radio stations to support 89075
their operations. The funds shall be distributed pursuant to an 89076
allocation formula used by the Ohio Educational Telecommunications 89077
Network Commission unless a substitute formula is developed by 89078
eTech Ohio in consultation with Ohio's qualified public 89079
educational television stations and educational radio stations. 89080
89081

Of the foregoing appropriation 935410, Content Development, 89082
Acquisition, and Distribution, up to \$336,965 in fiscal year 2010 89083
and up to \$337,003 in fiscal year 2011 shall be distributed by 89084
eTech Ohio to Ohio's qualified radio reading services to support 89085
their operations. The funds shall be distributed pursuant to an 89086
allocation formula used by the Ohio Educational Telecommunications 89087
Network Commission unless a substitute formula is developed by 89088
eTech Ohio in consultation with Ohio's qualified radio reading 89089
services. 89090

**Section 281.30. TECHNOLOGY INTEGRATION AND PROFESSIONAL 89091
DEVELOPMENT 89092**

The foregoing appropriation item 935411, Technology 89093
Integration and Professional Development, shall be used by eTech 89094
Ohio for the provision of staff development, hardware, software, 89095
telecommunications services, and information resources to support 89096
educational uses of technology in the classroom and at a distance 89097

and for professional development for teachers, administrators, and 89098
technology staff on the use of educational technology in 89099
qualifying public schools, including the State School for the 89100
Blind, the State School for the Deaf, and the Department of Youth 89101
Services. 89102

Of the foregoing appropriation item 935411, Technology 89103
Integration and Professional Development, up to \$2,575,641 in 89104
fiscal year 2010 and up to \$2,575,966 in fiscal year 2011, shall 89105
be used by eTech Ohio to contract with educational television to 89106
provide Ohio public schools with instructional resources and 89107
services with priority given to resources and services aligned 89108
with state academic content standards and such resources and 89109
services shall be based upon the advice and approval of eTech 89110
Ohio, based on a formula used by the Ohio SchoolNet Commission 89111
unless and until a substitute formula is developed by eTech Ohio 89112
in consultation with Ohio's educational technology agencies and 89113
noncommercial educational television stations. 89114

Section 281.40. TELECOMMUNITY 89115

The foregoing appropriation item 935630, Telecommunity, shall 89116
be distributed by eTech Ohio on a grant basis to eligible school 89117
districts to establish "distance learning" through interactive 89118
video technologies in the school district. Per agreements with 89119
eight Ohio local telephone companies, ALLTEL Ohio, CENTURY 89120
Telephone of Ohio, Chillicothe Telephone Company, Cincinnati Bell 89121
Telephone Company, Orwell Telephone Company, Sprint North Central 89122
Telephone, VERIZON, and Western Reserve Telephone Company, school 89123
districts are eligible for funds if they are within one of the 89124
listed telephone company service areas. Funds to administer the 89125
program shall be expended by eTech Ohio up to the amount specified 89126
in the agreements with the listed telephone companies. 89127

89128

Within thirty days after the effective date of this section, 89129
the Director of Budget and Management shall transfer to Fund 4W90 89130
in the State Special Revenue Fund Group any investment earnings 89131
from moneys paid by any telephone company as part of any 89132
settlement agreement between the listed companies and the Public 89133
Utilities Commission in fiscal years 1996 and beyond. 89134

DISTANCE LEARNING 89135

The foregoing appropriation item 935634, Distance Learning, 89136
shall be distributed by eTech Ohio on a grant basis to eligible 89137
school districts to establish "distance learning" in the school 89138
district. Per an agreement with Ameritech, school districts are 89139
eligible for funds if they are within an Ameritech service area. 89140
Funds to administer the program shall be expended by eTech Ohio up 89141
to the amount specified in the agreement with Ameritech. 89142

Within thirty days after the effective date of this section, 89143
the Director of Budget and Management shall transfer to Fund 4X10 89144
in the State Special Revenue Fund Group any investment earnings 89145
from moneys paid by any telephone company as part of a settlement 89146
agreement between the company and the Public Utilities Commission 89147
in fiscal year 1995. 89148

GATES FOUNDATION GRANTS 89149

The foregoing appropriation item 935607, Gates Foundation 89150
Grants, shall be used by eTech Ohio to provide professional 89151
development to school district principals, superintendents, and 89152
other administrative staff on the use of education technology. 89153

Section 283.10. ETH OHIO ETHICS COMMISSION 89154

General Revenue Fund 89155

GRF 146321	Operating Expenses	\$	1,682,020	\$	1,682,120	89156
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TOTAL GRF	General Revenue Fund	\$	1,682,020	\$	1,682,120	89157
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General Services Fund Group 89158

4M60 146601	Operating Expenses	\$	544,543	\$	588,943	89159
TOTAL GSF General Services						89160
Fund Group		\$	544,543	\$	588,943	89161
TOTAL ALL BUDGET FUND GROUPS						89162

Section 285.10. EXP OHIO EXPOSITIONS COMMISSION 89164

General Revenue Fund 89165

GRF 723403	Junior Fair Subsidy	\$	360,000	\$	360,000	89166
TOTAL GRF General Revenue Fund						89167

State Special Revenue Fund Group 89168

4N20 723602	Ohio State Fair	\$	520,000	\$	520,000	89169
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Harness Racing

5060 723601	Operating Expenses	\$	13,505,000	\$	13,505,000	89170
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TOTAL SSR State Special Revenue 89171

Fund Group		\$	14,025,000	\$	14,025,000	89172
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TOTAL ALL BUDGET FUND GROUPS						89173
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STATE FAIR RESERVE 89174

The General Manager of the Expositions Commission may submit 89175
a request to the Director of Budget and Management to use 89176
available amounts in the State Fair Reserve Fund (Fund 6400) if 89177
the following conditions apply: 89178

(A) Admissions receipts for the 2009 or 2010 Ohio State Fair 89179
are less than \$1,982,000 because of inclement weather or 89180
extraordinary circumstances; 89181

(B) The Ohio Expositions Commission declares a state of 89182
fiscal exigency; and 89183

(C) The request contains a plan describing how the 89184
Expositions Commission will eliminate the cash shortage causing 89185
the request. 89186

The amount approved by the Director of Budget and Management 89187
is hereby appropriated. 89188

Section 287.10. GOV OFFICE OF THE GOVERNOR				89189
General Revenue Fund				89190
GRF 040321	Operating Expenses	\$ 2,332,000	\$ 2,332,000	89191
GRF 040403	Federal Relations	\$ 201,201	\$ 201,201	89192
TOTAL GRF General Revenue Fund				89193
General Services Fund Group				89194
5AK0 040607	Federal Relations	\$ 365,149	\$ 365,149	89195
TOTAL GSF General Services Fund				89196
Group				
TOTAL ALL BUDGET FUND GROUPS				89197
FEDERAL RELATIONS				89198
A portion of the foregoing appropriation items 040403,				89199
Federal Relations, and 040607, Federal Relations, may be used to				89200
support Ohio's membership in national or regional associations.				89201
The Office of the Governor may charge any state agency of the				89202
executive branch using an intrastate transfer voucher such amounts				89203
necessary to defray the costs incurred for the conduct of federal				89204
relations associated with issues that can be attributed to the				89205
agency. Amounts collected shall be deposited in the Federal				89206
Relations Fund (Fund 5AK0).				89207
Section 289.10. DOH DEPARTMENT OF HEALTH				89208
General Revenue Fund				89209
GRF 440407	Animal Borne Disease	\$ 600,000	\$ 642,291	89210
	and Prevention			
GRF 440412	Cancer Incidence	\$ 874,234	\$ 874,234	89211
	Surveillance System			
GRF 440413	Local Health	\$ 3,301,921	\$ 3,301,921	89212
	Department Support			
GRF 440416	Mothers and Children	\$ 7,538,449	\$ 7,538,449	89213

	Safety Net Services				
GRF 440418	Immunizations	\$	7,739,432	\$	7,839,432 89214
GRF 440431	Free Clinics Safety	\$	624,751	\$	624,751 89215
	Net Services				
GRF 440437	Healthy Ohio	\$	2,569,998	\$	2,569,998 89216
GRF 440438	Breast and Cervical	\$	2,500,000	\$	2,500,000 89217
	Cancer Screening				
GRF 440444	AIDS Prevention and	\$	6,442,314	\$	6,442,314 89218
	Treatment				
GRF 440446	Infectious Disease	\$	1,415,883	\$	1,415,883 89219
	Protection and				
	Surveillance				
GRF 440451	Public Health	\$	3,099,138	\$	3,099,138 89220
	Laboratory				
GRF 440452	Child and Family	\$	921,615	\$	921,615 89221
	Health Services Match				
GRF 440453	Health Care Quality	\$	10,402,795	\$	10,402,795 89222
	Assurance				
GRF 440454	Local Environmental	\$	1,155,219	\$	1,155,219 89223
	Health				
GRF 440459	Help Me Grow	\$	36,500,000	\$	36,500,000 89224
GRF 440465	Federally Qualified	\$	1,686,688	\$	1,686,688 89225
	Health Centers				
GRF 440467	Access to Dental Care	\$	772,120	\$	772,120 89226
GRF 440468	Chronic Disease and	\$	792,363	\$	792,363 89227
	Injury Prevention				
GRF 440469	Health - Federal	\$	2,680,035	\$	2,463,903 89228
	Stimulus				
GRF 440505	Medically Handicapped	\$	8,762,451	\$	8,762,451 89229
	Children				
GRF 440507	Targeted Health Care	\$	1,493,449	\$	1,493,449 89230
	Services Over 21				
GRF 440511	Uncompensated	\$	589,738	\$	663,579 89231

Care/Emergency Medical Assistance			
TOTAL GRF General Revenue Fund	\$	102,462,593	\$ 102,462,593 89232
State Highway Safety Fund Group			89233
4T40 440603 Child Highway Safety	\$	233,894	\$ 233,894 89234
TOTAL HSF State Highway Safety Fund Group	\$		\$ 89235
	\$	233,894	\$ 233,894 89236
General Services Fund Group			89237
1420 440646 Agency Health Services	\$	9,876,043	\$ 10,334,250 89238
2110 440613 Central Support Indirect Costs	\$	31,411,719	\$ 31,902,600 89239
4730 440622 Lab Operating Expenses	\$	5,323,860	\$ 5,396,471 89240
6830 440633 Employee Assistance Program	\$	1,330,947	\$ 1,353,323 89241
6980 440634 Nurse Aide Training	\$	170,000	\$ 170,000 89242
TOTAL GSF General Services Fund Group	\$	48,112,569	\$ 49,156,644 89243
Federal Special Revenue Fund Group			89245
3200 440601 Maternal Child Health Block Grant	\$	29,056,772	\$ 29,068,886 89246
3870 440602 Preventive Health Block Grant	\$	7,826,659	\$ 7,826,659 89247
3890 440604 Women, Infants, and Children	\$	298,672,689	\$ 308,672,689 89248
3910 440606 Medicaid/Medicare	\$	25,891,157	\$ 26,826,242 89249
3920 440618 Federal Public Health Programs	\$	136,778,215	\$ 136,778,215 89250
TOTAL FED Federal Special Revenue Fund Group	\$	498,225,492	\$ 509,172,691 89251
State Special Revenue Fund Group			89253

4700	440647	Fee Supported Programs	\$	25,905,140	\$	25,905,140	89254
4710	440619	Certificate of Need	\$	989,000	\$	1,021,753	89255
4770	440627	Medically Handicapped Children Audit	\$	3,693,016	\$	3,693,016	89256
4D60	440608	Genetics Services	\$	3,317,000	\$	3,317,000	89257
4F90	440610	Sickle Cell Disease Control	\$	1,035,344	\$	1,035,344	89258
4G00	440636	Heirloom Birth Certificate	\$	5,000	\$	5,000	89259
4G00	440637	Birth Certificate Surcharge	\$	5,000	\$	5,000	89260
4L30	440609	Miscellaneous Expenses	\$	746,468	\$	746,468	89261
4P40	440628	Ohio Physician Loan Repayment	\$	476,870	\$	476,870	89262
4V60	440641	Save Our Sight	\$	2,938,649	\$	3,115,938	89263
5B50	440616	Quality, Monitoring, and Inspection	\$	1,005,699	\$	1,015,053	89264
5C00	440615	Alcohol Testing and Permit	\$	1,455,405	\$	1,455,405	89265
5CJ0	440654	Sewage Treatment System Innovation	\$	250,000	\$	250,000	89266
5CN0	440645	Choose Life	\$	75,000	\$	75,000	89267
5D60	440620	Second Chance Trust	\$	1,054,951	\$	1,054,951	89268
5ED0	440651	Smoke Free Indoor Air	\$	189,500	\$	190,452	89269
5G40	440639	Adoption Services	\$	20,000	\$	20,000	89270
5L10	440623	Nursing Facility Technical Assistance Program	\$	698,595	\$	698,595	89271
5Z70	440624	Ohio Dentist Loan Repayment	\$	140,000	\$	140,000	89272
6100	440626	Radiation Emergency	\$	887,445	\$	920,372	89273

		Response				
6660	440607	Medically Handicapped Children - County Assessments	\$	17,320,687	\$	17,320,687 89274
		TOTAL SSR State Special Revenue				89275
		Fund Group	\$	62,208,769	\$	62,462,044 89276
		Holding Account Redistribution Fund Group				89277
R014	440631	Vital Statistics	\$	70,000	\$	70,000 89278
R048	440625	Refunds, Grants	\$	20,000	\$	20,000 89279
		Reconciliation, and Audit Settlements				
		TOTAL 090 Holding Account				89280
		Redistribution Fund Group	\$	90,000	\$	90,000 89281
		Tobacco Master Settlement Agreement Fund Group				89282
5BX0	440656	Tobacco Use Prevention	\$	6,000,000	\$	6,000,000 89283
		TOTAL TSF Tobacco Master Settlement Agreement Fund Group	\$	6,000,000	\$	6,000,000 89285
		TOTAL ALL BUDGET FUND GROUPS	\$	717,333,317	\$	729,577,866 89286
		Section 289.20. HIV/AIDS PREVENTION/TREATMENT				89288
		The foregoing appropriation item 440444, AIDS Prevention and Treatment, shall be used to assist persons with HIV/AIDS in acquiring HIV-related medications and to administer educational prevention initiatives.				89289 89290 89291 89292
		INFECTIOUS DISEASE PREVENTION				89293
		The foregoing appropriation item 440446, Infectious Disease Protection and Surveillance, shall be used for coordination and management of prevention program operations and the purchase of drugs for sexually transmitted diseases.				89294 89295 89296 89297
		HELP ME GROW				89298

The foregoing appropriation item 440459, Help Me Grow, shall 89299
be used by the Department of Health to distribute subsidies to 89300
counties to implement the Help Me Grow Program. Appropriation item 89301
440459, Help Me Grow, may be used in conjunction with Early 89302
Intervention funding from the Department of Mental Retardation and 89303
Developmental Disabilities, and in conjunction with other early 89304
childhood funds and services to promote the optimal development of 89305
young children. The Department of Health shall enter into an 89306
interagency agreement with the Department of Education, Department 89307
of Mental Retardation and Developmental Disabilities, Department 89308
of Job and Family Services, and Department of Mental Health to 89309
ensure that all early childhood programs and initiatives are 89310
coordinated and school linked. 89311

The foregoing appropriation item 440459, Help Me Grow, shall 89312
also be used for the Autism Diagnosis Education Pilot Program. 89313

DEPARTMENT OF HEALTH - FEDERAL STIMULUS 89314

Upon the request of the Director of Health, the Director of 89315
Budget and Management may transfer appropriation from 89316
appropriation item 440469, Health - Federal Stimulus, to the 89317
following appropriation items: \$300,000 in fiscal year 2010 and 89318
\$257,709 in fiscal year 2011 to appropriation item 440407, Animal 89319
Borne Disease and Prevention; \$50,000 in each fiscal year to 89320
appropriation item 440412, Cancer Incidence Surveillance System; 89321
\$106,194 in each fiscal year to appropriation item 440413, Local 89322
Health Department Support; \$800,000 in fiscal year 2010 and 89323
\$700,000 in fiscal year 2011 to appropriation item 440418, 89324
Immunizations; \$200,000 in each fiscal year to appropriation item 89325
440431, Free Clinics Safety Net Services; \$200,000 in each fiscal 89326
year to appropriation item 440446, Infectious Disease Protection 89327
and Surveillance; \$100,000 in each fiscal year to appropriation 89328
item 440454, Local Environmental Health; \$50,000 in each fiscal 89329
year to appropriation item 440465, Federally Qualified Health 89330

Centers; \$100,000 in each fiscal year to appropriation item 89331
440468, Chronic Disease and Injury Prevention; and \$773,841 in 89332
fiscal year 2010 and \$700,000 in fiscal year 2011 to appropriation 89333
item 440511, Uncompensated Care/Emergency Medical Assistance. 89334

TARGETED HEALTH CARE SERVICES OVER 21 89335

The foregoing appropriation item 440507, Targeted Health Care 89336
Services Over 21, shall be used to administer the Cystic Fibrosis 89337
Program and to implement the Hemophilia Insurance Premium Payment 89338
Program. 89339

The foregoing appropriation item 440507, Targeted Health Care 89340
Services Over 21, shall also be used to provide essential 89341
medications and to pay the copayments for drugs approved by the 89342
Department of Health and covered by Medicare Part D that are 89343
dispensed to Bureau for Children with Medical Handicaps (BCMH) 89344
participants for the Cystic Fibrosis Program. 89345

These funds also may be used, to the extent that funding is 89346
available, to provide up to 18 in-patient hospital days for 89347
participants in the Cystic Fibrosis Program. 89348

The Department shall expend all of these funds. 89349

GENETICS SERVICES 89350

The foregoing appropriation item 440608, Genetics Services 89351
(Fund 4D60), shall be used by the Department of Health to 89352
administer programs authorized by sections 3701.501 and 3701.502 89353
of the Revised Code. None of these funds shall be used to counsel 89354
or refer for abortion, except in the case of a medical emergency. 89355

MEDICALLY HANDICAPPED CHILDREN AUDIT 89356

The Medically Handicapped Children Audit Fund (Fund 4770) 89357
shall receive revenue from audits of hospitals and recoveries from 89358
third-party payers. Moneys may be expended for payment of audit 89359
settlements and for costs directly related to obtaining recoveries 89360

from third-party payers and for encouraging Medically Handicapped 89361
Children's Program recipients to apply for third-party benefits. 89362
Moneys also may be expended for payments for diagnostic and 89363
treatment services on behalf of medically handicapped children, as 89364
defined in division (A) of section 3701.022 of the Revised Code, 89365
and Ohio residents who are twenty-one or more years of age and who 89366
are suffering from cystic fibrosis or hemophilia. Moneys may also 89367
be expended for administrative expenses incurred in operating the 89368
Medically Handicapped Children's Program. 89369

CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND 89370
PERMIT FUND 89371

The Director of Budget and Management, pursuant to a plan 89372
submitted by the Department of Health, or as otherwise determined 89373
by the Director of Budget and Management, shall set a schedule to 89374
transfer cash from the Liquor Control Fund (Fund 7043) to the 89375
Alcohol Testing and Permit Fund (Fund 5C00) to meet the operating 89376
needs of the Alcohol Testing and Permit Program. 89377

The Director of Budget and Management may transfer to the 89378
Alcohol Testing and Permit Fund (Fund 5C00) from the Liquor 89379
Control Fund (Fund 7043) created in section 4301.12 of the Revised 89380
Code such amounts at such times as determined by the transfer 89381
schedule. 89382

DENTIST LOAN REPAYMENT ADVISORY BOARD 89383

As specified in the amendments made by this act to section 89384
3702.92 of the Revised Code, the Governor, Speaker of the House of 89385
Representatives, and President of the Senate shall each appoint 89386
one additional member to the Dentist Loan Repayment Advisory 89387
Board. The appointments shall be made not later than sixty days 89388
after the effective date of section 3702.92 of the Revised Code. 89389
The terms of office of the additional members shall end on January 89390
27, 2011, except that a legislative member ceases to be a member 89391

of the Board on ceasing to be a member of the General Assembly. 89392
Vacancies occurring prior to January 27, 2011, shall be filled in 89393
the manner prescribed for original appointments under this 89394
section. 89395

MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS 89396

The foregoing appropriation item 440607, Medically 89397
Handicapped Children - County Assessments (Fund 6660), shall be 89398
used to make payments under division (E) of section 3701.023 of 89399
the Revised Code. 89400

CASH TRANSFER FROM THE SEWAGE INNOVATION FUND TO FEE 89401
SUPPORTED PROGRAMS FUND 89402

On July 1, 2009, or as soon as possible thereafter, the 89403
Director of Health shall certify to the Director of Budget and 89404
Management the amount of cash to be transferred from the Sewage 89405
Innovation Fund (Fund 5CJ0) to the Fee Supported Program Fund 89406
(Fund 4700) to meet the needs of the Sewage Program. The Director 89407
of Budget and Management may transfer the amount certified. The 89408
amount certified is hereby appropriated. 89409

NURSING FACILITY TECHNICAL ASSISTANCE PROGRAM 89410

On July 1, 2009, or as soon as possible thereafter, the 89411
Director of Budget and Management may transfer, cash from the 89412
Resident Protection Fund (Fund 4E30), which is used by the Ohio 89413
Department of Job and Family Services, to the Nursing Facility 89414
Technical Assistance Program Fund (Fund 5L10), which is used by 89415
the Ohio Department of Health, to be used under section 3721.026 89416
of the Revised Code. The transfers shall equal \$698,595 in each 89417
fiscal year. 89418

Section 291.10. HEF HIGHER EDUCATIONAL FACILITY COMMISSION 89419

Agency Fund Group 89420

4610 372601 Operating Expenses \$ 40,000 \$ 40,000 89421

TOTAL AGY Agency Fund Group	\$	40,000	\$	40,000	89422
TOTAL ALL BUDGET FUND GROUPS	\$	40,000	\$	40,000	89423

Section 293.10. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS 89425

General Revenue Fund					89426
GRF 148100 Personal Services	\$	328,353	\$	328,353	89427
GRF 148200 Maintenance	\$	50,000	\$	50,000	89428
GRF 148402 Community Projects	\$	129,264	\$	129,264	89429
TOTAL GRF General Revenue Fund	\$	507,617	\$	507,617	89430
General Services Fund Group					89431
6010 148602 Gifts and	\$	10,000	\$	10,000	89432
Miscellaneous					
TOTAL GSF General Services					89433
Fund Group	\$	10,000	\$	10,000	89434
TOTAL ALL BUDGET FUND GROUPS	\$	517,617	\$	517,617	89435

Section 295.10. OHS OHIO HISTORICAL SOCIETY 89437

General Revenue Fund					89438
GRF 360501 Education and	\$	3,291,754	\$	3,291,754	89439
Collections					
GRF 360502 Site and Museum	\$	5,415,927	\$	5,415,927	89440
Operations					
GRF 360504 Ohio Preservation	\$	326,066	\$	326,066	89441
Office					
GRF 360505 National	\$	592,568	\$	592,568	89442
Afro-American Museum					
GRF 360506 Hayes Presidential	\$	401,490	\$	401,490	89443
Center					
GRF 360508 State Historical	\$	600,600	\$	600,600	89444
Grants					
GRF 360509 Outreach and	\$	703,638	\$	703,638	89445
Partnership					

operations or maintenance of the Hayes Presidential Center, in 89476
whole or in part, the Ohio Historical Society shall make 89477
arrangements with the National Park Service or other United States 89478
government agency for the efficient transfer of operations or 89479
maintenance. 89480

Section 297.10. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW 89481

General Revenue Fund 89482

GRF 029321 Operating Expenses \$ 483,520 \$ 483,520 89483

TOTAL GRF General Revenue Fund \$ 483,520 \$ 483,520 89484

TOTAL ALL BUDGET FUND GROUPS \$ 483,520 \$ 483,520 89485

OPERATING 89486

The Chief Administrative Officer of the House of 89487
Representatives and the Clerk of the Senate shall determine, by 89488
mutual agreement, which of them shall act as fiscal agent for the 89489
Joint Committee on Agency Rule Review. Members of the Committee 89490
shall be paid in accordance with section 101.35 of the Revised 89491
Code. 89492

OPERATING EXPENSES 89493

On July 1, 2009, or as soon as possible thereafter, the 89494
Executive Director of the Joint Committee on Agency Rule Review 89495
may certify to the Director of Budget and Management the amount of 89496
the unexpended, unencumbered balance of the foregoing 89497
appropriation item 029321, Operating Expenses, at the end of 89498
fiscal year 2009 to be reappropriated to fiscal year 2010. The 89499
amount certified is hereby reappropriated to the same 89500
appropriation item for fiscal year 2010. 89501

On July 1, 2010, or as soon as possible thereafter, the 89502
Executive Director of the Joint Committee on Agency Rule Review 89503
may certify to the Director of Budget and Management the amount of 89504
the unexpended, unencumbered balance of the foregoing 89505

appropriation item 029321, Operating Expenses, at the end of 89506
fiscal year 2010 to be reappropriated to fiscal year 2011. The 89507
amount certified is hereby reappropriated to the same 89508
appropriation item for fiscal year 2011. 89509

Section 301.10. REP OHIO HOUSE OF REPRESENTATIVES 89510

General Revenue Fund 89511

GRF 025321 Operating Expenses \$ 20,574,548 \$ 20,574,548 89512

TOTAL GRF General Revenue Fund \$ 20,574,548 \$ 20,574,548 89513

General Services Fund Group 89514

1030 025601 House Reimbursement \$ 1,433,664 \$ 1,433,664 89515

4A40 025602 Miscellaneous Sales \$ 37,849 \$ 37,849 89516

TOTAL GSF General Services 89517

Fund Group \$ 1,471,513 \$ 1,471,513 89518

TOTAL ALL BUDGET FUND GROUPS \$ 22,046,061 \$ 22,046,061 89519

OPERATING EXPENSES 89520

On July 1, 2009, or as soon as possible thereafter, the Clerk 89521
of the House of Representatives may certify to the Director of 89522
Budget and Management the amount of the unexpended, unencumbered 89523
balance of the foregoing appropriation item 025321, Operating 89524
Expenses, at the end of fiscal year 2009 to be reappropriated to 89525
fiscal year 2010. The amount certified is hereby reappropriated to 89526
the same appropriation item for fiscal year 2010. 89527

On July 1, 2010, or as soon as possible thereafter, the Clerk 89528
of the House of Representatives may certify to the Director of 89529
Budget and Management the amount of the unexpended, unencumbered 89530
balance of the foregoing appropriation item 025321, Operating 89531
Expenses, at the end of fiscal year 2010 to be reappropriated to 89532
fiscal year 2011. The amount certified is hereby reappropriated to 89533
the same appropriation item for fiscal year 2011. 89534

Section 303.10. HFA OHIO HOUSING FINANCE AGENCY 89535

Agency Fund Group				89536
5AZ0997601 Housing Finance Agency	\$	10,186,713	\$ 10,386,426	89537
Personal Services				
TOTAL AGY Agency Fund Group	\$	10,186,713	\$ 10,386,426	89538
TOTAL ALL BUDGET FUND GROUPS	\$	10,186,713	\$ 10,386,426	89539
Section 305.10. IGO OFFICE OF THE INSPECTOR GENERAL				89541
General Revenue Fund				89542
GRF 965321 Operating Expenses	\$	1,164,218	\$ 1,164,218	89543
TOTAL GRF General Revenue Fund	\$	1,164,218	\$ 1,164,218	89544
General Services Fund Group				89545
5FA0 965603 Deputy Inspector	\$	400,000	\$ 400,000	89546
General for ODOT				
5FT0 965604 Deputy Inspector	\$	425,000	\$ 425,000	89547
General for BWC/OIC				
TOTAL GSF General Services Fund	\$	825,000	\$ 825,000	89548
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	1,989,218	\$ 1,989,218	89549
Section 307.10. INS DEPARTMENT OF INSURANCE				89551
General Revenue Fund				89552
GRF 820607 State Coverage	\$	10,000,000	\$ 10,000,000	89553
Initiative				
TOTAL GRF General Revenue Fund	\$	10,000,000	\$ 10,000,000	89554
Federal Special Revenue Fund Group				89555
3CX0 820608 State Coverage	\$	50,000,000	\$ 100,000,000	89556
Initiative - Federal				
3U50 820602 OSHIIP Operating	\$	1,770,000	\$ 1,790,000	89557
Grant				
TOTAL FED Federal Special				89558
Revenue Fund Group	\$	51,770,000	\$ 101,790,000	89559
State Special Revenue Fund Group				89560

5540	820601	Operating Expenses -	\$	200,000	\$	200,000	89561
		OSHIIP					
5540	820606	Operating Expenses	\$	23,105,028	\$	23,108,297	89562
5540	820609	State Coverage	\$	479,575	\$	479,575	89563
		Initiative					
		Administration					
5550	820605	Examination	\$	9,275,768	\$	9,294,668	89564
TOTAL SSR State Special Revenue							89565
Fund Group			\$	33,060,371	\$	33,082,540	89566
TOTAL ALL BUDGET FUND GROUPS			\$	94,830,371	\$	144,872,540	89567

MARKET CONDUCT EXAMINATION 89568

When conducting a market conduct examination of any insurer 89569
doing business in this state, the Superintendent of Insurance may 89570
assess the costs of the examination against the insurer. The 89571
superintendent may enter into consent agreements to impose 89572
administrative assessments or fines for conduct discovered that 89573
may be violations of statutes or rules administered by the 89574
superintendent. All costs, assessments, or fines collected shall 89575
be deposited to the credit of the Department of Insurance 89576
Operating Fund (Fund 5540). 89577

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES 89578

The Director of Budget and Management, at the request of the 89579
Superintendent of Insurance, may transfer funds from the 89580
Department of Insurance Operating Fund (Fund 5540), established by 89581
section 3901.021 of the Revised Code, to the Superintendent's 89582
Examination Fund (Fund 5550), established by section 3901.071 of 89583
the Revised Code, only for expenses incurred in examining domestic 89584
fraternal benefit societies as required by section 3921.28 of the 89585
Revised Code. 89586

TRANSFER FROM FUND 5540 TO GENERAL REVENUE FUND 89587

Not later than the thirty-first day of July each fiscal year, 89588

the Director of Budget and Management shall transfer \$5,000,000 89589
 from the Department of Insurance Operating Fund (Fund 5540) to the 89590
 General Revenue Fund. 89591

Section 309.10. JFS DEPARTMENT OF JOB AND FAMILY SERVICES 89592

General Revenue Fund 89593

GRF 600321 Support Services 89594

State \$ 52,432,042 \$ 52,817,104 89595

Federal \$ 9,252,713 \$ 9,320,665 89596

Support Services Total \$ 61,684,755 \$ 62,137,769 89597

GRF 600410 TANF State \$ 190,607,468 \$ 202,858,335 89598

GRF 600413 Child Care \$ 88,415,688 \$ 93,105,300 89599

Match/Maintenance of
 Effort

GRF 600416 Computer Projects 89600

State \$ 92,734,743 \$ 93,242,343 89601

Federal \$ 10,303,860 \$ 10,360,260 89602

Computer Projects Total \$ 103,038,603 \$ 103,602,603 89603

GRF 600417 Medicaid Provider \$ 1,484,001 \$ 1,497,886 89604

Audits

GRF 600420 Child Support \$ 7,369,234 \$ 7,431,310 89605

Administration

GRF 600421 Office of Family \$ 4,653,955 \$ 4,720,001 89606

Stability

GRF 600423 Office of Children and \$ 6,494,545 \$ 6,580,782 89607

Families

GRF 600425 Office of Ohio Health 89608

Plans

State \$ 14,688,390 \$ 11,452,327 89609

Federal \$ 15,287,916 \$ 11,919,769 89610

Office of Ohio Health \$ 29,976,306 \$ 23,372,096 89611

Plans Total

GRF 600502	Administration - Local	\$	25,382,308	\$	24,950,288	89612
GRF 600511	Disability Financial Assistance	\$	36,037,712	\$	38,684,457	89613
GRF 600521	Entitlement Administration - Local	\$	107,026,181	\$	100,893,286	89614
GRF 600523	Children and Families Services	\$	74,209,378	\$	74,209,378	89615
GRF 600525	Health Care/Medicaid State	\$	2,499,164,487	\$	3,458,406,646	89616
	Federal	\$	6,315,314,628	\$	7,235,261,849	89618
	Health Care Total	\$	8,814,479,115	\$	10,693,668,495	89619
GRF 600526	Medicare Part D	\$	271,746,617	\$	287,194,790	89620
GRF 600528	Adoption Services State	\$	38,722,700	\$	41,060,302	89621
	Federal	\$	49,792,948	\$	47,455,346	89622
	Adoption Services Total	\$	88,515,648	\$	88,515,648	89624
GRF 600529	Capital Compensation Program	\$	40,000,000	\$	0	89625
GRF 600534	Adult Protective Services	\$	522,040	\$	511,453	89626
GRF 600535	Early Care and Education	\$	150,000,000	\$	150,000,000	89627
GRF 600537	Children's Hospital	\$	6,000,000	\$	6,000,000	89628
GRF 600661	Child Care - Federal Stimulus	\$	8,915,224	\$	13,459,664	89629
TOTAL GRF	General Revenue Fund					89630
	State	\$	3,716,606,713	\$	4,669,075,652	89631
	Federal	\$	6,399,952,065	\$	7,314,317,889	89632
	GRF Total	\$	10,116,558,778	\$	11,983,393,541	89633
	General Services Fund Group					89634
4A80 600658	Child Support Collections	\$	26,000,000	\$	26,000,000	89635
4R40 600665	BCII Services/Fees	\$	36,974	\$	36,974	89636

5BG0	600653	Managed Care Assessment	\$	168,914,857	\$	0	89637
5C90	600671	Medicaid Program Support	\$	69,876,838	\$	68,313,238	89638
5DL0	600639	Medicaid Revenue and Collections	\$	99,916,750	\$	63,600,000	89639
5DM0	600633	Administration & Operating	\$	19,853,583	\$	19,928,733	89640
5FX0	600638	Medicaid Payment Withholding	\$	26,000,000	\$	26,000,000	89641
5N10	600677	County Technologies	\$	1,000,000	\$	1,000,000	89642
5P50	600692	Health Care Services	\$	84,052,802	\$	226,469,478	89643
6130	600645	Training Activities	\$	110,000	\$	110,000	89644
TOTAL GSF General Services							89645
Fund Group			\$	495,761,804	\$	431,458,423	89646
Federal Special Revenue Fund Group							89647
3270	600606	Child Welfare	\$	33,972,321	\$	33,984,200	89648
3310	600686	Federal Operating	\$	50,655,096	\$	51,569,912	89649
3840	600610	Food Assistance and State Administration	\$	159,109,776	\$	159,109,427	89650
3850	600614	Refugee Services	\$	10,497,024	\$	11,265,511	89651
3950	600616	Special Activities/Child and Family Services	\$	3,113,200	\$	2,813,200	89652
3960	600620	Social Services Block Grant	\$	120,000,000	\$	120,000,000	89653
3970	600626	Child Support	\$	305,830,981	\$	305,832,341	89654
3980	600627	Adoption Maintenance/ Administration	\$	346,622,373	\$	346,865,342	89655
3A20	600641	Emergency Food Distribution	\$	4,970,000	\$	4,970,000	89656
3AW0	600675	Faith Based Initiatives	\$	544,140	\$	544,140	89657

3D30	600648	Children's Trust Fund Federal	\$ 2,040,524	\$ 2,040,524	89658
3F00	600623	Health Care Federal	\$3,053,505,106	\$ 2,310,117,015	89659
3F00	600650	Hospital Care Assurance Match	\$ 362,092,785	\$ 367,826,196	89660
3G50	600655	Interagency Reimbursement	\$1,503,777,044	\$ 1,561,905,912	89661
3H70	600617	Child Care Federal	\$ 241,862,780	\$ 241,862,779	89662
3N00	600628	IV-E Foster Care Maintenance	\$ 169,324,768	\$ 161,644,455	89663
3S50	600622	Child Support Projects	\$ 534,050	\$ 534,050	89664
3V00	600688	Workforce Investment Act	\$ 326,923,124	\$ 327,145,616	89665
3V40	600678	Federal Unemployment Programs	\$ 154,883,142	\$ 136,982,528	89666
3V40	600679	Unemployment Compensation Review Commission - Federal	\$ 3,487,473	\$ 3,487,473	89667
3V60	600689	TANF Block Grant	\$ 761,733,452	\$ 736,410,211	89668
TOTAL FED Federal Special Revenue					89669
Fund Group			\$7,615,479,159	\$ 6,886,910,832	89670
State Special Revenue Fund Group					89671
1980	600647	Children's Trust Fund	\$ 5,881,011	\$ 5,881,011	89672
4A90	600607	Unemployment Compensation Administration Fund	\$ 27,134,851	\$ 37,772,416	89673
4A90	600694	Unemployment Compensation Review Commission	\$ 2,357,197	\$ 2,431,133	89674
4E30	600605	Nursing Home Assessments	\$ 4,759,914	\$ 4,759,914	89675
4E70	600604	Child and Family	\$ 300,000	\$ 300,000	89676

		Services Collections					
4F10	600609	Foundation	\$	250,000	\$	250,000	89677
		Grants/Child & Family Services					
4J50	600613	Nursing Facility Bed Assessments	\$	36,713,984	\$	36,713,984	89678
4J50	600618	Residential State Supplement Payments	\$	15,700,000	\$	15,700,000	89679
4K10	600621	ICF/MR Bed Assessments	\$	28,261,826	\$	29,482,434	89680
4R30	600687	Banking Fees	\$	700,000	\$	700,000	89681
4Z10	600625	HealthCare Compliance	\$	10,000,000	\$	10,000,000	89682
5AJ0	600631	Money Follows the Person	\$	6,286,485	\$	6,195,163	89683
5DB0	600637	Military Injury Grants	\$	2,000,000	\$	2,000,000	89684
5DP0	600634	Adoption Assistance Loan	\$	500,000		500,000	89685
5ES0	600630	Food Assistance	\$	500,000	\$	500,000	89686
5F20	600667	Building Consolidation	\$	250,000	\$	250,000	89687
5F30	600668	Building Consolidation	\$	1,000,000	\$	1,000,000	89688
5GF0	600656	Medicaid - Hospital	\$	282,830,073	\$	315,578,067	89689
5Q90	600619	Supplemental Inpatient Hospital Payments	\$	56,125,998	\$	56,125,998	89690
5R20	600608	Medicaid-Nursing Facilities	\$	329,947,751	\$	341,125,000	89691
5S30	600629	MR/DD Medicaid Administration and Oversight	\$	2,070,707	\$	5,493,954	89692
5U30	600654	Health Care Services Administration	\$	12,017,389	\$	14,393,903	89693
5U60	600663	Children and Family Support	\$	4,719,470	\$	4,719,470	89694
6510	600649	Hospital Care Assurance Program Fund	\$	220,612,051	\$	218,164,239	89695

TOTAL SSR State Special Revenue				89696
Fund Group		\$ 1,050,918,707	\$ 1,110,036,686	89697
Agency Fund Group				89698
1920 600646 Support Intercept -	\$	130,000,000	\$ 130,000,000	89699
Federal				
5830 600642 Support Intercept -	\$	16,000,000	\$ 16,000,000	89700
State				
5B60 600601 Food Assistance	\$	2,000,000	\$ 2,000,000	89701
Intercept				
TOTAL AGY Agency Fund Group	\$	148,000,000	\$ 148,000,000	89702
Holding Account Redistribution Fund Group				89703
R012 600643 Refunds and Audit	\$	3,600,000	\$ 3,600,000	89704
Settlements				
R013 600644 Forgery Collections	\$	10,000	\$ 10,000	89705
TOTAL 090 Holding Account	\$	3,610,000	\$ 3,610,000	89706
Redistribution Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	19,430,328,448	\$20,563,409,482	89707

Section 309.20. SUPPORT SERVICES 89709

Section 309.20.10. AGENCY FUND GROUP 89710

The Agency Fund Group and Holding Account Redistribution Fund 89711
Group shall be used to hold revenues until the appropriate fund is 89712
determined or until the revenues are directed to the appropriate 89713
governmental agency other than the Department of Job and Family 89714
Services. If receipts credited to the Support Intercept - Federal 89715
Fund (Fund 1920), the Support Intercept - State Fund (Fund 5830), 89716
the Food Stamp Offset Fund (Fund 5B60), the Refunds and Audit 89717
Settlements Fund (Fund R012), or the Forgery Collections Fund 89718
(Fund R013) exceed the amounts appropriated from the fund, the 89719
Director of Job and Family Services may request the Director of 89720
Budget and Management to authorize expenditures from the fund in 89721

excess of the amounts appropriated. Upon the approval of the 89722
Director of Budget and Management, the additional amounts are 89723
hereby appropriated. 89724

Section 309.30. MEDICAID 89725

Section 309.30.10. HEALTH CARE/MEDICAID 89726

The foregoing appropriation item 600525, Health 89727
Care/Medicaid, shall not be limited by section 131.33 of the 89728
Revised Code. 89729

Section 309.30.20. FISCAL YEAR 2010 MEDICAID REIMBURSEMENT 89730
SYSTEM FOR NURSING FACILITIES 89731

(A) As used in this section: 89732

"Franchise permit fee," "Medicaid days," "nursing facility," 89733
and "provider" have the same meanings as in section 5111.20 of the 89734
Revised Code. 89735

"Nursing facility services" means nursing facility services 89736
covered by the Medicaid program that a nursing facility provides 89737
to a resident of the nursing facility who is a Medicaid recipient 89738
eligible for Medicaid-covered nursing facility services. 89739

(B) Except as otherwise provided by this section, the 89740
provider of a nursing facility that has a valid Medicaid provider 89741
agreement on June 30, 2009, and a valid Medicaid provider 89742
agreement during fiscal year 2010 shall be paid, for nursing 89743
facility services the nursing facility provides during fiscal year 89744
2010, the rate calculated for the nursing facility under sections 89745
5111.20 to 5111.33 of the Revised Code with the following 89746
adjustments: 89747

(1) The cost per case mix-unit calculated under section 89748
5111.231 of the Revised Code, the rate for ancillary and support 89749

costs calculated under section 5111.24 of the Revised Code, the 89750
rate for capital costs calculated under section 5111.25 of the 89751
Revised Code, and the rate for tax costs calculated under section 89752
5111.242 of the Revised Code shall each be adjusted as follows: 89753

(a) Increase the cost and rates so calculated by two per 89754
cent; 89755

(b) Increase the cost and rates determined under division 89756
(B)(1)(a) of this section by two per cent; 89757

(c) Increase the cost and rates determined under division 89758
(B)(1)(b) of this section by one per cent. 89759

(2) The mean payment used in the calculation of the quality 89760
incentive payment made under section 5111.244 of the Revised Code 89761
shall be, weighted by Medicaid days, three dollars and three cents 89762
per Medicaid day. 89763

(C) If the United States Centers for Medicare and Medicaid 89764
Services requires that the franchise permit fee be reduced or 89765
eliminated, the Department of Job and Family Services shall reduce 89766
the amount it pays providers of nursing facility services under 89767
this section as necessary to reflect the loss to the state of the 89768
revenue and federal financial participation generated from the 89769
franchise permit fee. 89770

(D) The Department of Job and Family Services shall follow 89771
this section in determining the rate to be paid to the provider of 89772
a nursing facility that has a valid Medicaid provider agreement on 89773
June 30, 2009, and a valid Medicaid provider agreement during 89774
fiscal year 2010 notwithstanding anything to the contrary in 89775
sections 5111.20 to 5111.33 of the Revised Code. 89776

(E) Not later than sixty days after the effective date of 89777
this section, the Director of Job and Family Services shall submit 89778
an amendment to the state Medicaid plan to the United States 89779
Secretary of Health and Human Services as necessary to implement 89780

this section. On receipt of the United States Secretary's approval 89781
of the amendment to the state Medicaid plan, the Director shall 89782
implement this section retroactive to the later of the effective 89783
date of the state Medicaid plan amendment and July 1, 2009. 89784

Section 309.30.30. FISCAL YEAR 2011 MEDICAID REIMBURSEMENT 89785
SYSTEM FOR NURSING FACILITIES 89786

(A) As used in this section: 89787

"Franchise permit fee," "Medicaid days," "nursing facility," 89788
and "provider" have the same meanings as in section 5111.20 of the 89789
Revised Code. 89790

"Nursing facility services" means nursing facility services 89791
covered by the Medicaid program that a nursing facility provides 89792
to a resident of the nursing facility who is a Medicaid recipient 89793
eligible for Medicaid-covered nursing facility services. 89794

(B) Except as otherwise provided by this section, the 89795
provider of a nursing facility that has a valid Medicaid provider 89796
agreement on June 30, 2010, and a valid Medicaid provider 89797
agreement during fiscal year 2011 shall be paid, for nursing 89798
facility services the nursing facility provides during fiscal year 89799
2011, the rate calculated for the nursing facility under sections 89800
5111.20 to 5111.33 of the Revised Code with the following 89801
adjustments: 89802

(1) The cost per case mix-unit calculated under section 89803
5111.231 of the Revised Code, the rate for ancillary and support 89804
costs calculated under section 5111.24 of the Revised Code, the 89805
rate for capital costs calculated under section 5111.25 of the 89806
Revised Code, and the rate for tax costs calculated under section 89807
5111.242 of the Revised Code shall each be adjusted as follows: 89808

(a) Increase the cost and rates so calculated by two per 89809
cent; 89810

(b) Increase the cost and rates determined under division	89811
(B)(1)(a) of this section by two per cent;	89812
(c) Increase the cost and rates determined under division	89813
(B)(1)(b) of this section by one per cent.	89814
(2) The mean payment used in the calculation of the quality	89815
incentive payment made under section 5111.244 of the Revised Code	89816
shall be, weighted by Medicaid days, three dollars and three cents	89817
per Medicaid day.	89818
(C) If the United States Centers for Medicare and Medicaid	89819
Services requires that the franchise permit fee be reduced or	89820
eliminated, the Department of Job and Family Services shall reduce	89821
the amount it pays providers of nursing facility services under	89822
this section as necessary to reflect the loss to the state of the	89823
revenue and federal financial participation generated from the	89824
franchise permit fee.	89825
(D) The Department of Job and Family Services shall follow	89826
this section in determining the rate to be paid to the provider of	89827
a nursing facility that has a valid Medicaid provider agreement on	89828
June 30, 2010, and a valid Medicaid provider agreement during	89829
fiscal year 2011 notwithstanding anything to the contrary in	89830
sections 5111.20 to 5111.33 of the Revised Code.	89831
(E) Not later than sixty days after the effective date of	89832
this section, the Director of Job and Family Services shall submit	89833
an amendment to the state Medicaid plan to the United States	89834
Secretary of Health and Human Services as necessary to implement	89835
this section. On receipt of the United States Secretary's approval	89836
of the amendment to the state Medicaid plan, the Director shall	89837
implement this section retroactive to the later of the effective	89838
date of the state Medicaid plan amendment and July 1, 2010.	89839
Section 309.30.40. ADDITIONAL COMPENSATION FOR NURSING	89840

FACILITY CAPITAL COSTS	89841
The foregoing appropriation item 600529, Capital Compensation	89842
Program, shall be used to make payments to nursing facilities	89843
under the section of this act entitled "FISCAL YEAR 2010 CAPITAL	89844
COMPENSATION PAYMENTS TO QUALIFYING NURSING FACILITIES."	89845
Section 309.30.50. FISCAL YEAR 2010 CAPITAL COMPENSATION	89846
PAYMENTS TO QUALIFYING NURSING FACILITIES	89847
(A) As used in this section:	89848
"Capital costs," "cost of ownership," and "renovation" have	89849
the same meanings as in section 5111.20 of the Revised Code as	89850
that section existed on June 30, 2005.	89851
"Change of operator" has the same meaning as in section	89852
5111.65 of the Revised Code.	89853
"Inpatient days," "Medicaid days," and "nursing facility"	89854
have the same meanings as in section 5111.20 of the Revised Code.	89855
"Reviewable activity" has the same meaning as in section	89856
3702.51 of the Revised Code.	89857
(B) The following qualify for per diem payments under this	89858
section:	89859
(1) A nursing facility to which both of the following apply:	89860
(a) Both of the following occurred during fiscal year 2006,	89861
2007, or 2008:	89862
(i) The facility obtained certification as a nursing facility	89863
from the Director of Health.	89864
(ii) The facility began participating in the Medicaid	89865
program.	89866
(b) An application for a certificate of need for the nursing	89867
facility was filed with the Director of Health before June 15,	89868

2005.	89869
(2) A nursing facility to which all of the following apply:	89870
(a) The nursing facility does not qualify for a payment pursuant to division (B)(1) of this section.	89871 89872
(b) The nursing facility, before December 31, 2008, completed a capital project for which a certificate of need was filed with the Director of Health before June 15, 2005, and for which at least one of the following occurred before July 1, 2005, or, if the capital project is undertaken to comply with rules adopted by the Public Health Council regarding resident room size or occupancy, before June 30, 2007:	89873 89874 89875 89876 89877 89878 89879
(i) Any materials or equipment for the capital project were delivered;	89880 89881
(ii) Preparations for the physical site of the capital project, including, if applicable, excavation, began;	89882 89883
(iii) Actual work on the capital project began.	89884
(c) The costs of the capital project were not fully reflected in the capital costs portion of the nursing facility's Medicaid reimbursement per diem rate on June 30, 2005.	89885 89886 89887
(d) The nursing facility filed a three-month projected capital cost report with the Director of Job and Family Services not later than ninety days after the later of March 30, 2006, or the date the capital project was completed.	89888 89889 89890 89891
(3) A nursing facility that, before June 30, 2008, completed an activity to which all of the following apply:	89892 89893
(a) A request was filed with the Director of Health before July 1, 2005, for a determination of whether the activity is a reviewable activity and the Director determined that the activity is not a reviewable activity.	89894 89895 89896 89897
(b) At least one of the following occurred before July 1,	89898

2005, or, if the nursing facility undertakes the activity to 89899
comply with rules adopted by the Public Health Council regarding 89900
resident room size or occupancy, before June 30, 2007: 89901

(i) Any materials or equipment for the activity were 89902
delivered. 89903

(ii) Preparations for the physical site of the activity, 89904
including, if applicable, excavation, began. 89905

(iii) Actual work on the activity began. 89906

(c) The costs of the activity were not fully reflected in the 89907
capital costs portion of the nursing facility's Medicaid 89908
reimbursement per diem rate on June 30, 2005. 89909

(d) The nursing facility filed a three-month projected 89910
capital cost report with the Director of Job and Family Services 89911
not later than ninety days after the later of March 30, 2006, or 89912
the date the activity was completed. 89913

(4) A nursing facility that, before December 31, 2008, 89914
completed a renovation to which all of the following apply: 89915

(a) The Director of Job and Family Services approved the 89916
renovation before July 1, 2005. 89917

(b) At least one of the following occurred before July 1, 89918
2005, or, if the nursing facility undertakes the renovation to 89919
comply with rules adopted by the Public Health Council regarding 89920
resident room size or occupancy, before June 30, 2007: 89921

(i) Any materials or equipment for the renovation were 89922
delivered. 89923

(ii) Preparations for the physical site of the renovation, 89924
including, if applicable, excavation, began. 89925

(iii) Actual work on the renovation began. 89926

(c) The costs of the renovation were not fully reflected in 89927

the capital costs portion of the nursing facility's Medicaid 89928
reimbursement per diem rate on June 30, 2005. 89929

(d) The nursing facility filed a three-month projected 89930
capital cost report with the Director of Job and Family Services 89931
not later than ninety days after the later of March 30, 2006, or 89932
the date the renovation was completed. 89933

(C) The per diem payments under this section to a nursing 89934
facility that qualifies for the payments pursuant to division 89935
(B)(1) of this section shall equal the difference between the 89936
capital costs portion of the nursing facility's Medicaid 89937
reimbursement per diem rate determined under the section of this 89938
act entitled "FISCAL YEAR 2010 MEDICAID REIMBURSEMENT SYSTEM FOR 89939
NURSING FACILITIES" and the lesser of the following: 89940

(1) Eighty-eight and sixty-five hundredths per cent of the 89941
nursing facility's cost of ownership as reported on a three-month 89942
projected capital cost report divided by the greater of the number 89943
of inpatient days the nursing facility is expected to have during 89944
the period covered by the projected capital cost report or the 89945
number of inpatient days the nursing facility would have during 89946
that period if the nursing facility's occupancy rate was eighty 89947
per cent. 89948

(2) The maximum capital per diem rate in effect for fiscal 89949
year 2005 for nursing facilities. 89950

(D) The per diem payments paid under this section to a 89951
nursing facility that qualifies for the payments pursuant to 89952
division (B)(2) or (3) of this section shall equal the difference 89953
between the capital costs portion of the nursing facility's 89954
Medicaid reimbursement per diem rate determined under the section 89955
of this act entitled "FISCAL YEAR 2010 MEDICAID REIMBURSEMENT 89956
SYSTEM FOR NURSING FACILITIES" and the lesser of the following: 89957

(1) Eighty-eight and sixty-five hundredths per cent of the 89958

nursing facility's cost of ownership as reported on a three-month 89959
projected capital cost report divided by the greater of the number 89960
of inpatient days the nursing facility is expected to have during 89961
the period covered by the projected capital cost report or the 89962
number of inpatient days the nursing facility would have during 89963
that period if the nursing facility's occupancy rate was 89964
ninety-five per cent. 89965

(2) The maximum capital per diem rate in effect for fiscal 89966
year 2005 for nursing facilities. 89967

(E) The per diem payments paid under this section to a 89968
nursing facility that qualifies for the payments pursuant to 89969
division (B)(4) of this section shall equal eighty-five per cent 89970
of the nursing facility's capital costs for the renovation as 89971
reported on a three-month projected capital cost report divided by 89972
the greater of the number of inpatient days the nursing facility 89973
is expected to have during the period covered by the projected 89974
capital cost report or the number of inpatient days the nursing 89975
facility would have during that period if the nursing facility's 89976
occupancy rate was ninety-five per cent. 89977

(F) All of the following apply to the per diem payments made 89978
under this section: 89979

(1) All nursing facilities' eligibility for the payments 89980
shall cease at the earlier of the following: 89981

(a) July 1, 2010; 89982

(b) The date that the total amount of the payments equals 89983
forty million dollars. 89984

(2) The payments made for the last quarter that the payments 89985
are made may be reduced proportionately as necessary to avoid 89986
spending more than forty million dollars under this section. 89987

(3) The per diem payments shall be made for quarterly periods 89988

by multiplying the per diem determined for a nursing facility by 89989
the number of Medicaid days the nursing facility has for the 89990
quarter the payment is made. 89991

(4) The per diem payments shall be made not later than 89992
September 30, 2010. 89993

(5) A change of operator shall not cause the payments to a 89994
nursing facility to cease. 89995

(6) The payments shall only be made to a nursing facility for 89996
the quarters during fiscal year 2010 for which the nursing 89997
facility has a valid Medicaid provider agreement. 89998

(7) The payments shall be in addition to a nursing facility's 89999
Medicaid reimbursement per diem rate calculated under the section 90000
of this act entitled "FISCAL YEAR 2010 MEDICAID REIMBURSEMENT 90001
SYSTEM FOR NURSING FACILITIES." 90002

(G) The Director of Job and Family Services shall monitor, on 90003
a quarterly basis, the per diem payments made to nursing 90004
facilities under this section to ensure that not more than a total 90005
of forty million dollars is spent under this section. 90006

(H) The determinations that the Director of Job and Family 90007
Services makes under this section are not subject to appeal under 90008
Chapter 119. of the Revised Code. 90009

(I) The Director of Job and Family Services may adopt rules 90010
in accordance with Chapter 119. of the Revised Code as necessary 90011
to implement this section. 90012

Section 309.30.60. FISCAL YEAR 2010 MEDICAID REIMBURSEMENT 90013
SYSTEM FOR ICFs/MR 90014

(A) As used in this section: 90015

"Change of operator," "entering operator," and "exiting 90016
operator" have the same meanings as in section 5111.65 of the 90017

Revised Code. 90018

"Franchise permit fee" and "provider" have the same meanings 90019
as in section 5111.20 of the Revised Code. 90020

"ICF/MR" means an intermediate care facility for the mentally 90021
retarded as defined in section 5111.20 of the Revised Code. 90022

"ICF/MR services" means services covered by the Medicaid 90023
program that an ICF/MR provides to a Medicaid recipient eligible 90024
for the services. 90025

"Medicaid days" means all days during which a resident who is 90026
a Medicaid recipient occupies a bed in an ICF/MR that is included 90027
in the ICF/MR's Medicaid-certified capacity. Therapeutic or 90028
hospital leave days for which payment is made under section 90029
5111.33 of the Revised Code are considered Medicaid days 90030
proportionate to the percentage of the ICF/MR's per resident per 90031
day rate paid for those days. 90032

"Per diem rate" means the per diem rate calculated pursuant 90033
to sections 5111.20 to 5111.33 of the Revised Code. 90034

(B) This section applies to providers of ICFs/MR to which 90035
either of the following applies: 90036

(1) The provider has a valid Medicaid provider agreement for 90037
the ICF/MR on June 30, 2009, and a valid Medicaid provider 90038
agreement for the ICF/MR during fiscal year 2010. 90039

(2) The ICF/MR undergoes a change of operator effective July 90040
1, 2009, the exiting operator has a valid Medicaid provider 90041
agreement for the ICF/MR on June 30, 2009, and the entering 90042
operator has a valid Medicaid provider agreement for the ICF/MR 90043
during fiscal year 2010. 90044

(C) Except as otherwise provided by this section, the 90045
provider of an ICF/MR to which this section applies shall be paid, 90046
for ICF/MR services the ICF/MR provides during fiscal year 2010, 90047

the rate calculated for the ICF/MR under sections 5111.20 to 90048
5111.33 of the Revised Code with the following adjustments: 90049

(1) If the rate determined for the ICF/MR under sections 90050
5111.20 to 5111.33 of the Revised Code for ICF/MR services 90051
provided in fiscal year 2010 is more than one hundred eight per 90052
cent of the rate the provider or exiting operator is paid for 90053
ICF/MR services the ICF/MR provides on June 30, 2009, the 90054
Department of Job and Family Services shall reduce the ICF/MR's 90055
fiscal year 2010 rate so that the rate is not more than one 90056
hundred eight per cent of the ICF/MR's rate for June 30, 2009. 90057

(2) If the mean total per diem rate for all ICFs/MR in this 90058
state for fiscal year 2010, weighted by May 2009 Medicaid days and 90059
calculated as of July 1, 2009, after application of division 90060
(C)(1) of this section exceeds \$277.25, the Department shall 90061
reduce the total per diem rate for each ICF/MR to which this 90062
section applies by a percentage that is equal to the percentage by 90063
which the mean total per diem rate exceeds \$277.25. 90064

(D) The rate of an ICF/MR set pursuant to this section shall 90065
not be subject to any adjustments authorized by sections 5111.20 90066
to 5111.33 of the Revised Code, or any rule authorized by those 90067
sections, during the remainder of fiscal year 2010. 90068

(E) If the United States Centers for Medicare and Medicaid 90069
Services requires that the franchise permit fee be reduced or 90070
eliminated, the Department of Job and Family Services shall reduce 90071
the amount it pays providers of ICF/MR services under this section 90072
as necessary to reflect the loss to the state of the revenue and 90073
federal financial participation generated from the franchise 90074
permit fee. 90075

(F) The Department of Job and Family Services shall follow 90076
this section in determining the rate to be paid providers of 90077
ICF/MR services subject to this section notwithstanding anything 90078

to the contrary in sections 5111.20 to 5111.33 of the Revised Code. 90079
90080

(G) Not later than September 30, 2009, the Director of Job and Family Services shall submit an amendment to the state Medicaid plan to the United States Secretary of Health and Human Services as necessary to implement this section. On receipt of the United States Secretary's approval of the amendment to the state Medicaid plan, the Director shall implement this section retroactive to the later of the effective date of the state Medicaid plan amendment and July 1, 2009. 90081
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Section 309.30.70. FISCAL YEAR 2011 MEDICAID REIMBURSEMENT SYSTEM FOR ICFs/MR 90089
90090

(A) As used in this section: 90091

"Change of operator," "entering operator," and "exiting operator" have the same meanings as in section 5111.65 of the Revised Code. 90092
90093
90094

"Franchise permit fee" and "provider" have the same meanings as in section 5111.20 of the Revised Code. 90095
90096

"ICF/MR" means an intermediate care facility for the mentally retarded as defined in section 5111.20 of the Revised Code. 90097
90098

"ICF/MR services" means services covered by the Medicaid program that an ICF/MR provides to a Medicaid recipient eligible for the services. 90099
90100
90101

"Medicaid days" means all days during which a resident who is a Medicaid recipient occupies a bed in an ICF/MR that is included in the ICF/MR's Medicaid-certified capacity. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the ICF/MR's per resident per day rate paid for those days. 90102
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"Per diem rate" means the per diem rate calculated pursuant to sections 5111.20 to 5111.33 of the Revised Code.

(B) This section applies to providers of ICFs/MR to which either of the following applies:

(1) The provider has a valid Medicaid provider agreement for the ICF/MR on June 30, 2010, and a valid Medicaid provider agreement for the ICF/MR during fiscal year 2011.

(2) The ICF/MR undergoes a change of operator effective July 1, 2010, the exiting operator has a valid Medicaid provider agreement for the ICF/MR on June 30, 2010, and the entering operator has a valid Medicaid provider agreement for the ICF/MR during fiscal year 2011.

(C) Except as otherwise provided by this section, the provider of an ICF/MR to which this section applies shall be paid, for ICF/MR services the ICF/MR provides during fiscal year 2011, the rate calculated for the ICF/MR under sections 5111.20 to 5111.33 of the Revised Code with the following adjustments:

(1) If the rate determined for the ICF/MR under sections 5111.20 to 5111.33 of the Revised Code for ICF/MR services provided in fiscal year 2011 is more than one hundred seven per cent of the rate the provider or exiting operator is paid for ICF/MR services the ICF/MR provides on June 30, 2010, the Department of Job and Family Services shall reduce the ICF/MR's fiscal year 2011 rate so that the rate is not more than one hundred seven per cent of the ICF/MR's rate for June 30, 2010.

(2) If the mean total per diem rate for all ICFs/MR in this state for fiscal year 2011, weighted by May 2010 Medicaid days and calculated as of July 1, 2010, after application of division (C)(1) of this section exceeds \$277.25, the Department shall reduce the total per diem rate for each ICF/MR to which this section applies by a percentage that is equal to the percentage by

which the mean total per diem rate exceeds \$277.25. 90140

(D) The rate of an ICF/MR set pursuant to this section shall 90141
not be subject to any adjustments authorized by sections 5111.20 90142
to 5111.33 of the Revised Code, or any rule authorized by those 90143
sections, during the remainder of fiscal year 2011. 90144

(E) If the United States Centers for Medicare and Medicaid 90145
Services requires that the franchise permit fee be reduced or 90146
eliminated, the Department of Job and Family Services shall reduce 90147
the amount it pays providers of ICF/MR services under this section 90148
as necessary to reflect the loss to the state of the revenue and 90149
federal financial participation generated from the franchise 90150
permit fee. 90151

(F) The Department of Job and Family Services shall follow 90152
this section in determining the rate to be paid providers of 90153
ICF/MR services subject to this section notwithstanding anything 90154
to the contrary in sections 5111.20 to 5111.33 of the Revised 90155
Code. 90156

(G) Not later than September 30, 2010, the Director of Job 90157
and Family Services shall submit an amendment to the state 90158
Medicaid plan to the United States Secretary of Health and Human 90159
Services as necessary to implement this section. On receipt of the 90160
United States Secretary's approval of the amendment to the state 90161
Medicaid plan, the Director shall implement this section 90162
retroactive to the later of the effective date of the state 90163
Medicaid plan amendment and July 1, 2010. 90164

Section 309.30.80. RESIDENTIAL STATE SUPPLEMENT TRANSFER 90165

The Department of Aging may transfer cash from the foregoing 90166
appropriation item 490412, Residential State Supplement, and the 90167
PASSPORT/Residential State Supplement Fund (Fund 4J40), to the 90168
Home and Community-Based Services for the Aged Fund (Fund 4J50), 90169

used by the Department of Job and Family Services to make benefit 90170
payments to Residential State Supplement recipients. The transfer 90171
shall be made using an intrastate transfer voucher. 90172

Section 309.30.90. MONEY FOLLOWS THE PERSON 90173

The Director of Budget and Management may seek Controlling 90174
Board approval to do any of the following in support of any home 90175
and community-based services Medicaid waiver component: 90176

(A) Create new funds and appropriation items associated with 90177
a unified long-term care budget; 90178

(B) Transfer cash between funds used by affected agencies; 90179

(C) Transfer appropriation between appropriation items within 90180
a fund and used by the same state agency. 90181

Any transfers of cash approved by the Controlling Board under 90182
this section are hereby appropriated. 90183

Section 309.31.10. MONEY FOLLOWS THE PERSON ENHANCED 90184
REIMBURSEMENT FUND 90185

The Money Follows the Person Enhanced Reimbursement Fund is 90186
hereby created in the state treasury. This is a continuation of 90187
the fund created by Section 751.20 of Am. Sub. H.B. 562 of the 90188
127th General Assembly. The federal payments made to the state 90189
under subsection (e) of section 6071 of the "Deficit Reduction Act 90190
of 2005," Pub. L. No. 109-171, shall be deposited into the fund. 90191
The Department of Job and Family Services shall use money 90192
deposited into the fund for system reform activities related to 90193
the Money Follows the Person demonstration project. 90194

Section 309.31.20. MEDICARE PART D 90195

The foregoing appropriation item 600526, Medicare Part D, may 90196
be used by the Department of Job and Family Services for the 90197

implementation and operation of the Medicare Part D requirements 90198
contained in the "Medicare Prescription Drug, Improvement, and 90199
Modernization Act of 2003," Pub. L. No. 108-173, as amended. Upon 90200
the request of the Department of Job and Family Services, the 90201
Director of Budget and Management may transfer the state share of 90202
appropriations between appropriation item 600525, Health 90203
Care/Medicaid, or appropriation item 600526, Medicare Part D. If 90204
the state share of appropriation item 600525, Health 90205
Care/Medicaid, is adjusted, the Director of Budget and Management 90206
shall adjust the federal share accordingly. 90207

Section 309.31.30. OHIO ACCESS SUCCESS PROJECT AND 90208
IDENTIFICATION OF OVERPAYMENTS 90209

Notwithstanding any limitations in sections 3721.51 and 90210
3721.56 of the Revised Code, in each fiscal year, cash from the 90211
Home and Community-Based Services for the Aged Fund (Fund 4J50), 90212
in excess of the amounts needed for the transfers to the 90213
PASSPORT/Residential State Supplement Fund (Fund 4340) used by the 90214
Department of Aging, may be used by the Department of Job and 90215
Family Services for the following purposes: (A) up to \$3,000,000 90216
in each fiscal year to fund the state share of audits or limited 90217
reviews of Medicaid providers; and (B) up to \$450,000 in each 90218
fiscal year to provide one-time transitional benefits under the 90219
Ohio Access Success Project that the Director of Job and Family 90220
Services may establish under section 5111.97 of the Revised Code. 90221
90222

Section 309.31.40. TRANSFER OF FUNDS TO THE DEPARTMENT OF 90223
AGING 90224

The Department of Job and Family Services shall transfer 90225
\$33,263,984 cash in each fiscal year from the Home and 90226
Community-Based Services for the Aged Fund (Fund 4J50) to the 90227

PASSPORT/Residential State Supplement Fund (Fund 4340), used by 90228
the Department of Aging. The transfer may occur on a quarterly 90229
basis or on a schedule developed and agreed to by both 90230
departments. The transfer shall be made using an intrastate 90231
transfer voucher. 90232

Section 309.31.50. PROVIDER FRANCHISE FEE OFFSETS 90233

(A) At least quarterly, the Director of Job and Family 90234
Services shall certify to the Director of Budget and Management 90235
both of the following: 90236

(1) The amount of offsets withheld under section 3721.541 of 90237
the Revised Code from payments made from the General Revenue Fund. 90238

(2) The amount of offsets withheld under section 5112.341 of 90239
the Revised Code from payments made from the General Revenue Fund. 90240

(B) The Director of Budget and Management may transfer cash 90241
from the General Revenue Fund to all of the following: 90242

(1) The Home and Community Based Services for the Aged Fund 90243
(Fund 4J50), or the Nursing Facility Stabilization Fund (Fund 90244
5R20), in accordance with sections 3721.56 and 3721.561 of the 90245
Revised Code; 90246

(2) The ICF/MR Bed Assessments Fund (Fund 4K20). 90247

(C) Amounts transferred pursuant to this section are hereby 90248
appropriated. 90249

**Section 309.31.60. TRANSFER OF FUNDS TO THE DEPARTMENT OF 90250
MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES** 90251

The Department of Job and Family Services shall transfer 90252
\$12,000,000 cash in each fiscal year from the ICF/MR Bed 90253
Assessments Fund (Fund 4K10) to the Home and Community-Based 90254
Services Fund (Fund 4K80), used by the Department of Mental 90255
Retardation and Developmental Disabilities. The transfer may occur 90256

on a quarterly basis or on a schedule developed and agreed to by 90257
both departments. The transfer shall be made using an intrastate 90258
transfer voucher. 90259

Section 309.31.70. FUNDING FOR TRANSITION WAIVER SERVICES 90260

Notwithstanding any limitations contained in sections 5112.31 90261
and 5112.37 of the Revised Code, in each fiscal year, cash from 90262
the ICF/MR Bed Assessments Fund (Fund 4K20) in excess of the 90263
amounts needed for transfers to the Home and Community-Based 90264
Services Fund (Fund 4K80), used by the Department of Mental 90265
Retardation and Developmental Disabilities, may be used by the 90266
Department of Job and Family Services to cover costs of care 90267
provided to participants in a waiver with an ICF/MR level of care 90268
requirement administered by the Department of Job and Family 90269
Services. 90270

Section 309.31.80. HOSPITAL CARE ASSURANCE MATCH 90271

The foregoing appropriation item 600650, Hospital Care 90272
Assurance Match, shall be used by the Department of Job and Family 90273
Services solely for distributing funds to hospitals under section 90274
5112.08 of the Revised Code. 90275

Section 309.31.90. HEALTH CARE SERVICES ADMINISTRATION FUND 90276

Of the amount received by the Department of Job and Family 90277
Services during fiscal year 2010 and fiscal year 2011 from the 90278
first installment of assessments paid under section 5112.06 of the 90279
Revised Code and intergovernmental transfers made under section 90280
5112.07 of the Revised Code, the Director of Job and Family 90281
Services shall deposit \$350,000 in each fiscal year into the state 90282
treasury to the credit of the Health Care Services Administration 90283
Fund (Fund 5U30). 90284

Section 309.32.10. MEDICAID PROGRAM SUPPORT FUND - STATE 90285

The foregoing appropriation item 600671, Medicaid Program 90286
Support, shall be used by the Department of Job and Family 90287
Services to pay for Medicaid services and contracts. The 90288
Department may also deposit to Fund 5C90 revenues received from 90289
other state agencies for Medicaid services under the terms of 90290
interagency agreements between the Department and other state 90291
agencies, and all funds the Department recovers because the 90292
benefits a person received under the Disability Medical Assistance 90293
Program established in section 5115.10 of the Revised Code were 90294
determined to be covered by the Medicaid Program established under 90295
Chapter 5111. of the Revised Code. 90296

Section 309.32.20. TRANSFERS OF IMD/DSH CASH TO THE 90297
DEPARTMENT OF MENTAL HEALTH 90298

The Department of Job and Family Services shall transfer cash 90299
from the Medicaid Program Support Fund (Fund 5C90), to the 90300
Behavioral Health Medicaid Services Fund (Fund 4X50), used by the 90301
Department of Mental Health, in accordance with an interagency 90302
agreement that delegates authority from the Department of Job and 90303
Family Services to the Department of Mental Health to administer 90304
specified Medicaid services. The transfer shall be made using an 90305
intrastate transfer voucher. 90306

Section 309.32.30. PRESCRIPTION DRUG REBATE FUND 90307

The foregoing appropriation item 600692, Health Care 90308
Services, shall be used by the Department of Job and Family 90309
Services to pay for Medicaid services and contracts. 90310

Section 309.40. FAMILY STABILITY 90311

Section 309.40.10. FOOD STAMPS TRANSFER 90312

On July 1, 2009, or as soon as possible thereafter, the 90313
Director of Budget and Management may transfer up to \$1,000,000 90314
cash from the Food Stamp Program Fund (Fund 3840), to the Food 90315
Assistance Fund (Fund 5ES0). 90316

Section 309.40.20. NAME OF FOOD STAMP PROGRAM 90317

The Director of Job and Family Services is not required to 90318
amend rules regarding the Food Stamp Program to change the name of 90319
the program to the Supplemental Nutrition Assistance Program. The 90320
Director may refer to the program as the Food Stamp Program or the 90321
Food Assistance Program in rules and documents of the Department 90322
of Job and Family Services. 90323

**Section 309.40.30. OHIO ASSOCIATION OF SECOND HARVEST FOOD 90324
BANKS** 90325

Notwithstanding any other provision, in fiscal years 2010 and 90326
2011, the Director of Job and Family Services shall provide 90327
assistance from eligible funds to the Ohio Association of Second 90328
Harvest Food Banks in an amount equal to the assistance provided 90329
in state fiscal year 2009. 90330

Section 309.40.40. ALTERNATIVE RESPONSE 90331

The Department of Job and Family Services shall develop, 90332
implement, oversee, and evaluate a pilot program based on an 90333
"Alternative Response" approach to reports of child abuse, 90334
neglect, and dependency. The pilot program shall be implemented in 90335
not more than ten counties that are selected by the Department and 90336
that agree to participate in the pilot program. The pilot program 90337
shall last eighteen months, not including time expended in 90338
preparation for the implementation of the pilot program and any 90339
post-pilot program evaluation activity. 90340

At any point during or at the conclusion of the eighteen 90341

month pilot program the Department may expand the Alternative 90342
Response approach statewide through a schedule determined by the 90343
Department. After the eighteen-month period, the ten sites may 90344
continue to administer the Alternative Response approach 90345
uninterrupted, unless the Department determines otherwise. 90346

The Department shall assure that the Alternative Response 90347
pilot program is independently evaluated with respect to outcomes 90348
for children and families, costs, worker satisfaction, and any 90349
other criteria the Department determines will be useful in the 90350
consideration of statewide implementation of an Alternative 90351
Response approach to child protection. The measure associated with 90352
the eighteen-month pilot program shall, for the purposes of the 90353
evaluation, be compared with those same measures in the pilot 90354
counties during the eighteen-month period immediately preceding 90355
the beginning of the pilot program period. The Department shall 90356
seek a statutory framework for the Alternative Response approach 90357
if the independent evaluation of the pilot program recommends 90358
statewide implementation of an Alternative Response approach to 90359
child protection. 90360

Section 309.40.50. CHILD SUPPORT COLLECTIONS/TANF MOE 90361

The foregoing appropriation item 600658, Child Support 90362
Collections, shall be used by the Department of Job and Family 90363
Services to meet the TANF maintenance of effort requirements of 42 90364
U.S.C. 609(a)(7). When the state is assured that it will meet the 90365
maintenance of effort requirement, the Department of Job and 90366
Family Services may use funds from appropriation item 600658, 90367
Child Support Collections, to support public assistance 90368
activities. 90369

Section 309.40.60. EARLY LEARNING INITIATIVE 90370

(A) As used in this section: 90371

(1) "Title IV-A services" means benefits and services that are allowable under Title IV-A of the "Social Security Act," as specified in 42 U.S.C. 604(a), except that they shall not be benefits and services included in the term "assistance" as defined in 45 C.F.R. 260.31(a) and shall be benefits and services that are excluded from the definition of the term "assistance" under 45 C.F.R. 260.31(b).

(2) "Eligible child" means a child who is at least three years of age but not of compulsory school age or enrolled in kindergarten, is eligible for Title IV-A services, and whose family income at the time of application does not exceed two hundred per cent of the federal poverty guidelines.

(3) "Early learning program" means a program for eligible children that provides Title IV-A services, according to the purposes listed in 45 C.F.R. 260.20(c), that are early learning services, as defined by pursuant to division (D)(1) of this section.

(4) "Early learning provider" means an entity that operates an early learning program.

(5) "Early learning agency" means an early learning provider or an entity that has entered into an agreement with an early learning provider requiring the early learning provider to operate an early learning program on behalf of the entity.

(6) "Federal poverty line" has the same meaning as in section 5104.01 of the Revised Code.

(7) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.

(B) The Early Learning Initiative is hereby established. The Department of Education and the Department of Job and Family Services shall administer the Initiative in accordance with sections 5101.80 and 5101.801 of the Revised Code. The Initiative

shall provide early learning services to eligible children. Early 90403
learning services may be provided on a full-day basis, a part-day 90404
basis, or both a full-day and part-day basis. 90405

(C) The Department of Job and Family Services shall do both 90406
of the following: 90407

(1) Reimburse early learning agencies for services provided 90408
to eligible children according to the terms of the contract and 90409
the rules adopted under division (C)(2) of this section; 90410

(2) In consultation with the Department of Education, adopt 90411
rules in accordance with Chapter 119. of the Revised Code to 90412
implement the Early Learning Initiative. The rules shall include 90413
all of the following: 90414

(a) Provisions regarding the establishment of co-payments for 90415
families of eligible children whose family income is more than one 90416
hundred per cent of the federal poverty guidelines but equal to or 90417
less than the maximum amount of family income authorized for an 90418
eligible child as defined in division (A)(3) of this section; 90419

(b) An exemption from co-payment requirements for families 90420
whose family income is equal to or less than one hundred per cent 90421
of the federal poverty guideline; 90422

(c) A definition of "enrollment" for the purpose of 90423
compensating early learning agencies; 90424

(d) Provisions that establish compensation rates for early 90425
learning agencies based on the enrollment of eligible children; 90426

(e) Provisions for the completion of criminal record checks 90427
for employees of early learning agencies and early learning 90428
providers whereby sections 109.572(A)(8), (A)(9), and (B)(2) of 90429
the Revised Code are considered applicable to these employees; 90430

(f) Provisions for the timeline of eligibility determination. 90431

(D) The Department of Education shall do all of the 90432

following: 90433

(1) Define the early learning services that will be provided 90434
to eligible children through the Early Learning Initiative; 90435

(2) In consultation with the Department of Job and Family 90436
Services, develop an application form and criteria for the 90437
selection of early learning agencies. The criteria shall require 90438
an early learning agency, or each early learning provider with 90439
which the agency has entered into an agreement for the operation 90440
of an early learning program on the agency's behalf, to be 90441
licensed or certified by the Department of Education under 90442
sections 3301.52 to 3301.59 of the Revised Code or by the 90443
Department of Job and Family Services under Chapter 5104. of the 90444
Revised Code; 90445

(3) Establish early learning program guidelines for school 90446
readiness to assess the operation of early learning programs. 90447

(E) Any entity that seeks to be an early learning agency 90448
shall apply to the Department of Education by a deadline 90449
established by the Department. The Department of Education shall 90450
select entities that meet the criteria established under division 90451
(D)(2) of this section to be early learning agencies. Upon 90452
selection of an entity to be an early learning agency, the 90453
Department of Education shall designate the number of eligible 90454
children the agency may enroll. The Department of Education shall 90455
notify the Department of Job and Family Services of the number so 90456
designated. 90457

(F) The Department of Education and the Department of Job and 90458
Family Services shall enter into a contract with each early 90459
learning agency selected under division (E) of this section. The 90460
requirements of section 127.16 of the Revised Code do not apply to 90461
contracts entered into under this section. The contract shall 90462
outline the terms and conditions applicable to the provision of 90463

Title IV-A services for eligible children and shall include at least the following: 90464
90465

(1) The respective duties of the early learning agency, the Department of Education, and the Department of Job and Family Services; 90466
90467
90468

(2) Requirements applicable to the allowable use of and accountability for compensation paid under the contract; 90469
90470

(3) Reporting requirements, including a requirement that the early learning provider inform the Department of Education when the provider learns that a kindergarten eligible child will not be enrolled in kindergarten; 90471
90472
90473
90474

(4) The compensation schedule payable under the contract; 90475

(5) Audit requirements; 90476

(6) Provisions for suspending, modifying, or terminating the contract. 90477
90478

(G) If an early learning agency, or an early learning provider operating an early learning program on the agency's behalf, substantially fails to meet the early learning program guidelines for school readiness or exhibits substandard performance, as determined by the Department of Education, the agency shall develop and implement a corrective action plan. The Department of Education shall approve the corrective action plan prior to implementation. 90479
90480
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90486

(H) If an early learning agency fails to implement a corrective action plan under division (G) of this section, the Department of Education may direct the Department of Job and Family Services to either withhold funding or request that the Department of Job and Family Services suspend or terminate the contract with the agency. 90487
90488
90489
90490
90491
90492

(I) Each early learning program shall do all of the 90493

following:	90494
(1) Meet teacher qualification requirements prescribed by section 3301.311 of the Revised Code;	90495 90496
(2) Align curriculum to the early learning content standards;	90497
(3) Meet any assessment requirements prescribed by section 3301.0715 of the Revised Code that apply to the program;	90498 90499
(4) Require teachers, except teachers enrolled and working to obtain a degree pursuant to section 3301.311 of the Revised Code, to attend a minimum of twenty hours per biennium of professional development as prescribed by the Department of Education regarding the implementation of early learning program guidelines for school readiness;	90500 90501 90502 90503 90504 90505
(5) Document and report child progress;	90506
(6) Meet and report compliance with the early learning program guidelines for school success;	90507 90508
(7) Participate in early language and literacy classroom observation evaluation studies.	90509 90510
(J) Each county Department of Job and Family Services shall determine eligibility for Title IV-A services for children seeking to enroll in an early learning program within fifteen days after receipt of a completed application in accordance with rules adopted under this section.	90511 90512 90513 90514 90515
(K) The provision of early learning services in an early learning program shall not prohibit or otherwise prevent an individual from obtaining certificates for payment under division (C) of section 5104.32 of the Revised Code.	90516 90517 90518 90519
(L) Notwithstanding section 126.07 of the Revised Code:	90520
(1) Any fiscal year 2010 contract executed prior to July 1, 2009, between the Departments of Job and Family Services and Education and an early learning agency that was not an early	90521 90522 90523

learning agency as of June 30, 2009, shall be deemed to be 90524
effective as of July 1, 2009, upon issuance of a state purchase 90525
order, even if the purchase order is approved at some later date. 90526

(2) Any fiscal year 2010 contract executed between the 90527
Departments of Job and Family Services and Education and an early 90528
learning agency that had a valid contract for early learning 90529
services on June 30, 2009, shall be deemed to be effective as of 90530
July 1, 2009, upon the issuance of a state purchase order, even if 90531
the purchase order is approved at some later date. 90532

(3) Any fiscal year 2011 contract executed prior to July 1, 90533
2010, between the Departments of Job and Family Services and 90534
Education and an early learning agency that was not an early 90535
learning agency as of June 30, 2010, shall be deemed to be 90536
effective as of July 1, 2010, upon issuance of a state purchase 90537
order, even if the purchase order is approved at some later date. 90538

(4) Any fiscal year 2011 contract executed between the 90539
Departments of Job and Family Services and Education and an early 90540
learning agency that had a valid contract for early learning 90541
services on June 30, 2010, shall be deemed to be effective as of 90542
July 1, 2010, upon the issuance of a state purchase order, even if 90543
the purchase order is approved at some later date. 90544

(M) The Departments of Job and Family Services and Education 90545
shall contract for up to 12,000 enrollment slots for eligible 90546
children in each fiscal year through the Early Learning 90547
Initiative. 90548

(N) Eligible expenditures for the Early Learning Initiative 90549
shall be claimed each fiscal year to help meet the state's TANF 90550
maintenance of effort requirement. The Superintendent of Public 90551
Instruction and the Director of Job and Family Services shall 90552
enter into an interagency agreement to carry out the requirements 90553
under this division, which shall include developing reporting 90554

guidelines for these expenditures. 90555

Section 309.50. UNEMPLOYMENT COMPENSATION 90556

Section 309.50.10. EMPLOYER SURCHARGE 90557

The surcharge and the interest on the surcharge amounts due 90558
for calendar years 1988, 1989, and 1990 as required by Am. Sub. 90559
H.B. 171 of the 117th General Assembly, Am. Sub. H.B. 111 of the 90560
118th General Assembly, and section 4141.251 of the Revised Code 90561
as it existed prior to its repeal by Sub. H.B. 478 of the 122nd 90562
General Assembly, again shall be assessed and collected by, 90563
accounted for, and made available to the Department of Job and 90564
Family Services in the same manner as set forth in section 90565
4141.251 of the Revised Code as it existed prior to its repeal by 90566
Sub. H.B. 478 of the 122nd General Assembly, notwithstanding the 90567
repeal of the surcharge for calendar years after 1990, pursuant to 90568
Sub. H.B. 478 of the 122nd General Assembly, except that amounts 90569
received by the Director on or after July 1, 2001, shall be 90570
deposited into the Unemployment Compensation Special 90571
Administrative Fund (Fund 4A90) established pursuant to section 90572
4141.11 of the Revised Code. 90573

Section 309.50.20. FEDERAL UNEMPLOYMENT PROGRAMS 90574

All unexpended funds remaining at the end of fiscal year 2009 90575
that were appropriated and made available to the state under 90576
section 903(d) of the Social Security Act, as amended, in the 90577
foregoing appropriation item 600678, Federal Unemployment Programs 90578
Fund (Fund 3V40), are hereby appropriated to the Department of Job 90579
and Family Services. Upon the request of the Director of Job and 90580
Family Services, the Director of Budget and Management may 90581
increase the appropriation for fiscal year 2010 by the amount 90582
remaining unspent from the fiscal year 2009 appropriation and may 90583
increase the appropriation for fiscal year 2011 by the amount 90584

remaining unspent from the fiscal year 2010 appropriation. The 90585
appropriation shall be used under the direction of the Department 90586
of Job and Family Services to pay for administrative activities 90587
for the Unemployment Insurance Program, employment services, and 90588
other allowable expenditures under section 903(d) of the Social 90589
Security Act, as amended. 90590

The amounts obligated pursuant to this section shall not 90591
exceed at any time the amount by which the aggregate of the 90592
amounts transferred to the account of the state under section 90593
903(d) of the Social Security Act, as amended, exceeds the 90594
aggregate of the amounts obligated for administration and paid out 90595
for benefits and required by law to be charged against the amounts 90596
transferred to the account of the state. 90597

Section 309.50.30. REMOVAL OF UNEMPLOYMENT COMPENSATION 90598
ADVISORY COUNCIL MEMBERS 90599

The intent of the General Assembly in the amendments made in 90600
this act to section 145.012 is to provide that service as a member 90601
of the Unemployment Compensation Advisory Council on or after the 90602
effective date of this section shall not be service as a public 90603
employee for purposes of Chapter 145. of the Revised Code. The 90604
amendments are not intended to prohibit the use of such service 90605
for calculation of benefits under Chapter 145. of the Revised Code 90606
for service prior to the effective date of this section. 90607
90608

Section 311.10. JCO JUDICIAL CONFERENCE OF OHIO 90609

General Revenue Fund				90610	
GRF 018321 Operating Expenses	\$	1,034,281	\$	1,065,281	90611
TOTAL GRF General Revenue Fund	\$	1,034,281	\$	1,065,281	90612
General Services Fund Group				90613	
4030 018601 Ohio Jury	\$	350,000	\$	350,000	90614

Instructions

TOTAL GSF General Services Fund \$ 350,000 \$ 350,000 90615
Group

TOTAL ALL BUDGET FUND GROUPS \$ 1,384,281 \$ 1,415,281 90616

STATE COUNCIL OF UNIFORM STATE LAWS 90617

Notwithstanding section 105.26 of the Revised Code, of the 90618
foregoing appropriation item 018321, Operating Expenses, up to 90619
\$97,000 in fiscal year 2010 and up to \$101,000 in fiscal year 2011 90620
may be used to pay the expenses of the State Council of Uniform 90621
State Laws, including membership dues to the National Conference 90622
of Commissioners on Uniform State Laws, and other expenses under 90623
sections 105.25 and 105.26 of the Revised Code. 90624

OHIO JURY INSTRUCTIONS FUND 90625

The Ohio Jury Instructions Fund (Fund 4030) shall consist of 90626
grants, royalties, dues, conference fees, bequests, devises, and 90627
other gifts received for the purpose of supporting costs incurred 90628
by the Judicial Conference of Ohio in dispensing educational and 90629
informational data to the state's judicial system. Fund 4030 shall 90630
be used by the Judicial Conference of Ohio to pay expenses 90631
incurred in dispensing educational and informational data to the 90632
state's judicial system. All moneys accruing to Fund 4030 in 90633
excess of \$350,000 in fiscal year 2010 and in excess of \$350,000 90634
in fiscal year 2011 are hereby appropriated for the purposes 90635
authorized. 90636

No money in Fund 4030 shall be transferred to any other fund 90637
by the Director of Budget and Management or the Controlling Board. 90638

Section 313.10. JSC THE JUDICIARY/SUPREME COURT 90639

General Revenue Fund 90640

GRF 005321 Operating Expenses - \$ 133,144,970 \$ 133,144,970 90641

Judiciary/Supreme

		Court					
GRF	005401	State Criminal	\$	336,770	\$	336,770	90642
		Sentencing Council					
GRF	005406	Law-Related Education	\$	236,172	\$	236,172	90643
GRF	005409	Ohio Courts	\$	4,850,000	\$	4,850,000	90644
		Technology Initiative					
GRF	005502	Legal Education	\$	350,000	\$	350,000	90645
		Opportunity					
TOTAL GRF		General Revenue Fund	\$	138,917,912	\$	138,917,912	90646
		General Services Fund Group					90647
6720	005601	Continuing Judicial	\$	300,000	\$	300,000	90648
		Education					
TOTAL GSF		General Services Fund	\$	300,000	\$	300,000	90649
		Group					
		Federal Special Revenue Fund Group					90650
3J00	005603	Federal Grants	\$	2,137,866	\$	1,917,081	90651
TOTAL FED		Federal Special Revenue	\$	2,137,866	\$	1,917,081	90652
		Fund Group					
		State Special Revenue Fund Group					90653
4C80	005605	Attorney Services	\$	3,704,659	\$	3,704,659	90654
5T80	005609	Grants and Awards	\$	50,000	\$	50,000	90655
6A80	005606	Supreme Court	\$	1,284,142	\$	1,284,142	90656
		Admissions					
TOTAL SSR		State Special Revenue	\$	5,038,801	\$	5,038,801	90657
		Fund Group					
TOTAL ALL BUDGET FUND GROUPS			\$	146,394,579	\$	146,173,794	90658
		LAW-RELATED EDUCATION					90659
		The foregoing appropriation item 005406, Law-Related					90660
		Education, shall be distributed directly to the Ohio Center for					90661
		Law-Related Education for the purposes of providing continuing					90662
		citizenship education activities to primary and secondary					90663
		students, expanding delinquency prevention programs, increasing					90664

activities for at-risk youth, and accessing additional public and 90665
private money for new programs. 90666

OHIO COURTS TECHNOLOGY INITIATIVE 90667

The foregoing appropriation item 005409, Ohio Courts 90668
Technology Initiative, shall be used to fund an initiative by the 90669
Supreme Court to facilitate the exchange of information and 90670
warehousing of data by and between Ohio courts and other justice 90671
system partners through the creation of an Ohio Courts Network, 90672
the delivery of technology services to courts throughout the 90673
state, including the provision of hardware, software, and the 90674
development and implementation of educational and training 90675
programs for judges and court personnel, and operation of the 90676
Commission on Technology and the Courts by the Supreme Court for 90677
the promulgation of statewide rules, policies, and uniform 90678
standards, and to aid in the orderly adoption and comprehensive 90679
use of technology in Ohio courts. 90680

LEGAL EDUCATION OPPORTUNITY 90681

The foregoing appropriation item 005502 shall be used to fund 90682
activities undertaken at the direction of the Chief Justice of the 90683
Supreme Court for purposes of introducing minority, low-income, 90684
and educationally disadvantaged Ohio students to the legal system 90685
and providing educational opportunities to those same students who 90686
are preparing for college and interested in the pursuit of a legal 90687
career. The foregoing appropriation item 005502 may be used by the 90688
Supreme Court, in cooperation with other entities, to establish 90689
and provide programs, courses, and activities consistent with the 90690
purposes set forth in this paragraph and to pay the associated 90691
administrative costs. 90692

CONTINUING JUDICIAL EDUCATION 90693

The Continuing Judicial Education Fund (Fund 6720) shall 90694
consist of fees paid by judges and court personnel for attending 90695

continuing education courses and other gifts and grants received 90696
for the purpose of continuing judicial education. The foregoing 90697
appropriation item 005601, Continuing Judicial Education, shall be 90698
used to pay expenses for continuing education courses for judges 90699
and court personnel. If it is determined by the Administrative 90700
Director of the Supreme Court that additional appropriations are 90701
necessary, the amounts are hereby appropriated. 90702

No money in Fund 6720 shall be transferred to any other fund 90703
by the Director of Budget and Management or the Controlling Board. 90704
Interest earned on moneys in Fund 6720 shall be credited to the 90705
fund. 90706

FEDERAL GRANTS 90707

The Federal Grants Fund (Fund 3J00) shall consist of grants 90708
and other moneys awarded to the Supreme Court (The Judiciary) by 90709
the United States Government or other entities that receive the 90710
moneys directly from the United States Government and distribute 90711
those moneys to the Supreme Court (The Judiciary). The foregoing 90712
appropriation item 005603, Federal Grants, shall be used in a 90713
manner consistent with the purpose of the grant or award. If it is 90714
determined by the Administrative Director of the Supreme Court 90715
that additional appropriations are necessary, the amounts are 90716
hereby appropriated. 90717

No money in Fund 3J00 shall be transferred to any other fund 90718
by the Director of Budget and Management or the Controlling Board. 90719
However, interest earned on moneys in Fund 3J00 shall be credited 90720
or transferred to the General Revenue Fund. 90721

ATTORNEY SERVICES 90722

The Attorney Services Fund (Fund 4C80), formerly known as the 90723
Attorney Registration Fund, shall consist of moneys received by 90724
the Supreme Court (The Judiciary) pursuant to the Rules for the 90725
Government of the Bar of Ohio. In addition to funding other 90726

activities considered appropriate by the Supreme Court, the 90727
foregoing appropriation item 005605, Attorney Services, may be 90728
used to compensate employees and to fund appropriate activities of 90729
the following offices established by the Supreme Court: the Office 90730
of Disciplinary Counsel, the Board of Commissioners on Grievances 90731
and Discipline, the Clients' Security Fund, and the Attorney 90732
Services Division. If it is determined by the Administrative 90733
Director of the Supreme Court that additional appropriations are 90734
necessary, the amounts are hereby appropriated. 90735

No moneys in Fund 4C80 shall be transferred to any other fund 90736
by the Director of Budget and Management or the Controlling Board. 90737
Interest earned on moneys in Fund 4C80 shall be credited to the 90738
fund. 90739

GRANTS AND AWARDS 90740

The Grants and Awards Fund (Fund 5T80) shall consist of 90741
grants and other moneys awarded to the Supreme Court (The 90742
Judiciary) by the State Justice Institute, the Division of 90743
Criminal Justice Services, or other entities. The foregoing 90744
appropriation item 005609, Grants and Awards, shall be used in a 90745
manner consistent with the purpose of the grant or award. If it is 90746
determined by the Administrative Director of the Supreme Court 90747
that additional appropriations are necessary, the amounts are 90748
hereby appropriated. 90749

No moneys in Fund 5T80 shall be transferred to any other fund 90750
by the Director of Budget and Management or the Controlling Board. 90751
However, interest earned on moneys in Fund 5T80 shall be credited 90752
or transferred to the General Revenue Fund. 90753

SUPREME COURT ADMISSIONS 90754

The foregoing appropriation item 005606, Supreme Court 90755
Admissions, shall be used to compensate Supreme Court employees 90756
who are primarily responsible for administering the attorney 90757

admissions program under the Rules for the Government of the Bar 90758
of Ohio, and to fund any other activities considered appropriate 90759
by the court. Moneys shall be deposited into the Supreme Court 90760
Admissions Fund (Fund 6A80) under the Supreme Court Rules for the 90761
Government of the Bar of Ohio. If it is determined by the 90762
Administrative Director of the Supreme Court that additional 90763
appropriations are necessary, the amounts are hereby appropriated. 90764

No moneys in Fund 6A80 shall be transferred to any other fund 90765
by the Director of Budget and Management or the Controlling Board. 90766
Interest earned on moneys in Fund 6A80 shall be credited to the 90767
fund. 90768

Section 313.20. SUPREME COURT FILING FEE 90769

The General Assembly hereby respectfully requests the Supreme 90770
Court to modify Rule XV of the Rules of Practice of the Supreme 90771
Court of Ohio pursuant to its authority under the Ohio 90772
Constitution to make that Rule consistent with the amendments made 90773
by this act to section 2503.17 of the Revised Code. 90774

Section 315.10. LEC LAKE ERIE COMMISSION 90775

State Special Revenue Fund Group 90776

4C00	780601	Lake Erie Protection	\$	450,000	\$	450,000	90777
		Fund					

5D80	780602	Lake Erie Resources	\$	380,000	\$	383,000	90778
		Fund					

TOTAL SSR State Special Revenue 90779

Fund Group	\$	830,000	\$	833,000	90780
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TOTAL ALL BUDGET FUND GROUPS	\$	830,000	\$	833,000	90781
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Section 317.10. LRS LEGAL RIGHTS SERVICE 90783

General Revenue Fund 90784

GRF	054321	Support Services	\$	142,614	\$	142,614	90785
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**Sub. H. B. No. 1
As Introduced - First Substitute Bill (LSC # 0516-2)**

GRF	054401	Ombudsman	\$	209,698	\$	209,698	90786
TOTAL GRF	General Revenue Fund		\$	352,312	\$	352,312	90787
General Services Fund Group							90788
5M00	054610	Settlements	\$	81,352	\$	81,352	90789
TOTAL GSF	General Services						90790
Fund Group			\$	81,352	\$	81,352	90791
Federal Special Revenue Fund Group							90792
3050	054602	Protection and Advocacy - Developmentally Disabled	\$	1,500,000	\$	1,500,000	90793
3AG0	054613	Protection and Advocacy - Voter Accessibility	\$	135,000	\$	135,000	90794
3B80	054603	Protection and Advocacy - Mentally Ill	\$	1,100,000	\$	1,100,000	90795
3CA0	054615	Work Incentives Planning and Assistance	\$	355,000	\$	355,000	90796
3N30	054606	Protection and Advocacy - Individual Rights	\$	570,000	\$	570,000	90797
3N90	054607	Assistive Technology	\$	160,000	\$	160,000	90798
3R90	054604	Family Support Collaborative	\$	12,500	\$	0	90799
3R90	054616	Developmental Disability Publications	\$	130,000	\$	130,000	90800
3T20	054609	Client Assistance Program	\$	435,000	\$	435,000	90801
3X10	054611	Protection and	\$	235,000	\$	235,000	90802

	Advocacy -				
	Beneficiaries of				
	Social Security				
3Z60 054612	Protection and	\$	70,000	\$	70,000
	Advocacy - Traumatic				
	Brain Injury				
TOTAL FED	Federal Special Revenue				90804
Fund Group		\$	4,702,500	\$	4,690,000
State Special Revenue Fund Group					90806
5AE0 054614	Grants and Contracts	\$	100,000	\$	100,000
TOTAL SSR	State Special Revenue	\$	100,000	\$	100,000
Fund Group					
TOTAL ALL BUDGET FUND GROUPS		\$	5,236,164	\$	5,223,664

Section 317.20. LEGAL RIGHTS SERVICE NONPROFIT TRANSITION 90811

STUDY 90812

(A) The Legal Rights Service Commission shall conduct a study 90813
concerning a potential transition from a public entity to a 90814
nonprofit organization effective July 1, 2011. The study shall 90815
include an analysis of all of the following: 90816

(1) The feasibility of a transition to a nonprofit 90817
organization; 90818

(2) The potential effects on service delivery, including 90819
client service and access to required resources, and any other 90820
service delivery advantages or disadvantages that might result 90821
from the transition to a nonprofit organization; 90822

(3) Potential organizational effects, including cost savings 90823
and non-state funding sources, and any other organizational 90824
advantages or disadvantages that might result from the transition 90825
to a nonprofit organization; 90826

(4) The approximate amount of time necessary to achieve a 90827

transition to nonprofit status. 90828

(B) The Legal Rights Service Commission shall develop a 90829
process plan by which a transition to a nonprofit organization 90830
could be implemented not later than July 1, 2011. 90831

(C) Not later than six months after the effective date of 90832
this section, a written report of the results of the study and a 90833
copy of the process plan shall be submitted to the Governor, the 90834
Speaker and the Minority Leader of the House of Representatives, 90835
and the President and the Minority Leader of the Senate. 90836

Section 319.10. JLE JOINT LEGISLATIVE ETHICS COMMITTEE 90837

General Revenue Fund 90838

GRF 028321	Legislative Ethics	\$	550,000	\$	550,000	90839
	Committee					

TOTAL GRF	General Revenue Fund	\$	550,000	\$	550,000	90840
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General Services Fund Group 90841

4G70 028601	Joint Legislative	\$	100,000	\$	100,000	90842
	Ethics Committee					

TOTAL GSF	General Services Fund	\$	100,000	\$	100,000	90843
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Group

TOTAL ALL BUDGET FUND GROUPS		\$	650,000	\$	650,000	90844
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Section 321.10. LSC LEGISLATIVE SERVICE COMMISSION 90845

General Revenue Fund 90846

GRF 035321	Operating Expenses	\$	15,117,700	\$	15,117,700	90847
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GRF 035402	Legislative Interns	\$	1,022,120	\$	1,022,120	90848
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GRF 035405	Correctional	\$	438,900	\$	438,900	90849
	Institution					

Inspection Committee

GRF 035407	Legislative Task	\$	750,000	\$	750,000	90850
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Force on

		Redistricting					
GRF	035409	National Associations	\$	460,560	\$	460,560	90851
GRF	035410	Legislative	\$	3,661,250	\$	3,661,250	90852
		Information Systems					
TOTAL GRF		General Revenue Fund	\$	21,450,530	\$	21,450,530	90853
		General Services Fund Group					90854
4100	035601	Sale of Publications	\$	25,250	\$	25,250	90855
4F60	035603	Legislative Budget	\$	154,025	\$	154,025	90856
		Services					
5EF0	035607	House and Senate	\$	30,000	\$	30,000	90857
		Telephone Usage					
TOTAL GSF		General Services					90858
		Fund Group	\$	209,275	\$	209,275	90859
TOTAL ALL BUDGET FUND GROUPS			\$	21,659,805	\$	21,659,805	90860
		Section 323.10. LIB STATE LIBRARY BOARD					90862
		General Revenue Fund					90863
GRF	350321	Operating Expenses	\$	5,477,369	\$	5,477,369	90864
GRF	350401	Ohioana Library	\$	288,560	\$	288,560	90865
		Support					
GRF	350502	Regional Library	\$	832,099	\$	832,099	90866
		Systems					
TOTAL GRF		General Revenue Fund	\$	6,598,028	\$	6,598,028	90867
		General Services Fund Group					90868
1390	350602	Intra-Agency Service	\$	9,000	\$	9,000	90869
		Charges					
4590	350603	Library Service	\$	2,895,592	\$	3,039,342	90870
		Charges					
4S40	350604	Ohio Public Library	\$	5,702,150	\$	5,702,150	90871
		Information Network					
5GB0	350605	Library for the Blind	\$	1,274,194	\$	1,274,194	90872
5GG0	350606	Gates Foundation	\$	500,000	\$	0	90873

Grants

TOTAL GSF General Services				90874	
Fund Group	\$	10,380,936	\$	10,024,686	90875
Federal Special Revenue Fund Group				90876	
3130 350601 LSTA Federal	\$	5,543,747	\$	5,543,747	90877
TOTAL FED Federal Special Revenue				90878	
Fund Group	\$	5,543,747	\$	5,543,747	90879
TOTAL ALL BUDGET FUND GROUPS	\$	22,522,711	\$	22,166,461	90880

OHIOANA LIBRARY SUPPORT 90881

The foregoing appropriation item 350401, Ohioana Library Support, shall be used to provide support for rental expenses and operations of the Martha Kinney Cooper Ohioana Library Association under section 3375.61 of the Revised Code. 90882
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REGIONAL LIBRARY SYSTEMS 90886

The foregoing appropriation item 350502, Regional Library Systems, shall be used to support regional library systems eligible for funding under sections 3375.83 and 3375.90 of the Revised Code. 90887
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OHIO PUBLIC LIBRARY INFORMATION NETWORK 90891

(A) The foregoing appropriation item 350604, Ohio Public Library Information Network, shall be used for an information telecommunications network linking public libraries in the state and such others as may participate in the Ohio Public Library Information Network (OPLIN). 90892
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The Ohio Public Library Information Network Board of Trustees created under section 3375.65 of the Revised Code may make decisions regarding use of the foregoing appropriation item 350604, Ohio Public Library Information Network. 90897
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(B) Of the foregoing appropriation item 350604, Ohio Public Library Information Network, up to \$81,000 in each fiscal year 90901
90902

shall be used to help local libraries use filters to screen out 90903
obscene and illegal internet materials. 90904

The OPLIN Board shall research and assist or advise local 90905
libraries with regard to emerging technologies and methods that 90906
may be effective means to control access to obscene and illegal 90907
materials. The OPLIN Executive Director shall provide biannual 90908
written reports to the Governor, the Speaker and Minority Leader 90909
of the House of Representatives, and the President and Minority 90910
Leader of the Senate on any steps being taken by OPLIN and public 90911
libraries in the state to limit and control such improper usage as 90912
well as information on technological, legal, and law enforcement 90913
trends nationally and internationally affecting this area of 90914
public access and service. 90915

(C) The Ohio Public Library Information Network, INFOhio, and 90916
OhioLINK shall, to the extent feasible, coordinate and cooperate 90917
in their purchase or other acquisition of the use of electronic 90918
databases for their respective users and shall contribute funds in 90919
an equitable manner to such effort. 90920

LIBRARY FOR THE BLIND 90921

The foregoing appropriation item 350605, Library for the 90922
Blind, shall be used for the statewide Talking Book Program to 90923
assist the blind and disabled. 90924

TRANSFER TO OPLIN TECHNOLOGY FUND 90925

Notwithstanding sections 5747.03 and 5747.47 of the Revised 90926
Code and any other provision of law to the contrary, in accordance 90927
with a schedule established by the Director of Budget and 90928
Management, the Director of Budget and Management shall transfer 90929
\$3,702,150 cash in each fiscal year from the Public Library Fund 90930
(Fund 7065) to the OPLIN Technology Fund (Fund 4S40). 90931

TRANSFER TO LIBRARY FOR THE BLIND FUND 90932

Notwithstanding sections 5747.03 and 5747.47 of the Revised Code and any other provision of law to the contrary, in accordance with a schedule established by the Director of Budget and Management, the Director of Budget and Management shall transfer \$1,274,194 cash in each fiscal year from the Public Library Fund (Fund 7065) to the Library for the Blind Fund (Fund 5GB0).

Section 325.10. LCO LIQUOR CONTROL COMMISSION				90939
Liquor Control Fund Group				90940
7043 970321	Operating Expenses	\$ 772,524	\$ 797,524	90941
TOTAL LCF Liquor Control Fund Group				90942
TOTAL ALL BUDGET FUND GROUPS				90943

Section 327.10. LOT STATE LOTTERY COMMISSION				90945
State Lottery Fund Group				90946
2310 950604	Charitable Gaming	\$ 2,378,000	\$ 2,378,000	90947
Oversight				
7044 950100	Personal Services	\$ 31,487,285	\$ 31,237,206	90948
7044 950200	Maintenance	\$ 14,578,155	\$ 14,652,155	90949
7044 950300	Equipment	\$ 4,058,420	\$ 3,603,920	90950
7044 950402	Advertising Contracts	\$ 23,548,000	\$ 23,548,000	90951
7044 950403	Gaming Contracts	\$ 47,978,749	\$ 48,756,010	90952
7044 950500	Problem Gambling	\$ 350,000	\$ 350,000	90953
Subsidy				
7044 950601	Direct Prize Payments	\$ 124,426,168	\$ 124,884,039	90954
8710 950602	Annuity Prizes	\$ 89,935,565	\$ 89,415,976	90955
TOTAL SLF State Lottery Fund				90956
Group				90957
TOTAL ALL BUDGET FUND GROUPS				90958

OPERATING EXPENSES 90959

Notwithstanding sections 127.14 and 131.35 of the Revised Code, the Controlling Board may, at the request of the State 90960
90961

Lottery Commission, authorize expenditures from the State Lottery Fund in excess of the amounts appropriated, up to a maximum of 15 per cent of anticipated total revenue accruing from the sale of lottery tickets. Upon the approval of the Controlling Board, the additional amounts are hereby appropriated.

DIRECT PRIZE PAYMENTS

Any amounts, in addition to the amounts appropriated in appropriation item 950601, Direct Prize Payments, that the Director of the State Lottery Commission determines to be necessary to fund prizes, bonuses, and commissions are hereby appropriated.

ANNUITY PRIZES

Upon request of the State Lottery Commission, the Director of Budget and Management may transfer cash from the State Lottery Fund (Fund 7044) to the Deferred Prizes Trust Fund (Fund 8710) in an amount sufficient to fund deferred prizes. The Treasurer of State, from time to time, shall credit the Deferred Prizes Trust Fund (Fund 8710) the pro rata share of interest earned by the Treasurer of State on invested balances.

Any amounts, in addition to the amounts appropriated in appropriation item 950602, Annuity Prizes, that the Director of the State Lottery Commission determines to be necessary to fund deferred prizes and interest earnings are hereby appropriated.

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND

The Director of Budget and Management shall transfer an amount greater than or equal to \$705,000,000 in fiscal year 2010 and \$711,000,000 in fiscal year 2011 from the State Lottery Fund to the Lottery Profits Education Fund (Fund 7017). Transfers from the State Lottery Fund to the Lottery Profits Education Fund shall represent the estimated net income from operations for the Commission in fiscal year 2010 and fiscal year 2011. Transfers by

the Director of Budget and Management to the Lottery Profits 90993
Education Fund shall be administered as the statutes direct. 90994

Section 329.10. MHC MANUFACTURED HOMES COMMISSION 90995

General Services Fund Group 90996
4K90 996609 Operating Expenses \$ 434,671 \$ 434,671 90997
TOTAL GSF General Services 90998
Fund Group \$ 434,671 \$ 434,671 90999
TOTAL ALL BUDGET FUND GROUPS \$ 434,671 \$ 434,671 91000

Section 331.10. MED STATE MEDICAL BOARD 91002

General Services Fund Group 91003
5C60 883609 Operating Expenses \$ 8,341,545 \$ 8,341,545 91004
TOTAL GSF General Services 91005
Fund Group \$ 8,341,545 \$ 8,341,545 91006
TOTAL ALL BUDGET FUND GROUPS \$ 8,341,545 \$ 8,341,545 91007

Section 333.10. AMB MEDICAL TRANSPORTATION BOARD 91009

General Services Fund Group 91010
4K90 915604 Operating Expenses \$ 473,450 \$ 473,450 91011
TOTAL GSF General Services 91012
Fund Group \$ 473,450 \$ 473,450 91013
TOTAL ALL BUDGET FUND GROUPS \$ 473,450 \$ 473,450 91014

Section 335.10. DMH DEPARTMENT OF MENTAL HEALTH 91016

General Revenue Fund 91017
GRF 332401 Forensic Services \$ 3,904,972 \$ 3,904,972 91018
GRF 333321 Central \$ 17,204,000 \$ 17,204,000 91019
Administration
GRF 333402 Resident Trainees \$ 637,460 \$ 637,460 91020
GRF 333403 Pre-Admission \$ 650,135 \$ 650,135 91021
Screening Expenses

GRF	333415	Lease-Rental Payments	\$	21,626,800	\$	22,360,300	91022
GRF	333416	Research Program Evaluation	\$	701,086	\$	701,086	91023
GRF	334408	Community and Hospital Mental Health Services	\$	383,724,688	\$	383,724,688	91024
GRF	334506	Court Costs	\$	781,322	\$	781,322	91025
GRF	335404	Behavioral Health Services-Children	\$	7,460,800	\$	7,460,800	91026
GRF	335405	Family & Children First	\$	1,808,000	\$	1,808,000	91027
GRF	335419	Community Medication Subsidy	\$	9,959,798	\$	9,959,798	91028
GRF	335505	Local Mental Health Systems of Care	\$	25,974,000	\$	12,259,000	91029
GRF	335636	Local MH Subsidy - Federal Stimulus	\$	60,866,571	\$	79,745,269	91030
TOTAL GRF		General Revenue Fund	\$	535,299,632	\$	541,196,830	91031
		General Services Fund Group					91032
1490	333609	Central Office Operating	\$	1,350,000	\$	1,350,000	91033
1490	334609	Hospital - Operating Expenses	\$	28,700,000	\$	29,200,000	91034
1500	334620	Special Education	\$	150,000	\$	150,000	91035
4P90	335604	Community Mental Health Projects	\$	250,000	\$	250,000	91036
1510	336601	Office of Support Services	\$	159,279,140	\$	170,258,490	91037
TOTAL GSF		General Services Fund Group	\$	189,729,140	\$	201,208,490	91038
		Federal Special Revenue Fund Group					91039
3240	333605	Medicaid/Medicare	\$	154,500	\$	154,500	91040

3A60	333608	Community & Hospital Services	\$	140,000	\$	140,000	91041
3A70	333612	Social Services Block Grant	\$	25,000	\$	25,000	91042
3A80	333613	Federal Grant - Administration	\$	4,888,105	\$	4,888,105	91043
3A90	333614	Mental Health Block Grant - Administration	\$	748,470	\$	748,470	91044
3B10	333635	Community Medicaid Expansion	\$	13,691,682	\$	13,691,682	91045
3240	334605	Medicaid/Medicare	\$	25,200,000	\$	30,200,000	91046
3A60	334608	Federal Miscellaneous	\$	586,224	\$	586,224	91047
3A80	334613	Federal Letter of Credit	\$	200,000	\$	200,000	91048
3B00	334617	Elementary/Secondary Education Act	\$	182,334	\$	182,334	91049
3A60	335608	Federal Miscellaneous	\$	2,178,699	\$	2,178,699	91050
3A70	335612	Social Services Block Grant	\$	8,632,288	\$	8,632,288	91051
3A80	335613	Federal Grant - Community Mental Health Board Subsidy	\$	2,595,040	\$	2,595,040	91052
3A90	335614	Mental Health Block Grant	\$	14,220,930	\$	14,220,930	91053
3B10	335635	Community Medicaid Expansion	\$	360,965,415	\$	343,350,567	91054
TOTAL FED		Federal Special Revenue Fund Group	\$	434,408,687	\$	421,793,839	91055
		State Special Revenue Fund Group					91056
2320	333621	Family and Children First Administration	\$	725,000	\$	725,000	91057
4850	333632	Mental Health	\$	134,233	\$	134,233	91058

		Operating				
4X50	333607	Behavioral Health	\$	3,000,624	\$	3,000,624 91059
		Medicaid Services				
5V20	333611	Non-Federal	\$	560,000	\$	560,000 91060
		Miscellaneous				
4850	334632	Mental Health	\$	2,400,000	\$	2,400,000 91061
		Operating				
6920	334636	Community Mental	\$	80,000	\$	80,000 91062
		Health Board Risk				
		Fund				
5AU0	335615	Behavioral Healthcare	\$	6,690,000	\$	6,690,000 91063
5CH0	335622	Residential Support	\$	1,500,000	\$	1,500,000 91064
		Service				
6320	335616	Community Capital	\$	700,000	\$	700,000 91065
		Replacement				
TOTAL SSR	State Special Revenue		\$	15,789,857	\$	15,789,857 91066
	Fund Group					
TOTAL ALL BUDGET	FUND GROUPS		\$	1,175,227,316	\$	1,179,989,016 91067

Section 335.10.10. FORENSIC SERVICES 91069

The foregoing appropriation item 332401, Forensic Services, 91070
shall be used to provide psychiatric services to courts of common 91071
pleas. The appropriation shall be allocated through community 91072
mental health boards to certified community agencies and shall be 91073
distributed according to the criteria delineated in rule 91074
5122:32-01 of the Administrative Code. These community forensic 91075
funds may also be used to provide forensic training to community 91076
mental health boards and to forensic psychiatry residency programs 91077
in hospitals operated by the Department of Mental Health and to 91078
provide evaluations of patients of forensic status in facilities 91079
operated by the Department of Mental Health prior to conditional 91080
release to the community. 91081

In addition, appropriation item 332401, Forensic Services, 91082

may be used to support projects involving mental health or 91083
substance abuse, to assist courts and law enforcement to identify 91084
and develop appropriate alternative services to incarceration for 91085
nonviolent mentally ill offenders, and to provide specialized 91086
re-entry services to offenders leaving prisons and jails. Funds 91087
may also be used to provide forensic monitoring and tracking in 91088
addition to community programs serving persons of forensic status 91089
on conditional release or probation. 91090

Section 335.20.10. RESIDENCY TRAINEESHIP PROGRAMS 91091

The foregoing appropriation item 333402, Resident Trainees, 91092
shall be used to fund training agreements entered into by the 91093
Director of Mental Health for the development of curricula and the 91094
provision of training programs to support public mental health 91095
services. 91096

Section 335.20.20. PRE-ADMISSION SCREENING EXPENSES 91097

The foregoing appropriation item 333403, Pre-Admission 91098
Screening Expenses, shall be used to ensure that uniform statewide 91099
methods for pre-admission screening are in place for persons who 91100
have severe mental illness and are referred for long-term Medicaid 91101
certified nursing facility placement. Pre-admission screening 91102
includes the following activities: pre-admission assessment, 91103
consideration of continued stay requests, discharge planning and 91104
referral, and adjudication of appeals and grievance procedures. 91105
91106

Section 335.20.30. LEASE-RENTAL PAYMENTS 91107

The foregoing appropriation item 333415, Lease-Rental 91108
Payments, shall be used to meet all payments during the period 91109
from July 1, 2009, to June 30, 2011, by the Department of Mental 91110
Health under leases and agreements made under section 154.20 of 91111

the Revised Code. These appropriations are the source of funds 91112
pledged for bond service charges on obligations issued pursuant to 91113
Chapter 154. of the Revised Code. 91114

Section 335.20.40. BEHAVIORAL HEALTH MEDICAID SERVICES 91115

The Department of Mental Health shall administer specified 91116
Medicaid services as delegated by the Department of Job and Family 91117
Services in an interagency agreement. The foregoing appropriation 91118
item 333607, Behavioral Health Medicaid Services, may be used to 91119
make payments for free-standing psychiatric hospital inpatient 91120
services as defined in an interagency agreement with the 91121
Department of Job and Family Services. 91122

Section 335.30.10. COMMUNITY MENTAL HEALTH BOARD RISK FUND 91123

The foregoing appropriation item 334636, Community Mental 91124
Health Board Risk Fund, shall be used to make payments under 91125
section 5119.62 of the Revised Code. 91126

Section 335.40.10. BEHAVIORAL HEALTH SERVICES - CHILDREN 91127

The foregoing appropriation item 335404, Behavioral Health 91128
Services-Children, shall be used to provide behavioral health 91129
services for children and their families. Behavioral health 91130
services include mental health and alcohol and other drug 91131
treatment services and other necessary supports. 91132

The foregoing appropriation item 335404, Behavioral Health 91133
Services-Children, shall be distributed to boards of alcohol, drug 91134
addiction, and mental health services, including community mental 91135
health boards and alcohol and drug addiction boards, based upon a 91136
distribution formula approved by the Director of Mental Health. 91137
These moneys shall be used in accordance with the board's 91138
applicable plan or plans developed under sections 340.03 and 91139
340.033 of the Revised Code and in collaboration with the local 91140

family and children first council. Collaboration with the local 91141
council shall be conducted through a process defined by a system 91142
of care guidance as approved by the Ohio Family and Children First 91143
Cabinet Council. 91144

Section 335.40.20. COMMUNITY MEDICATION SUBSIDY 91145

The foregoing appropriation item 335419, Community Medication 91146
Subsidy, shall be used to provide subsidized support for 91147
psychotropic medication needs of indigent citizens in the 91148
community to reduce unnecessary hospitalization because of lack of 91149
medication and to provide subsidized support for methadone costs. 91150

Section 335.40.30. LOCAL MENTAL HEALTH SYSTEMS OF CARE 91151

The foregoing appropriation item 335505, Local Mental Health 91152
Systems of Care, shall be used for mental health services provided 91153
by community mental health boards in accordance with a community 91154
mental health plan submitted under section 340.03 of the Revised 91155
Code and as approved by the Department of Mental Health. 91156

Section 337.10. DMR DEPARTMENT OF MENTAL RETARDATION AND 91157
DEVELOPMENTAL DISABILITIES 91158

General Revenue Fund 91159

GRF 320321 Central \$ 5,485,500 \$ 5,485,500 91160

Administration

GRF 320412 Protective Services \$ 2,558,619 \$ 2,558,619 91161

GRF 320415 Lease-Rental Payments \$ 21,626,800 \$ 22,360,300 91162

GRF 322413 Residential and \$ 5,854,555 \$ 5,854,555 91163

Support Services

GRF 322416 Medicaid Waiver - \$ 76,940,156 \$ 96,995,649 91164

State Match

GRF 322451 Family Support \$ 6,591,953 \$ 6,591,953 91165

Services

GRF	322501	County Boards	\$	79,387,497	\$	49,338,483	91166
		Subsidies					
GRF	322503	Tax Equity	\$	14,000,000	\$	14,000,000	91167
GRF	322504	Martin Settlement	\$	36,841,819	\$	36,841,819	91168
GRF	322646	MR/DD Subsidy -	\$	0	\$	23,185,824	91169
		Federal Stimulus					
GRF	322647	ICF/MR Franchise Fee	\$	5,600,000	\$	7,500,000	91170
		- Developmental					
		Centers					
GRF	323321	Developmental Center	\$	72,874,333	\$	80,147,778	91171
		and Residential					
		Facilities Operation					
		Expenses					
TOTAL GRF		General Revenue Fund	\$	327,761,232	\$	350,860,480	91172
		General Services Fund Group					91173
4880	322603	Provider Audit	\$	10,000	\$	10,000	91174
		Refunds					
1520	323609	Developmental Center	\$	2,500,000	\$	2,600,000	91175
		and Residential					
		Operating Services					
TOTAL GSF		General Services Fund	\$	2,510,000	\$	2,610,000	91176
		Group					
		Federal Special Revenue Fund Group					91177
3A50	320613	DD Council	\$	2,891,473	\$	2,963,760	91178
3250	322612	Community Social	\$	10,494,451	\$	10,494,451	91179
		Service Programs					
3G60	322639	Medicaid Waiver -	\$	759,888,829	\$	745,540,748	91180
		Federal					
3M70	322650	CAFS Medicaid	\$	28,465,980	\$	29,349,502	91181
3A40	323605	Developmental Center	\$	167,503,941	\$	162,857,712	91182
		and Residential					
		Facility Services and					

Support			
TOTAL FED	Federal Special Revenue	\$ 969,244,674	\$ 951,206,173 91183
Fund Group			
State Special Revenue Fund Group			91184
5GE0 320606	Operating and Services	\$ 3,760,504	\$ 7,521,008 91185
2210 322620	Supplement Service Trust	\$ 150,000	\$ 150,000 91186
4K80 322604	Medicaid Waiver - State Match	\$ 12,000,000	\$ 12,000,000 91187
5CT0 322632	Intensive Behavioral Needs	\$ 1,000,000	\$ 1,000,000 91188
5DJ0 322625	Targeted Case Management Match	\$ 14,881,985	\$ 13,716,454 91189
5DJ0 322626	Targeted Case Management Services	\$ 29,926,640	\$ 31,123,705 91190
5DK0 322629	Capital Replacement Facilities	\$ 750,000	\$ 750,000 91191
5EV0 322627	Program Fees	\$ 700,000	\$ 700,000 91192
5H00 322619	Medicaid Repayment	\$ 150,000	\$ 150,000 91193
5Z10 322624	County Board Waiver Match	\$ 158,648,995	\$ 169,754,424 91194
4890 323632	Developmental Center Direct Care Support	\$ 15,395,774	\$ 15,395,684 91195
5S20 590622	Medicaid Administration & Oversight	\$ 17,585,557	\$ 18,214,835 91196
TOTAL SSR	State Special Revenue	\$ 254,949,455	\$ 270,476,110 91197
Fund Group			
TOTAL ALL BUDGET FUND GROUPS		\$ 1,554,465,361	\$ 1,575,152,763 91198

Section 337.20.10. LEASE-RENTAL PAYMENTS 91200

The foregoing appropriation item 320415, Lease-Rental 91201

Payments, shall be used to meet all payments at the time they are 91202
required to be made during the period from July 1, 2009, to June 91203
30, 2011, by the Department of Mental Retardation and 91204
Developmental Disabilities under leases and agreements made under 91205
section 154.20 of the Revised Code. These appropriations are the 91206
source of funds pledged for bond service charges or obligations 91207
issued pursuant to Chapter 154. of the Revised Code. 91208

Section 337.30.10. RESIDENTIAL AND SUPPORT SERVICES 91209

The Department of Mental Retardation and Developmental 91210
Disabilities may designate a portion of appropriation item 322413, 91211
Residential and Support Services, for Sermak Class Services used 91212
to implement the requirements of the agreement settling the 91213
consent decree in *Sermak v. Manuel*, Case No. c-2-80-220, United 91214
States District Court for the Southern District of Ohio, Eastern 91215
Division. 91216

**Section 337.30.20. OTHER RESIDENTIAL AND SUPPORT SERVICE 91217
PROGRAMS** 91218

The foregoing appropriation item 322413, Residential Support 91219
Services, may be used for residential and support service 91220
programs, developed by the Department of Mental Retardation and 91221
Developmental Disabilities, that enable persons with mental 91222
retardation and developmental disabilities to live in the 91223
community. 91224

Section 337.30.30. MEDICAID WAIVER - STATE MATCH (GRF) 91225

Except as otherwise provided in section 5123.0416 of the 91226
Revised Code, the purposes for which the foregoing appropriation 91227
item 322416, Medicaid Waiver - State Match, shall be used include 91228
the following: 91229

(A) Home and community-based waiver services under Title XIX 91230

of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, 91231
as amended. 91232

(B) To pay the nonfederal share of the cost of one or more 91233
new intermediate care facilities for the mentally retarded 91234
certified beds, if the Director of Mental Retardation and 91235
Developmental Disabilities is required by this act to transfer to 91236
the Director of Job and Family Services funds to pay such 91237
nonfederal share. 91238

Section 337.30.40. FISCAL PLAN FOR HOME AND COMMUNITY-BASED 91239
WAIVER SERVICES 91240

Not later than December 31, 2009, the Director of Mental 91241
Retardation and Developmental Disabilities shall submit a plan to 91242
the Director of Job and Family Services with recommendations for 91243
actions to be taken addressing the fiscal sustainability of home 91244
and community-based services as defined in section 5123.01 of the 91245
Revised Code. The plan may include recommendations for all of the 91246
following: 91247

(A) Changing the ranges in the amount the Medicaid program 91248
will pay per individual for the home and community-based services; 91249

(B) Establishing one or more maximum amounts that the 91250
Medicaid program will pay per individual for the home and 91251
community-based services; 91252

(C) Modifying the methodology used in establishing payment 91253
rates for providers. 91254

Section 337.30.50. STATE SUBSIDY TO COUNTY MR/DD BOARDS 91255

Except as otherwise provided in the section of this act 91256
titled "Nonfederal Share of New ICF/MR Beds," the Director of 91257
Mental Retardation and Developmental Disabilities, in consultation 91258
with the county boards of mental retardation and developmental 91259

disabilities, shall develop a formula for allocating the foregoing 91260
appropriation item 322501, County Boards Subsidies, to each board. 91261
The Department shall distribute this subsidy to county boards in 91262
quarterly installments. 91263

Except as otherwise provided in section 5126.0511 of the 91264
Revised Code, county boards shall use the subsidy for early 91265
childhood services and adult services provided under section 91266
5126.05 of the Revised Code, service and support administration 91267
provided under section 5126.15 of the Revised Code, and supported 91268
living as defined in section 5126.01 of the Revised Code. 91269

Section 337.30.60. COUNTY BOARD SHARE OF WAIVER SERVICES 91270

As used in this section, "home and community-based services" 91271
has the same meaning as in section 5123.01 of the Revised Code. 91272

The Director of Mental Retardation and Developmental 91273
Disabilities shall establish a methodology to be used in state 91274
fiscal years 2010 and 2011 to estimate the quarterly amount each 91275
county board of mental retardation and developmental disabilities 91276
is to pay of the nonfederal share of home and community-based 91277
services that section 5126.0510 of the Revised Code requires 91278
county boards to pay. Each quarter, the Director shall submit to a 91279
county board written notice of the amount the county board is to 91280
pay for that quarter. The notice shall specify when the payment is 91281
due. 91282

If a county board fails to make the full payment by the time 91283
it is due, the Director of Mental Retardation and Developmental 91284
Disabilities may withhold the amount the county board fails to pay 91285
from one or more of the state subsidies that the Department of 91286
Mental Retardation and Developmental Disabilities would otherwise 91287
provide to the county board. Each quarter, the Director may use 91288
one or more of the following appropriation items to transfer cash 91289
from the General Revenue Fund to the County Board Waiver Match 91290

Fund (Fund 5Z10) equal to the amount the county board failed to pay:	91291
	91292
(A) Appropriation item 322413, Residential and Support Services;	91293
	91294
(B) Appropriation item 322451, Family Support Services;	91295
(C) Appropriation item 322501, County Boards Subsidies;	91296
(D) Appropriation item 322503, Tax Equity.	91297
Transfers shall be made using an intrastate transfer voucher.	91298
Section 337.30.70. TAX EQUITY	91299
Notwithstanding section 5126.18 of the Revised Code, if the Director of Mental Retardation and Developmental Disabilities determines that there is sufficient appropriation available, the foregoing appropriation item 322503, Tax Equity, shall be used to pay each county board of mental retardation and developmental disabilities an amount that is equal to the amount the board received for fiscal year 2009. If the Director determines that there is not sufficient appropriation available for this purpose, the Department shall pay to each county board an amount that is proportionate to the amount the board received for fiscal year 2009. Proportionality shall be determined by dividing the total tax equity payments distributed to county boards for fiscal year 2009 by the tax equity payment a county board received for fiscal year 2009.	91300
	91301
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Section 337.30.80. MEDICAID WAIVER - STATE MATCH (FUND 4K80)	91314
The foregoing appropriation item 322604, Medicaid Waiver - State Match (Fund 4K80), shall be used as state matching funds for home and community-based waivers.	91315
	91316
	91317
Section 337.30.90. TARGETED CASE MANAGEMENT SERVICES	91318

County boards of mental retardation and developmental 91319
disabilities shall pay the nonfederal portion of targeted case 91320
management costs to the Department of Mental Retardation and 91321
Developmental Disabilities. The Director of Mental Retardation and 91322
Developmental Disabilities shall withhold any amount owed to the 91323
Department from subsequent payments from any appropriation item or 91324
money otherwise due to a nonpaying county. 91325

The Directors of Mental Retardation and Developmental 91326
Disabilities and Job and Family Services may enter into an 91327
interagency agreement under which the Department of Mental 91328
Retardation and Developmental Disabilities shall transfer cash to 91329
the Department of Job and Family Services equal to the nonfederal 91330
portion of the cost of targeted case management services paid by 91331
county boards and the Department of Job and Family Services shall 91332
pay the total cost of targeted case management claims. The 91333
transfer shall be made using an intrastate transfer voucher. 91334

Section 337.31.10. TRANSFER TO PROGRAM FEE FUND 91335

On July 1, 2009, or as soon as possible thereafter, the 91336
Director of Mental Retardation and Developmental Disabilities 91337
shall request that the Director of Budget and Management transfer 91338
the cash balance in the Conference/Training Fund (Fund 4B50) to 91339
the Program Fee Fund (Fund 5EV0). Upon completion of the transfer, 91340
Fund 4B50 is abolished. The Director of Mental Retardation and 91341
Developmental Disabilities shall cancel any existing encumbrances 91342
against appropriation item 320640, Training and Service 91343
Development, and re-establish them against appropriation item 91344
322627, Program Fees. The re-established encumbrances are hereby 91345
appropriated. 91346

Section 337.31.20. DEVELOPMENTAL CENTER BILLING FOR SERVICES 91347

Developmental centers of the Department of Mental Retardation 91348

and Developmental Disabilities may provide services to persons 91349
with mental retardation or developmental disabilities living in 91350
the community or to providers of services to these persons. The 91351
Department may develop a method for recovery of all costs 91352
associated with the provisions of these services. 91353

Section 337.40.10. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER 91354
PHARMACY PROGRAMS 91355

The Director of Mental Retardation and Developmental 91356
Disabilities shall transfer cash to the Department of Job and 91357
Family Services quarterly, in an amount equal to the nonfederal 91358
share of Medicaid prescription drug claim costs for all 91359
developmental centers paid by the Department of Job and Family 91360
Services. The quarterly transfer shall be made using an intrastate 91361
transfer voucher. 91362

Section 337.40.20. NONFEDERAL MATCH FOR ACTIVE TREATMENT 91363
SERVICES 91364

Any county funds received by the Department of Mental 91365
Retardation and Developmental Disabilities from county boards for 91366
active treatment shall be deposited in the Mental Retardation 91367
Operating Fund (Fund 4890). 91368

Section 337.40.30. NONFEDERAL SHARE OF NEW ICF/MR BEDS 91369

(A) As used in this section, "intermediate care facility for 91370
the mentally retarded" has the same meaning as in section 5111.20 91371
of the Revised Code. 91372

(B) If one or more new beds obtain certification as an 91373
intermediate care facility for the mentally retarded bed on or 91374
after July 1, 2009, the Director of Mental Retardation and 91375
Developmental Disabilities shall transfer cash to the Department 91376
of Job and Family Services to pay the nonfederal share of the cost 91377

under the Medicaid Program for those beds. The transfer shall be 91378
made using an intrastate transfer voucher. Except as otherwise 91379
provided in section 5123.0416 of the Revised Code, the Director 91380
shall use only the following appropriation items for the transfer: 91381

(1) Appropriation item 322416, Medicaid Waiver - State Match; 91382
91383

(2) Appropriation item 322501, County Boards Subsidies. 91384

(C) If the beds are located in a county served by a county 91385
board of mental retardation and developmental disabilities that 91386
initiates or supports the beds' certification, the cash that the 91387
Director transfers under division (B) of this section shall be 91388
moneys that the Director has allocated to the county board serving 91389
the county in which the beds are located unless the amount of the 91390
allocation is insufficient to pay the entire nonfederal share of 91391
the cost under the Medicaid Program for those beds. If the 91392
allocation is insufficient, the Director shall use as much of such 91393
moneys allocated to other counties as is needed to make up the 91394
difference. 91395

Section 339.10. MIH COMMISSION ON MINORITY HEALTH 91396

General Revenue Fund 91397

GRF	149321	Operating Expenses	\$	490,998	\$	499,998	91398
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GRF	149501	Minority Health	\$	1,250,440	\$	1,241,440	91399
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Grants

GRF	149502	Lupus Program	\$	114,632	\$	114,632	91400
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TOTAL GRF	General Revenue Fund		\$	1,856,070	\$	1,856,070	91401
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Federal Special Revenue Fund Group 91402

3J90	149602	Federal Grants	\$	179,250	\$	179,250	91403
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TOTAL FED	Federal Special Revenue						91404
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Fund Group			\$	179,250	\$	179,250	91405
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State Special Revenue Fund Group 91406

4C20 149601	Minority Health	\$	47,500	\$	47,500	91407
	Conference					
TOTAL SSR State Special Revenue						91408
Fund Group		\$	47,500	\$	47,500	91409
TOTAL ALL BUDGET FUND GROUPS		\$	2,082,820	\$	2,082,820	91410
Section 341.10. CRB MOTOR VEHICLE COLLISION REPAIR						91412
REGISTRATION BOARD						91413
General Service Fund Group						91414
4K90 865601	Operating Expenses	\$	334,995	\$	334,995	91415
TOTAL GSF General Services						91416
Fund Group		\$	334,995	\$	334,995	91417
TOTAL ALL BUDGET FUND GROUPS		\$	334,995	\$	334,995	91418
Section 343.10. DNR DEPARTMENT OF NATURAL RESOURCES						91420
General Revenue Fund						91421
GRF 725401	Wildlife-GRF Central	\$	2,300,000	\$	2,300,000	91422
	Support					
GRF 725413	Lease Rental Payments	\$	21,417,400	\$	21,556,500	91423
GRF 725423	Stream and Ground	\$	175,000	\$	175,000	91424
	Water Gauging					
GRF 725456	Canal Lands	\$	300,000	\$	300,000	91425
GRF 725502	Soil and Water	\$	4,500,000	\$	900,000	91426
	Districts					
GRF 725652	Natural Resources	\$	4,886,947	\$	4,492,839	91427
	Operations					
GRF 725903	Natural Resources	\$	26,334,400	\$	26,549,400	91428
	General Obligation					
	Debt Service					
GRF 727321	Division of Forestry	\$	6,906,376	\$	6,906,376	91429
GRF 728321	Division of Geological	\$	1,550,000	\$	1,550,000	91430
	Survey					

GRF	729321	Office of Information Technology	\$	350,000	\$	350,000	91431
GRF	730321	Division of Parks and Recreation	\$	36,119,971	\$	36,119,971	91432
GRF	733321	Division of Water	\$	3,000,000	\$	3,000,000	91433
GRF	736321	Division of Engineering	\$	3,000,000	\$	3,000,000	91434
GRF	737321	Division of Soil and Water	\$	3,628,562	\$	3,628,562	91435
GRF	738321	Division of Real Estate and Land Management	\$	2,000,000	\$	2,000,000	91436
GRF	741321	Division of Natural Areas and Preserves	\$	2,339,873	\$	2,333,981	91437
GRF	744321	Division of Mineral Resources Management	\$	1,000,000	\$	1,000,000	91438
TOTAL GRF		General Revenue Fund	\$	119,808,529	\$	116,162,629	91439
		General Services Fund Group					91440
1550	725601	Departmental Projects	\$	2,235,462	\$	2,319,955	91441
1570	725651	Central Support Indirect	\$	6,500,000	\$	6,500,000	91442
2040	725687	Information Services	\$	4,146,037	\$	4,400,448	91443
2070	725690	Real Estate Services	\$	130,000	\$	132,000	91444
2230	725665	Law Enforcement Administration	\$	2,062,410	\$	2,062,410	91445
2270	725406	Parks Projects Personnel	\$	250,000	\$	250,000	91446
4300	725671	Canal Lands	\$	916,541	\$	922,424	91447
4D50	725618	Recycled Materials	\$	100,000	\$	100,000	91448
4S90	725622	NatureWorks Personnel	\$	412,740	\$	412,740	91449
4X80	725662	Water Resources Council	\$	138,900	\$	138,900	91450
5080	725684	Natural Resources	\$	221,607	\$	177,295	91451

		Publications					
5100	725631	Maintenance -	\$	303,611	\$	303,611	91452
		State-owned					
		Residences					
5160	725620	Water Management	\$	2,931,513	\$	2,931,513	91453
6350	725664	Fountain Square	\$	3,715,398	\$	3,715,398	91454
		Facilities Management					
6970	725670	Submerged Lands	\$	1,072,011	\$	772,011	91455
TOTAL GSF General Services							91456
Fund Group			\$	25,136,230	\$	25,138,705	91457
Federal Special Revenue Fund Group							91458
3320	725669	Federal Mine Safety	\$	258,102	\$	258,102	91459
		Grant					
3B30	725640	Federal Forest	\$	600,000	\$	600,000	91460
		Pass-Thru					
3B40	725641	Federal Flood	\$	700,000	\$	700,000	91461
		Pass-Thru					
3B50	725645	Federal Abandoned	\$	14,307,667	\$	14,307,667	91462
		Mine Lands					
3B60	725653	Federal Land and	\$	2,000,000	\$	2,000,000	91463
		Water Conservation					
		Grants					
3B70	725654	Reclamation -	\$	2,394,565	\$	2,388,775	91464
		Regulatory					
3P00	725630	Natural Areas and	\$	215,000	\$	215,000	91465
		Preserves - Federal					
3P10	725632	Geological Survey -	\$	689,506	\$	692,401	91466
		Federal					
3P20	725642	Oil and Gas-Federal	\$	231,456	\$	234,509	91467
3P30	725650	Coastal Management -	\$	1,711,237	\$	1,711,237	91468
		Federal					
3P40	725660	Water - Federal	\$	316,734	\$	316,734	91469
3R50	725673	Acid Mine Drainage	\$	2,025,001	\$	2,025,001	91470

		Abatement/Treatment					
3Z50	725657	REALM-Federal	\$	1,850,000	\$	1,850,000	91471
TOTAL FED		Federal Special Revenue					91472
Fund Group			\$	27,299,268	\$	27,299,426	91473
State Special Revenue Fund Group							91474
4J20	725628	Injection Well Review	\$	119,895	\$	119,996	91475
4M70	725686	Wildfire Suppression	\$	100,000	\$	100,000	91476
4U60	725668	Scenic Rivers	\$	100,000	\$	100,000	91477
		Protection					
5090	725602	State Forest	\$	6,211,924	\$	6,211,924	91478
5110	725646	Ohio Geological	\$	724,310	\$	723,515	91479
		Mapping					
5120	725605	State Parks Operations	\$	29,885,528	\$	29,885,528	91480
5140	725606	Lake Erie Shoreline	\$	974,113	\$	974,113	91481
5180	725643	Oil and Gas Permit	\$	6,404,086	\$	5,526,742	91482
		Fees					
5180	725677	Oil and Gas Well	\$	1,000,000	\$	1,000,000	91483
		Plugging					
5210	725627	Off-Road Vehicle	\$	143,490	\$	143,490	91484
		Trails					
5220	725656	Natural Areas and	\$	1,550,670	\$	1,550,670	91485
		Preserves					
5260	725610	Strip Mining	\$	3,267,587	\$	3,364,361	91486
		Administration Fee					
5270	725637	Surface Mining	\$	1,946,591	\$	1,946,591	91487
		Administration					
5290	725639	Unreclaimed Land Fund	\$	2,021,713	\$	2,023,831	91488
5310	725648	Reclamation Forfeiture	\$	2,062,237	\$	2,062,237	91489
5320	725644	Litter Control and	\$	6,280,681	\$	6,280,681	91490
		Recycling					
5860	725633	Scrap Tire Program	\$	1,500,000	\$	1,500,000	91491
5BV0	725683	Soil and Water	\$	10,875,577	\$	18,104,906	91492
		Districts					

5B30	725674	Mining Regulation	\$	28,850	\$	28,850	91493
5CU0	725647	Mine Safety	\$	3,053,843	\$	3,199,923	91494
5EJ0	725608	Forestry Law	\$	1,000	\$	1,000	91495
		Enforcement					
5EK0	725611	Natural Areas &	\$	1,000	\$	1,000	91496
		Preserves Law					
		Enforcement					
5EL0	725612	Wildlife Law	\$	12,000	\$	12,000	91497
		Enforcement					
5EM0	725613	Park Law Enforcement	\$	34,000	\$	34,000	91498
5EN0	725614	Watercraft Law	\$	2,500	\$	2,500	91499
		Enforcement					
6150	725661	Dam Safety	\$	807,403	\$	807,403	91500
TOTAL SSR		State Special Revenue					91501
Fund Group			\$	79,108,998	\$	85,705,261	91502
Clean Ohio Conservation Fund Group							91503
7061	725405	Clean Ohio Operating	\$	310,000	\$	310,000	91504
TOTAL CLF		Clean Ohio Conservation	\$	310,000	\$	310,000	91505
Fund Group							
Wildlife Fund Group							91506
5P20	725634	Wildlife Boater	\$	2,000,000	\$	2,000,000	91507
		Angler Administration					
7015	740401	Division of Wildlife	\$	58,614,436	\$	54,906,000	91508
		Conservation					
8150	725636	Cooperative	\$	120,449	\$	120,449	91509
		Management Projects					
8160	725649	Wetlands Habitat	\$	966,885	\$	966,885	91510
8170	725655	Wildlife Conservation	\$	2,800,000	\$	2,800,000	91511
		Checkoff Fund					
8180	725629	Cooperative Fisheries	\$	1,500,000	\$	1,500,000	91512
		Research					
8190	725685	Ohio River Management	\$	128,584	\$	128,584	91513

TOTAL WLF Wildlife Fund Group	\$	66,130,354	\$	62,421,918	91514
Waterways Safety Fund Group					91515
7086 725414 Waterways Improvement	\$	4,265,575	\$	4,265,575	91516
7086 725418 Buoy Placement	\$	52,182	\$	52,182	91517
7086 725501 Waterway Safety	\$	137,867	\$	137,867	91518
Grants					
7086 725506 Watercraft Marine	\$	576,153	\$	576,153	91519
Patrol					
7086 725513 Watercraft	\$	366,643	\$	366,643	91520
Educational Grants					
7086 739401 Division of	\$	19,949,181	\$	19,949,181	91521
Watercraft					
TOTAL WSF Waterways Safety Fund					91522
Group	\$	25,347,601	\$	25,347,601	91523
Holding Account Redistribution Fund Group					91524
R017 725659 Performance Cash Bond	\$	296,263	\$	296,263	91525
Refunds					
R043 725624 Forestry	\$	2,000,000	\$	2,000,000	91526
TOTAL 090 Holding Account					91527
Redistribution Fund Group	\$	2,296,263	\$	2,296,263	91528
Accrued Leave Liability Fund Group					91529
4M80 725675 FOP Contract	\$	20,844	\$	20,844	91530
TOTAL ALF Accrued Leave					91531
Liability Fund Group	\$	20,844	\$	20,844	91532
TOTAL ALL BUDGET FUND GROUPS	\$	345,458,087	\$	344,702,647	91533

Section 343.20. CENTRAL SUPPORT INDIRECT 91535

With the exception of the Division of Wildlife, whose direct 91536
and indirect central support charges shall be paid out of the 91537
General Revenue Fund from the foregoing appropriation item 725401, 91538
Wildlife-GRF Central Support, the Department of Natural Resources, 91539
with approval of the Director of Budget and Management, shall 91540

utilize a methodology for determining each division's payments 91541
into the Central Support Indirect Fund (Fund 1570). The 91542
methodology used shall contain the characteristics of 91543
administrative ease and uniform application in compliance with 91544
federal grant requirements. It may include direct cost charges for 91545
specific services provided. Payments to Fund 1570 shall be made 91546
using an intrastate transfer voucher. 91547

Section 343.20.10. FEDERAL ECONOMIC STIMULUS/RECOVERY FUNDS 91548

The foregoing appropriation item 725652, Natural Resources 91549
Operations, shall be used to support services of the Department of 91550
Natural Resources consistent with funds received from the federal 91551
government for fiscal stabilization and recovery purposes. 91552
91553

Section 343.20.20. WELL LOG FILING FEES 91554

The Chief of the Division of Water shall deposit fees 91555
forwarded to the Division pursuant to section 1521.05 of the 91556
Revised Code into the Departmental Services - Intrastate Fund 91557
(Fund 1550) for the purposes described in that section. 91558

Section 343.30. LEASE RENTAL PAYMENTS 91559

The foregoing appropriation item 725413, Lease Rental 91560
Payments, shall be used to meet all payments at the times they are 91561
required to be made during the period from July 1, 2009, to June 91562
30, 2011, by the Department of Natural Resources pursuant to 91563
leases and agreements made under section 154.22 of the Revised 91564
Code. These appropriations are the source of funds pledged for 91565
bond service charges or obligations issued pursuant to Chapter 91566
154. of the Revised Code. 91567

CANAL LANDS 91568

The foregoing appropriation item 725456, Canal Lands, shall 91569

be used to transfer funds to the Canal Lands Fund (Fund 4300) to 91570
provide operating expenses for the State Canal Lands Program. The 91571
transfer shall be made using an intrastate transfer voucher and 91572
shall be subject to the approval of the Director of Budget and 91573
Management. 91574

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE 91575

The foregoing appropriation item 725903, Natural Resources 91576
General Obligation Debt Service, shall be used to pay all debt 91577
service and related financing costs during the period July 1, 91578
2009, to June 30, 2011, on obligations issued under sections 91579
151.01 and 151.05 of the Revised Code. 91580

Section 343.30.10. FOUNTAIN SQUARE 91581

The foregoing appropriation item 725664, Fountain Square 91582
Facilities Management, shall be used for payment of repairs, 91583
renovation, utilities, property management, and building 91584
maintenance expenses for the Fountain Square complex. Cash 91585
transferred by intrastate transfer vouchers from various 91586
department funds and rental income received by the Department of 91587
Natural Resources shall be deposited into the Fountain Square 91588
Facilities Management Fund (Fund 6350). 91589

Section 343.40. SOIL AND WATER DISTRICTS 91590

In addition to state payments to soil and water conservation 91591
districts authorized by section 1515.10 of the Revised Code, the 91592
Department of Natural Resources may use appropriation item 725502, 91593
Soil and Water Districts, to pay any soil and water conservation 91594
district an annual amount not to exceed \$30,000, upon receipt of a 91595
request and justification from the district and approval by the 91596
Ohio Soil and Water Conservation Commission. The county auditor 91597
shall credit the payments to the special fund established under 91598
section 1515.10 of the Revised Code for the local soil and water 91599

conservation district. Moneys received by each district shall be 91600
expended for the purposes of the district. 91601

The foregoing appropriation item 725683, Soil and Water 91602
Districts, shall be expended for the purposes described above, 91603
except that the funding source for this appropriation shall be 91604
fees applied on the disposal of construction and demolition debris 91605
and municipal solid waste as provided in section 1515.14 of the 91606
Revised Code. 91607

OIL AND GAS WELL PLUGGING 91608

The foregoing appropriation item 725677, Oil and Gas Well 91609
Plugging, shall be used exclusively for the purposes of plugging 91610
wells and to properly restore the land surface of idle and orphan 91611
oil and gas wells pursuant to section 1509.071 of the Revised 91612
Code. No funds from the appropriation item shall be used for 91613
salaries, maintenance, equipment, or other administrative 91614
purposes, except for those costs directly attributed to the 91615
plugging of an idle or orphan well. This appropriation item shall 91616
not be used to transfer cash to any other fund or appropriation 91617
item. 91618

LITTER CONTROL AND RECYCLING 91619

Of the foregoing appropriation item 725644, Litter Control 91620
and Recycling, up to \$1,500,000 may be used in each fiscal year 91621
for the administration of the Recycling and Litter Prevention 91622
Program. 91623

Section 343.40.10. CLEAN OHIO OPERATING EXPENSES 91624

The foregoing appropriation item 725405, Clean Ohio 91625
Operating, shall be used by the Department of Natural Resources in 91626
administering section 1519.05 of the Revised Code. 91627

Section 343.50. WATERCRAFT MARINE PATROL 91628

Of the foregoing appropriation item 739401, Division of 91629
Watercraft, up to \$200,000 in each fiscal year shall be expended 91630
for the purchase of equipment for marine patrols qualifying for 91631
funding from the Department of Natural Resources pursuant to 91632
section 1547.67 of the Revised Code. Proposals for equipment shall 91633
accompany the submission of documentation for receipt of a marine 91634
patrol subsidy pursuant to section 1547.67 of the Revised Code and 91635
shall be loaned to eligible marine patrols pursuant to a 91636
cooperative agreement between the Department of Natural Resources 91637
and the eligible marine patrol. 91638

Section 343.60. PARKS CAPITAL EXPENSES FUND 91639

The Director of Natural Resources shall submit to the 91640
Director of Budget and Management the estimated design, 91641
engineering, and planning costs of capital-related work to be done 91642
by Department of Natural Resources staff for parks projects. If 91643
the Director of Budget and Management approves the estimated 91644
costs, the Director may release appropriations from appropriation 91645
item C725E6, Project Planning, in the Parks and Recreation 91646
Improvement Fund (Fund 7035), for those purposes. Upon release of 91647
the appropriations, the Department of Natural Resources shall pay 91648
for these expenses from the Parks Capital Expenses Fund (Fund 91649
2270). Expenses paid from Fund 2270 shall be reimbursed by Fund 91650
7035 using an intrastate transfer voucher. 91651

NATUREWORKS CAPITAL EXPENSES FUND 91652

The Department of Natural Resources shall periodically 91653
prepare and submit to the Director of Budget and Management the 91654
estimated design, planning, and engineering costs of 91655
capital-related work to be done by Department of Natural Resources 91656
staff for each capital improvement project within the Ohio Parks 91657
and Natural Resources Fund (Fund 7031). If the Director of Budget 91658
and Management approves the estimated costs, the Director may 91659

release appropriations from appropriation item C725E5, Project 91660
Planning, in fund 7031, for those purposes. Upon release of the 91661
appropriations, the Department of Natural Resources shall pay for 91662
these expenses from the Capital Expenses Fund (Fund 4S90). 91663
Expenses paid from Fund 4S90 shall be reimbursed by Fund 7031 by 91664
using an intrastate transfer voucher. 91665

Section 343.60.10. PUBLIC ACCESS ROADS FOR STATE FACILITIES 91666

The Director of Natural Resources may submit a request to the 91667
Director of Transportation to enter into an interagency agreement 91668
for the use of up to \$5,000,000 in each fiscal year from 91669
Department of Transportation appropriation item 772421, Highway 91670
Construction - State. The amount requested pursuant to such an 91671
agreement shall be used by the Director of Transportation for the 91672
construction, reconstruction, or maintenance of public access 91673
roads, including support features, to and within state facilities 91674
owned or operated by the Department of Natural Resources. 91675

Section 345.10. NUR STATE BOARD OF NURSING 91676

General Services Fund Group 91677
4K90 884609 Operating Expenses \$ 5,661,280 \$ 5,661,280 91678
5P80 884601 Nursing Special \$ 1,450,000 \$ 1,450,000 91679
Issues
5AC0 884602 Nurse Education Grant \$ 5,000 \$ 5,000 91680
Program
TOTAL GSF General Services 91681
Fund Group \$ 7,116,280 \$ 7,116,280 91682
TOTAL ALL BUDGET FUND GROUPS \$ 7,116,280 \$ 7,116,280 91683

NURSING SPECIAL ISSUES 91684

The foregoing appropriation item 884601, Nursing Special 91685
Issues (Fund 5P80), shall be used to pay the costs the Board of 91686
Nursing incurs in implementing section 4723.062 of the Revised 91687

Code.				91688
Section 347.10. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY,				91689
AND ATHLETIC TRAINERS BOARD				91690
General Services Fund Group				91691
4K90 890609	Operating Expenses	\$	963,984 \$	963,984 91692
TOTAL GSF General Services Fund				\$ 963,984 \$ 963,984 91693
Group				
TOTAL ALL BUDGET FUND GROUPS				\$ 963,984 \$ 963,984 91694
Section 349.10. ODB OHIO OPTICAL DISPENSERS BOARD				91696
General Services Fund Group				91697
4K90 894609	Operating Expenses	\$	345,324 \$	345,324 91698
TOTAL GSF General Services				91699
Fund Group				\$ 345,324 \$ 345,324 91700
TOTAL ALL BUDGET FUND GROUPS				\$ 345,324 \$ 345,324 91701
Section 351.10. OPT STATE BOARD OF OPTOMETRY				91703
General Services Fund Group				91704
4K90 885609	Operating Expenses	\$	351,071 \$	351,071 91705
TOTAL GSF General Services				91706
Fund Group				\$ 351,071 \$ 351,071 91707
TOTAL ALL BUDGET FUND GROUPS				\$ 351,071 \$ 351,071 91708
Section 353.10. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS,				91710
AND PEDORTHICS				91711
General Services Fund Group				91712
4K90 973609	Operating Expenses	\$	116,260 \$	116,260 91713
TOTAL GSF General Services				91714
Fund Group				\$ 116,260 \$ 116,260 91715
TOTAL ALL BUDGET FUND GROUPS				\$ 116,260 \$ 116,260 91716

Section 355.10. UST PETROLEUM UNDERGROUND STORAGE TANK				91717
Agency Fund Group				91718
6910 810632	PUSTRCB Staff	\$ 1,134,860	\$ 1,144,627	91719
TOTAL AGY Agency Fund Group				91720
TOTAL ALL BUDGET FUND GROUPS				91721
Section 357.10. PRX STATE BOARD OF PHARMACY				91723
General Services Fund Group				91724
4A50 887605	Drug Law Enforcement	\$ 75,500	\$ 75,500	91725
4K90 887609	Operating Expenses	\$ 5,251,032	\$ 5,251,032	91726
TOTAL GSF General Services Fund				91727
Group				
Federal Special Revenue Fund Group				91728
3BC0 887604	Dangerous Drugs	\$ 493,164	\$ 500,891	91729
Database				
TOTAL FED Federal Special Revenue				91730
Fund Group				
TOTAL ALL BUDGET FUND GROUPS				91731
Section 359.10. PSY STATE BOARD OF PSYCHOLOGY				91733
General Services Fund Group				91734
4K90 882609	Operating Expenses	\$ 566,000	\$ 586,000	91735
TOTAL GSF General Services				91736
Fund Group				91737
TOTAL ALL BUDGET FUND GROUPS				91738
Section 361.10. PUB OHIO PUBLIC DEFENDER COMMISSION				91740
General Revenue Fund				91741
GRF 019321	Public Defender	\$ 772,500	\$ 612,600	91742
Administration				
GRF 019401	State Legal Defense	\$ 4,377,500	\$ 3,471,400	91743

		Services					
GRF	019403	Multi-County: State	\$	1,308,201	\$	1,456,835	91744
		Share					
GRF	019404	Trumbull County -	\$	430,217	\$	467,727	91745
		State Share					
GRF	019405	Training Account	\$	50,000	\$	50,000	91746
GRF	019501	County Reimbursement	\$	22,767,720	\$	17,898,638	91747
TOTAL GRF		General Revenue Fund	\$	29,706,138	\$	23,957,200	91748
		General Services Fund Group					91749
4070	019604	County Representation	\$	196,650	\$	207,143	91750
4080	019605	Client Payments	\$	865,798	\$	886,500	91751
5CX0	019617	Civil Case Filing Fee	\$	743,076	\$	772,121	91752
TOTAL GSF		General Services					91753
		Fund Group	\$	1,805,524	\$	1,865,764	91754
		Federal Special Revenue Fund Group					91755
3S80	019608	Federal	\$	202,347	\$	212,303	91756
		Representation					
TOTAL FED		Federal Special Revenue					91757
		Fund Group	\$	202,347	\$	212,303	91758
		State Special Revenue Fund Group					91759
4C70	019601	Multi-County: County	\$	2,227,056	\$	2,384,210	91760
		Share					
4X70	019610	Trumbull County -	\$	732,393	\$	765,467	91761
		County Share					
5740	019606	Civil Legal Aid	\$	30,000,000	\$	30,000,000	91762
5DY0	019618	Indigent Defense	\$	27,783,000	\$	37,044,000	91763
		Support - County					
		Share					
5DY0	019619	Indigent Defense	\$	3,087,000	\$	4,116,000	91764
		Support - State Share					
TOTAL SSR		State Special Revenue					91765
		Fund Group	\$	63,829,449	\$	74,309,677	91766

TOTAL ALL BUDGET FUND GROUPS	\$	95,543,458	\$	100,344,944	91767
INDIGENT DEFENSE OFFICE					91768
The foregoing appropriation items 019404, Trumbull County - State Share, and 019610, Trumbull County - County Share, shall be used to support an indigent defense office for Trumbull County.					91769 91770 91771
MULTI-COUNTY OFFICE					91772
The foregoing appropriation items 019403, Multi-County: State Share, and 019601, Multi-County: County Share, shall be used to support the Office of the Ohio Public Defender's Multi-County Branch Office Program.					91773 91774 91775 91776
TRAINING ACCOUNT					91777
The foregoing appropriation item 019405, Training Account, shall be used by the Ohio Public Defender to provide legal training programs at no cost for private appointed counsel who represent at least one indigent defendant at no cost and for state and county public defenders and attorneys who contract with the Ohio Public Defender to provide indigent defense services.					91778 91779 91780 91781 91782 91783
FEDERAL REPRESENTATION					91784
The foregoing appropriation item 019608, Federal Representation, shall be used to receive reimbursements from the federal courts when the Ohio Public Defender provides representation in federal court cases and to support representation in such cases.					91785 91786 91787 91788 91789
Section 363.10. PUC PUBLIC UTILITIES COMMISSION OF OHIO					91790
General Services Fund Group					91791
5F60 870622 Utility and Railroad Regulation	\$	34,455,627	\$	34,455,627	91792
5F60 870624 NARUC/NRRI Subsidy	\$	158,000	\$	158,000	91793
5F60 870625 Motor Transportation	\$	6,071,829	\$	6,071,829	91794

		Regulation					
5Q50	870626	Telecommunications	\$	5,000,000	\$	5,000,000	91795
		Relay Service					
		TOTAL GSF General Services					91796
		Fund Group	\$	45,685,456	\$	45,685,456	91797
		Federal Special Revenue Fund Group					91798
3330	870601	Gas Pipeline Safety	\$	597,959	\$	597,959	91799
3500	870608	Motor Carrier Safety	\$	7,351,660	\$	7,351,660	91800
3V30	870604	Commercial Vehicle	\$	100,000	\$	100,000	91801
		Information					
		Systems/Networks					
		TOTAL FED Federal Special Revenue					91802
		Fund Group	\$	8,049,619	\$	8,049,619	91803
		State Special Revenue Fund Group					91804
4A30	870614	Grade Crossing	\$	1,349,757	\$	1,349,757	91805
		Protection					
		Devices-State					
4L80	870617	Pipeline Safety-State	\$	187,621	\$	187,621	91806
4S60	870618	Hazardous Material	\$	464,325	\$	464,325	91807
		Registration					
4S60	870621	Hazardous Materials	\$	373,346	\$	373,346	91808
		Base State					
		Registration					
4U80	870620	Civil Forfeitures	\$	284,986	\$	284,986	91809
5590	870605	Public Utilities	\$	4,000	\$	4,000	91810
		Territorial					
		Administration					
5600	870607	Special Assessment	\$	100,000	\$	100,000	91811
5610	870606	Power Siting Board	\$	647,893	\$	647,893	91812
5BP0	870623	Wireless 9-1-1	\$	34,417,000	\$	36,443,000	91813
		Administration					
6380	870611	Biofuels/Municipal	\$	40,000	\$	40,000	91814

		Waste Technology					
6610	870612	Hazardous Materials	\$	900,000	\$	900,000	91815
		Transportation					
		TOTAL SSR State Special Revenue					91816
		Fund Group	\$	38,768,928	\$	40,794,928	91817
		TOTAL ALL BUDGET FUND GROUPS	\$	92,504,003	\$	94,530,003	91818
		Section 365.10. PWC PUBLIC WORKS COMMISSION					91820
		General Revenue Fund					91821
GRF	150904	Conservation General	\$	20,711,100	\$	25,684,900	91822
		Obligation Debt					
		Service					
GRF	150907	State Capital	\$	148,331,900	\$	163,443,500	91823
		Improvements					
		General Obligation					91824
		Debt Service					
		TOTAL GRF General Revenue Fund	\$	169,043,000	\$	189,128,400	91825
		Local Infrastructure Improvements Fund Group					91826
7039	150909	Local Infrastructure	\$	261,027	\$	269,555	91827
		Development					
		TOTAL LIF Local Infrastructure	\$	261,027	\$	269,555	91828
		Improvements Fund Group					
		Clean Ohio Conservation Fund Group					91829
7056	150403	Clean Ohio Operating	\$	304,332	\$	311,509	91830
		Expenses					
		TOTAL 056 Clean Ohio Conservation	\$	304,332	\$	311,509	91831
		Fund Group					
		TOTAL ALL BUDGET FUND GROUPS	\$	169,608,359	\$	189,709,464	91832
		CONSERVATION GENERAL OBLIGATION DEBT SERVICE					91833
		The foregoing appropriation item 150904, Conservation General					91834
		Obligation Debt Service, shall be used to pay all debt service and					91835
		related financing costs during the period from July 1, 2009,					91836

through June 30, 2011, at the times they are required to be made 91837
for obligations issued under sections 151.01 and 151.09 of the 91838
Revised Code. 91839

STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE 91840

The foregoing appropriation item 150907, State Capital 91841
Improvements General Obligation Debt Service, shall be used to pay 91842
all debt service and related financing costs during the period 91843
from July 1, 2009, to June 30, 2011, at the times they are 91844
required to be made for obligations issued under sections 151.01 91845
and 151.08 of the Revised Code. 91846

CLEAN OHIO OPERATING EXPENSES 91847

The foregoing appropriation item 150403, Clean Ohio Operating 91848
Expenses, shall be used by the Ohio Public Works Commission in 91849
administering sections 164.20 to 164.27 of the Revised Code. 91850
91851

REIMBURSEMENT TO THE GENERAL REVENUE FUND 91852

(A) On or before July 15, 2011, the Director of the Public 91853
Works Commission shall certify to the Director of Budget and 91854
Management the following: 91855

(1) The total amount disbursed from appropriation item 91856
700409, Farmland Preservation, during the FY 2010-FY 2011 91857
biennium; and 91858

(2) The amount of interest earnings that have been credited 91859
to the Clean Ohio Conservation Fund (Fund 7056) that are in excess 91860
of the amount needed for other purposes as calculated by the 91861
Director of the Public Works Commission. 91862

(B) If the Director of Budget and Management determines under 91863
division (A)(2) of this section that there are excess interest 91864
earnings, the Director of Budget and Management shall, on or 91865
before July 15, 2011, transfer the excess interest earnings to the 91866

General Revenue Fund in an amount equal to the total amount 91867
disbursed under division (A)(1) of this section from the Clean 91868
Ohio Conservation Fund. 91869

Section 367.10. RAC STATE RACING COMMISSION 91870

State Special Revenue Fund Group 91871

5620 875601 Thoroughbred Race \$ 2,300,000 \$ 2,300,000 91872
Fund

5630 875602 Standardbred \$ 1,900,000 \$ 1,900,000 91873
Development Fund

5640 875603 Quarterhorse \$ 1,000 \$ 1,000 91874
Development Fund

5650 875604 Racing Commission \$ 3,742,342 \$ 3,758,818 91875
Operating

5C40 875607 Simulcast Horse \$ 14,000,000 \$ 14,000,000 91876
Racing Purse

TOTAL SSR State Special Revenue 91877

Fund Group \$ 21,943,342 \$ 21,959,818 91878

Holding Account Redistribution Fund Group 91879

R021 875605 Bond Reimbursements \$ 145,000 \$ 145,000 91880

TOTAL 090 Holding Account 91881

Redistribution

Fund Group \$ 145,000 \$ 145,000 91882

TOTAL ALL BUDGET FUND GROUPS \$ 22,088,342 \$ 22,104,818 91883

Section 371.10. BOR BOARD OF REGENTS 91885

General Revenue Fund 91886

GRF 235321 Operating Expenses \$ 2,439,835 \$ 2,439,835 91887

GRF 235401 Lease Rental Payments \$ 124,461,100 \$ 107,897,100 91888

GRF 235406 Articulation and \$ 2,610,000 \$ 2,610,000 91889
Transfer

GRF 235408 Midwest Higher \$ 95,000 \$ 95,000 91890

	Education Compact				
GRF 235409	Information System	\$	966,804	\$	966,804 91891
GRF 235414	State Grants and Scholarship Administration	\$	1,458,109	\$	1,458,109 91892
GRF 235415	Jobs Challenge	\$	4,967,492	\$	4,967,492 91893
GRF 235417	Ohio Learning Network	\$	2,807,546	\$	2,807,546 91894
GRF 235428	Appalachian New Economy Partnership	\$	844,634	\$	844,634 91895
GRF 235433	Economic Growth Challenge	\$	527,541	\$	527,541 91896
GRF 235438	Choose Ohio First Scholarship	\$	13,000,000	\$	16,000,000 91897
GRF 235441	Co-Op/Internship Program	\$	50,000,000	\$	50,000,000 91898
GRF 235442	Teacher Fellowship	\$	0	\$	2,500,000 91899
GRF 235443	Adult Basic and Literacy Education - State	\$	7,528,264	\$	7,528,264 91900
GRF 235444	Post-Secondary Adult Career-Technical Education	\$	15,791,288	\$	15,791,286 91901
GRF 235474	Area Health Education Centers Program Support	\$	1,091,833	\$	1,091,833 91902
GRF 235501	State Share of Instruction	\$	1,791,200,532	\$	1,742,954,088 91903
GRF 235502	Student Support Services	\$	714,406	\$	714,406 91904
GRF 235504	War Orphans Scholarships	\$	4,331,089	\$	4,331,089 91905
GRF 235507	OhioLINK	\$	6,632,281	\$	6,632,281 91906
GRF 235508	Air Force Institute of	\$	1,840,659	\$	1,840,659 91907

		Technology				
GRF 235510	Ohio Supercomputer Center	\$	3,834,386	\$	3,834,386	91908
GRF 235511	Cooperative Extension Service	\$	21,018,608	\$	19,967,678	91909
GRF 235513	Ohio University Voinovich Center	\$	336,082	\$	336,082	91910
GRF 235514	Central State Supplement	\$	12,109,106	\$	12,109,106	91911
GRF 235515	Case Western Reserve University School of Medicine	\$	2,603,096	\$	2,603,096	91912
GRF 235519	Family Practice	\$	3,840,127	\$	3,840,127	91913
GRF 235520	Shawnee State Supplement	\$	2,577,393	\$	2,577,393	91914
GRF 235521	The Ohio State University John Glenn School of Public Affairs	\$	286,082	\$	286,082	91915
GRF 235524	Police and Fire Protection	\$	123,498	\$	123,498	91916
GRF 235525	Geriatric Medicine	\$	633,294	\$	633,294	91917
GRF 235526	Primary Care Residencies	\$	1,895,962	\$	1,895,962	91918
GRF 235535	Ohio Agricultural Research and Development Center	\$	33,456,863	\$	31,784,020	91919
GRF 235536	The Ohio State University Clinical Teaching	\$	11,727,036	\$	11,727,036	91920
GRF 235537	University of Cincinnati Clinical Teaching	\$	9,645,328	\$	9,645,328	91921

GRF 235538	University of Toledo Clinical Teaching	\$	7,518,011	\$	7,518,011	91922
GRF 235539	Wright State University Clinical Teaching	\$	3,652,395	\$	3,652,395	91923
GRF 235540	Ohio University Clinical Teaching	\$	3,530,882	\$	3,530,882	91924
GRF 235541	Northeastern Ohio Universities College of Medicine Clinical Teaching	\$	3,631,508	\$	3,631,508	91925
GRF 235552	Capital Component	\$	20,382,568	\$	20,382,568	91926
GRF 235555	Library Depositories	\$	1,522,963	\$	1,522,963	91927
GRF 235556	Ohio Academic Resources Network	\$	3,354,501	\$	3,354,501	91928
GRF 235558	Long-term Care Research	\$	223,711	\$	223,711	91929
GRF 235563	Ohio College Opportunity Grant	\$	70,000,000	\$	85,000,000	91930
GRF 235567	Central State University Speed to Scale	\$	1,775,254	\$	0	91931
GRF 235572	The Ohio State University Clinic Support	\$	929,591	\$	929,591	91932
GRF 235576	Nonpublic Need-Based Financial Aid	\$	70,000,000	\$	70,000,000	91933
GRF 235596	Hazardous Materials Program	\$	258,858	\$	258,858	91934
GRF 235599	National Guard Scholarship Program	\$	14,912,271	\$	14,912,271	91935
GRF 235644	State Share of Instruction - Federal	\$	279,337,545	\$	344,705,908	91936

		Stimulus					
GRF 235645		Need-Based Aid -	\$	50,000,000	\$	50,000,000	91937
		Federal Stimulus					
GRF 235909		Higher Education	\$	85,317,700	\$	89,480,300	91938
		General Obligation					
		Debt Service					
TOTAL GRF		General Revenue Fund		\$2,753,743,032	\$	2,774,464,522	91939
		General Services Fund Group					91940
2200 235614		Program Approval and	\$	3,000,000	\$	3,000,000	91941
		Reauthorization					
4560 235603		Sales and Services	\$	700,000	\$	700,000	91942
TOTAL GSF		General Services					91943
Fund Group			\$	3,700,000	\$	3,700,000	91944
		Federal Special Revenue Fund Group					91945
3120 235609		Tech Prep	\$	183,849	\$	183,849	91946
3120 235611		Gear-up Grant	\$	3,900,000	\$	3,900,000	91947
3120 235612		Carl D. Perkins	\$	912,961	\$	912,961	91948
		Grant/Plan					
		Administration					
3120 235617		Improving Teacher	\$	3,200,000	\$	3,200,000	91949
		Quality Grant					
3120 235641		Adult Basic Literacy	\$	17,869,546	\$	17,869,546	91950
		Education - Federal					
3BE0 235636		Adult Education and	\$	1,783,583	\$	1,783,583	91951
		Family Literacy Act					
		Incentive Grant					
3BG0 235626		Star Schools	\$	250,000	\$	0	91952
3H20 235608		Human Services	\$	3,500,000	\$	3,500,000	91953
		Project					
3N60 235605		State Student	\$	2,533,339	\$	2,533,339	91954
		Incentive Grants					
3N60 235638		College Access	\$	2,268,044	\$	2,268,044	91955

Challenge Grant					
TOTAL FED Federal Special Revenue				91956	
Fund Group	\$	36,401,322	\$	36,151,322	91957
State Special Revenue Fund Group					91958
4E80 235602 Higher Educational	\$	45,000	\$	45,000	91959
Facility Commission					
Administration					
6490 235607 The Ohio State	\$	600,000	\$	600,000	91960
University					
Highway/Transportation					
Research					
6820 235606 Nursing Loan Program	\$	893,000	\$	893,000	91961
TOTAL SSR State Special Revenue					91962
Fund Group	\$	1,538,000	\$	1,538,000	91963
Third Frontier Research & Development Fund Group					91964
7011235634 Research Incentive	\$	8,000,000	\$	8,000,000	91965
Third Frontier Fund					
TOTAL 011 Third Frontier Research &	\$	8,000,000	\$	8,000,000	91966
Development Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	2,803,382,354	\$	2,823,853,844	91967

Section 371.10.10. LEASE RENTAL PAYMENTS 91969

The foregoing appropriation item 235401, Lease Rental 91970
Payments, shall be used to meet all payments at the times they are 91971
required to be made during the period from July 1, 2009, to June 91972
30, 2011, by the Chancellor of the Board of Regents under leases 91973
and agreements made under section 154.21 of the Revised Code. 91974
These appropriations are the source of funds pledged for bond 91975
service charges or obligations issued pursuant to Chapter 154. of 91976
the Revised Code. 91977

Section 371.10.20. ARTICULATION AND TRANSFER 91978

The foregoing appropriation item 235406, Articulation and Transfer, shall be used by the Chancellor of the Board of Regents to maintain and expand the work of the Articulation and Transfer Council to develop a system of transfer policies to ensure that students at state institutions of higher education can transfer and have coursework apply to their majors and degrees at any other state institution of higher education without unnecessary duplication or institutional barriers under sections 3333.16, 3333.161, and 3333.162 of the Revised Code.

Section 371.10.30. MIDWEST HIGHER EDUCATION COMPACT 91988

The foregoing appropriation item 235408, Midwest Higher Education Compact, shall be distributed by the Chancellor of the Board of Regents under section 3333.40 of the Revised Code.

Section 371.10.40. INFORMATION SYSTEM 91992

The foregoing appropriation item 235409, Information System, shall be used by the Chancellor of the Board of Regents to support the development and implementation of information technology solutions designed to improve the performance and services of the Chancellor of the Board of Regents and the University System of Ohio.

Section 371.10.50. STATE GRANTS AND SCHOLARSHIP ADMINISTRATION 91999
92000

The foregoing appropriation item 235414, State Grants and Scholarship Administration, shall be used by the Chancellor of the Board of Regents to administer the following student financial aid programs: Ohio College Opportunity Grant, Nonpublic Need-Based Financial Aid, Ohio War Orphans' Scholarship, Nurse Education Assistance Loan Program, Ohio Safety Officers College Memorial Fund, and any other student financial aid programs created by the

General Assembly. The appropriation item also shall be used to 92008
administer the federal Leveraging Educational Assistance 92009
Partnership (LEAP) program, Special Leveraging Educational 92010
Assistance Partnership (SLEAP) program, the federal College Access 92011
Challenge Grant (CACG), and other student financial aid programs 92012
created by Congress and to provide fiscal services for the Ohio 92013
National Guard Scholarship Program. 92014

Section 371.10.60. JOBS CHALLENGE 92015

Except as provided in the sections of this act entitled 92016
"Statewide Workforce Development Initiatives" and "Fiscal Year 92017
2011 Plan for Adult Workforce Training Programs," funds 92018
appropriated to the foregoing appropriation item 235415, Jobs 92019
Challenge, shall be used by the Chancellor of the Board of Regents 92020
to support state-assisted community and technical colleges, 92021
regional campuses of state-assisted universities, and other 92022
organizationally distinct and identifiable member campuses of the 92023
Workforce training network in support of noncredit job-related 92024
training. 92025

Support may include the promotion and delivery of coordinated 92026
assessment and comprehensive training to local employers. The 92027
Chancellor shall develop a formula for the distribution of funds. 92028

Section 371.10.70. OHIO LEARNING NETWORK 92029

The foregoing appropriation item 235417, Ohio Learning 92030
Network, shall be used by the Chancellor of the Board of Regents 92031
to support the continued implementation of the Ohio Learning 92032
Network, a consortium organized under division (U) of section 92033
3333.04 of the Revised Code to expand access to adult and higher 92034
education opportunities through technology. The funds shall be 92035
used by the Ohio Learning Network to develop and promote learning 92036
and assessment through the use of technology, to test and provide 92037

advice on emerging learning-directed technologies, and to 92038
facilitate cost-effectiveness through shared educational 92039
technology investments. 92040

Section 371.10.80. APPALACHIAN NEW ECONOMY PARTNERSHIP 92041

The foregoing appropriation item 235428, Appalachian New 92042
Economy Partnership, shall be distributed to Ohio University to 92043
continue a multi-campus and multi-agency coordinated effort to 92044
link Appalachia to the new economy. Ohio University shall use 92045
these funds to provide leadership in the development and 92046
implementation of initiatives in the areas of entrepreneurship, 92047
management, education, and technology. 92048

Section 371.10.90. ECONOMIC GROWTH CHALLENGE 92049

The foregoing appropriation item 235433, Economic Growth 92050
Challenge, shall be used for administrative expenses of the 92051
Research Incentive Program and other economic advancement 92052
initiatives undertaken by the Chancellor of the Board of Regents. 92053

The Chancellor of the Board of Regents shall use any 92054
appropriation transfer to the foregoing appropriation item 235433, 92055
Economic Growth Challenge, to enhance the basic research 92056
capabilities of public colleges and universities and accredited 92057
Ohio institutions of higher education holding certificates of 92058
authorization issued under section 1713.02 of the Revised Code, in 92059
order to strengthen academic research for pursuing Ohio's economic 92060
development goals. The Chancellor shall give priority 92061
consideration to projects that are eligible to receive federal 92062
stimulus funds. 92063

Section 371.20.10. CHOOSE OHIO FIRST SCHOLARSHIP 92064

Of the foregoing appropriation item 235438, Choose Ohio First 92065
Scholarship, up to \$3,000,000 in each fiscal year shall be used by 92066

the Chancellor of the Board of Regents to support the Ohio Woodrow 92067
Wilson STEM Teaching Fellows Program, a program designed to 92068
attract students with high potential and strong backgrounds in 92069
science, technology, engineering, mathematics, and medical 92070
disciplines to graduate programs specially designed for teacher 92071
preparation in those disciplines. 92072

The Chancellor shall establish a competitive process for 92073
making awards under the Ohio Woodrow Wilson STEM Teaching Fellows 92074
Program to Ohio institutions of higher education that develop, 92075
transform, and implement science, technology, engineering, 92076
mathematics, and medical teacher preparation programs. 92077
Institutions shall be chosen based on a determination that they 92078
have the leadership, commitment, and capacity to meet criteria as 92079
set forth in a request for proposals issued by the Chancellor. The 92080
request for proposals shall include criteria developed by the 92081
Woodrow Wilson Foundation and an advisory panel of experts in 92082
education and science, technology, engineering, mathematics, and 92083
medical disciplines. Awards made under the Ohio Woodrow Wilson 92084
STEM Teaching Fellows Program shall not be subject to sections 92085
3333.60 to 3333.70 of the Revised Code or any rule adopted 92086
pursuant to those sections. 92087

The remainder of the foregoing appropriation item 235438, 92088
Choose Ohio First Scholarship, shall be used to operate the 92089
program prescribed in sections 3333.60 to 3333.70 of the Revised 92090
Code. Amounts disbursed to institutions shall be paid on a 92091
reimbursement basis. 92092

An amount equal to the unexpended, unencumbered portion of 92093
the foregoing appropriation item 235438, Choose Ohio First 92094
Scholarship, at the end of fiscal year 2010 is hereby 92095
reappropriated to the Board of Regents for the same purpose for 92096
fiscal year 2011. 92097

Section 371.20.20. CO-OP/INTERNSHIP PROGRAM 92098

The foregoing appropriation item, 235441, Co-op/Internship Program, shall be used by the Chancellor of the Board of Regents to operate the Co-op/Internship Program under sections 3333.71 to 3333.80 of the Revised Code. Funding for eligible institutions shall be disbursed in accordance with the terms of the agreements entered into under section 3333.75 of the Revised Code. 92099
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At the request of the Chancellor of the Board of Regents, the Director of Budget and Management may transfer any unexpended, unencumbered appropriation in fiscal year 2010 or fiscal year 2011 as well as any appropriation repaid by eligible institutions pursuant to the terms of the grant agreement from appropriation item 235441, Co-op/Internship Program, to appropriation item 235433, Economic Growth Challenge. Any appropriation so transferred shall be used to strengthen academic research for pursuing Ohio's economic development goals under the Section of this act entitled "Economic Growth Challenge". 92105
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Section 371.20.30. ADULT BASIC AND LITERACY EDUCATION 92115

Except as provided in the Sections of this act entitled "Statewide Workforce Development Initiatives" and "Fiscal Year 2011 Plan for Adult Workforce Training Programs", the foregoing appropriation item 235443, Adult Basic and Literacy Education - State, shall be used to support adult basic and literacy education instructional programs and for the operation of an adult basic and literacy education instructional grant program. The supported programs shall satisfy the state match and maintenance of effort requirements for the state-administered grant program. 92116
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Of the foregoing appropriation item 235443, Adult Basic and Literacy Education - State, up to \$507,558 in fiscal year 2010 shall be used for the support and operation of the State Literacy 92125
92126
92127

Resource Center Program. 92128

On or before August 31, 2009, the Chancellor of the Board of 92129
Regents shall submit a funding formula to the Controlling Board 92130
for the allocation of the foregoing appropriation item 235443, 92131
Adult Basic and Literacy Education - State, in fiscal year 2010. 92132

Section 371.20.40. POST-SECONDARY ADULT CAREER-TECHNICAL 92133
EDUCATION 92134

Except as provided in the Sections of this act entitled 92135
"Statewide Workforce Development Initiatives" and "Fiscal Year 92136
2011 Plan for Adult Workforce Training Programs", the foregoing 92137
appropriation item 235444, Post-Secondary Adult Career-Technical 92138
Education, shall be used by the Chancellor of the Board of Regents 92139
in each fiscal year to provide post-secondary adult 92140
career-technical education under sections 3313.52 and 3313.53 of 92141
the Revised Code. 92142

On or before August 31, 2009, the Chancellor of the Board of 92143
Regents shall submit a funding formula to the Controlling Board 92144
for the allocation of funds in fiscal year 2010. 92145

Section 371.20.50. STATEWIDE WORKFORCE DEVELOPMENT 92146
INITIATIVES 92147

The Chancellor may identify amounts of the foregoing 92148
appropriation items 235415, Jobs Challenge, 235443, Adult Basic 92149
and Literacy Education - State, and 235444, Post-Secondary Adult 92150
Career-Technical Education, to be used to support the Ohio Skills 92151
Bank Program and the Stackable Certificates Program. The Ohio 92152
Skills Bank Program seeks to align the education of Ohio's 92153
workforce with industry needs. The Stackable Certificates Program 92154
consists of competency-based, low-cost, noncredit and 92155
credit-bearing modules and courses in communications, mathematics, 92156
information technology, and other fields selected by the 92157

Chancellor. The program culminates in a certificate and provides 92158
recipients with a foundation for additional post-secondary 92159
education. 92160

Section 371.20.60. FISCAL YEAR 2011 PLAN FOR ADULT WORKFORCE 92161
TRAINING PROGRAMS 92162

Notwithstanding the Sections of this act entitled "Jobs 92163
Challenge," "Adult Basic and Literacy Education," and 92164
"Post-Secondary Adult Career-Technical Education," not later than 92165
June 1, 2010, the Chancellor of the Board of Regents shall submit 92166
for approval of the Controlling Board a plan for the integration 92167
of funding support for the state's adult workforce training and 92168
development programs, beginning in fiscal year 2011. Funding 92169
support in the plan shall include appropriation items 235415, Jobs 92170
Challenge, 235443, Adult Basic and Literacy Education - State, and 92171
235444, Post-Secondary Adult Career-Technical Education. 92172

The plan shall clearly define the formulas, or competitive 92173
process, to be used for funding the activities of adult basic and 92174
literacy education program providers, state literacy resource 92175
centers, post-secondary adult career-technical education 92176
providers, and community colleges. The plan may propose the 92177
creation of new appropriation items as necessary to support its 92178
implementation. 92179

Section 371.20.70. AREA HEALTH EDUCATION CENTERS 92180

The foregoing appropriation item 235474, Area Health 92181
Education Centers Program Support, shall be used by the Chancellor 92182
of the Board of Regents to support the medical school regional 92183
area health education centers' educational programs for the 92184
continued support of medical and other health professions 92185
education and for support of the Area Health Education Center 92186
Program. 92187

Section 371.20.80. STATE SHARE OF INSTRUCTION FORMULAS 92188

On or before August 31, 2009, the Chancellor of the Board of Regents shall submit to the Controlling Board funding formulas for the allocation of the foregoing appropriation item 235501, State Share of Instruction, in each fiscal year. The funding formulas shall consider the September 2008 university and community college recommendations submitted to the fiscal year 2009 state share of instruction consultation, and shall include separate formulas for state-assisted university main campuses, regional campuses of state-assisted universities, and state-assisted community and technical colleges.

The state share of instruction formula for state-assisted university main campuses shall support graduate and medical education, reward course and degree completion, and reward the achievement of mission-specific goals. The state share of instruction formula for regional campuses of the state-assisted universities shall reward course completion and the achievement of mission-specific goals. The state share of instruction formula for state-assisted community and technical colleges shall be based on enrollments, achievement of mission-specific goals, and measures of student success appropriate to institutional missions.

Student-specific components of the formulas shall be weighted for at-risk students as measured using the student's eligibility for support from state need-based aid programs. The state share of instruction formulas shall include allocations of Success Challenge, Access Challenge, and any other tuition subsidy provided in Am. Sub. H.B. 119 of the 127th General Assembly. The state share of instruction funding formulas shall be designed to phase in components over time.

Section 371.20.90. STATE SHARE OF INSTRUCTION FOR FISCAL 92217

YEARS 2010 AND 2011 92218

(A) The boards of trustees of institutions of state-assisted 92219
higher education shall restrain increases in in-state 92220
undergraduate instructional and general fees. For the 2009-2010 92221
academic year, each state-assisted institution shall not increase 92222
its in-state undergraduate instructional and general fees over 92223
what the institution charged for the 2008-2009 academic year. For 92224
the 2010-2011 academic year, each state-assisted community 92225
college, state community college, technical college, and regional 92226
campus of a state-assisted university shall not increase its 92227
in-state undergraduate instructional and general fees over what 92228
the institution charged for the 2009-2010 academic year. 92229

These limitations shall not apply to increases required to 92230
comply with institutional covenants related to their obligations 92231
or to meet unfunded legal mandates or legally binding obligations 92232
incurred or commitments made prior to the effective date of this 92233
section with respect to which the institution had identified such 92234
fee increases as the source of funds. Any increase required by 92235
such covenants and any such mandates, obligations, or commitments 92236
shall be reported by the Chancellor of the Board of Regents to the 92237
Controlling Board. These limitations may also be modified by the 92238
Chancellor of the Board of Regents, with the approval of the 92239
Controlling Board, to respond to exceptional circumstances as 92240
identified by the Chancellor of the Board of Regents. 92241

Section 371.30.10. HIGHER EDUCATION - BOARD OF TRUSTEES 92242

Funds appropriated for instructional subsidies at colleges 92243
and universities may be used to provide such branch or other 92244
off-campus undergraduate courses of study and such master's degree 92245
courses of study as may be approved by the Chancellor of the Board 92246
of Regents. 92247

In providing instructional and other services to students, 92248

boards of trustees of state-assisted institutions of higher 92249
education shall supplement state subsidies with income from 92250
charges to students. Except as otherwise provided in this Section, 92251
each board shall establish the fees to be charged to all students, 92252
including an instructional fee for educational and associated 92253
operational support of the institution and a general fee for 92254
noninstructional services, including locally financed student 92255
services facilities used for the benefit of enrolled students. The 92256
instructional fee and the general fee shall encompass all charges 92257
for services assessed uniformly to all enrolled students. Each 92258
board may also establish special purpose fees, service charges, 92259
and fines as required; such special purpose fees and service 92260
charges shall be for services or benefits furnished individual 92261
students or specific categories of students and shall not be 92262
applied uniformly to all enrolled students. A tuition surcharge 92263
shall be paid by all students who are not residents of Ohio. 92264

The board of trustees of a state-assisted institution of 92265
higher education shall not authorize a waiver or nonpayment of 92266
instructional fees or general fees for any particular student or 92267
any class of students other than waivers specifically authorized 92268
by law or approved by the Chancellor. This prohibition is not 92269
intended to limit the authority of boards of trustees to provide 92270
for payments to students for services rendered the institution, 92271
nor to prohibit the budgeting of income for staff benefits or for 92272
student assistance in the form of payment of such instructional 92273
and general fees. 92274

Each state-assisted institution of higher education in its 92275
statement of charges to students shall separately identify the 92276
instructional fee, the general fee, the tuition charge, and the 92277
tuition surcharge. Fee charges to students for instruction shall 92278
not be considered to be a price of service but shall be considered 92279
to be an integral part of the state government financing program 92280

in support of higher educational opportunity for students. 92281

Notwithstanding any provision of law to the contrary, the 92282
Chancellor of the Board of Regents may, in consultation with 92283
state-assisted institutions of higher education, adjust the 92284
instructional and general fee amounts charged for an associate 92285
degree program at a state-assisted institution of higher education 92286
for the 2009-2010 academic year and the 2010-2011 academic year, 92287
subject to Controlling Board approval. 92288

The boards of trustees of state-assisted institutions of 92289
higher education shall ensure that faculty members devote a proper 92290
and judicious part of their work week to the actual instruction of 92291
students. Total class credit hours of production per quarter per 92292
full-time faculty member is expected to meet the standards set 92293
forth in the budget data submitted by the Chancellor of the Board 92294
of Regents. 92295

The authority of government vested by law in the boards of 92296
trustees of state-assisted institutions of higher education shall 92297
in fact be exercised by those boards. Boards of trustees may 92298
consult extensively with appropriate student and faculty groups. 92299
Administrative decisions about the utilization of available 92300
resources, about organizational structure, about disciplinary 92301
procedure, about the operation and staffing of all auxiliary 92302
facilities, and about administrative personnel shall be the 92303
exclusive prerogative of boards of trustees. Any delegation of 92304
authority by a board of trustees in other areas of responsibility 92305
shall be accompanied by appropriate standards of guidance 92306
concerning expected objectives in the exercise of such delegated 92307
authority and shall be accompanied by periodic review of the 92308
exercise of this delegated authority to the end that the public 92309
interest, in contrast to any institutional or special interest, 92310
shall be served. 92311

Section 371.30.20. STUDENT SUPPORT SERVICES 92312

The foregoing appropriation item 235502, Student Support 92313
Services, shall be distributed by the Chancellor of the Board of 92314
Regents to Ohio's state-assisted colleges and universities that 92315
incur disproportionate costs in the provision of support services 92316
to disabled students. 92317

Section 371.30.30. WAR ORPHANS SCHOLARSHIPS 92318

The foregoing appropriation item 235504, War Orphans 92319
Scholarships, shall be used to reimburse state-assisted 92320
institutions of higher education for waivers of instructional fees 92321
and general fees provided by them, to provide grants to 92322
institutions that have received a certificate of authorization 92323
from the Chancellor of the Board of Regents under Chapter 1713. of 92324
the Revised Code, in accordance with the provisions of section 92325
5910.04 of the Revised Code, and to fund additional scholarship 92326
benefits provided by section 5910.032 of the Revised Code. 92327

An amount equal to the unexpended, unencumbered portion of 92328
the foregoing appropriation item 235504, War Orphans Scholarships, 92329
at the end of fiscal year 2010 is hereby reappropriated to the 92330
Board of Regents for the same purpose for fiscal year 2011. 92331

Section 371.30.40. OHIOLINK 92332

The foregoing appropriation item 235507, OhioLINK, shall be 92333
used by the Chancellor of the Board of Regents to support 92334
OhioLINK, a consortium organized under division (U) of section 92335
3333.04 of the Revised Code to serve as the state's electronic 92336
library information and retrieval system, which provides access 92337
statewide to an extensive set of electronic databases and 92338
resources and the library holdings of Ohio's public and 92339
participating private nonprofit colleges and universities, and the 92340

State Library of Ohio. 92341

Section 371.30.50. AIR FORCE INSTITUTE OF TECHNOLOGY 92342

The foregoing appropriation item 235508, Air Force Institute 92343
of Technology, shall be used to strengthen the research and 92344
educational linkages between the Wright Patterson Air Force Base 92345
and institutions of higher education in Ohio. Projects supported 92346
may include research projects that connect the Air Force Research 92347
Laboratories with university partners. The institute shall provide 92348
annual reports to the Third Frontier Commission that discuss 92349
existing, planned, or possible collaborations between programs and 92350
funding recipients related to technology, research development, 92351
commercialization, and support for Ohio's economic development. 92352
92353

Section 371.30.60. OHIO SUPERCOMPUTER CENTER 92354

The foregoing appropriation item 235510, Ohio Supercomputer 92355
Center, shall be used by the Chancellor of the Board of Regents to 92356
support the operation of the Ohio Supercomputer Center, a 92357
consortium organized under division (U) of section 3333.04 of the 92358
Revised Code, located at The Ohio State University. The Ohio 92359
Supercomputer Center is a statewide resource available to Ohio 92360
research universities both public and private. It is also intended 92361
that the center be made accessible to private industry as 92362
appropriate. 92363

Funds shall be used, in part, to support the Ohio 92364
Supercomputer Center's Computational Science Initiative, which 92365
includes its industrial outreach program, Blue Collar Computing, 92366
and its School of Computational Science. These collaborations 92367
between the Ohio Supercomputer Center and Ohio's colleges and 92368
universities shall be aimed at making Ohio a leader in using 92369
computer modeling to promote economic development. 92370

Section 371.30.70. COOPERATIVE EXTENSION SERVICE 92371

The foregoing appropriation item 235511, Cooperative 92372
Extension Service, shall be disbursed through the Chancellor of 92373
the Board of Regents to The Ohio State University in monthly 92374
payments, unless otherwise determined by the Director of Budget 92375
and Management under section 126.09 of the Revised Code. 92376

Section 371.30.80. OHIO UNIVERSITY VOINOVICH CENTER 92377

The foregoing appropriation item 235513, Ohio University 92378
Voinovich Center, shall be used by the Chancellor of the Board of 92379
Regents to support the operations of Ohio University's Voinovich 92380
Center. 92381

Section 371.30.90. CENTRAL STATE SUPPLEMENT 92382

The foregoing appropriation item 235514, Central State 92383
Supplement, shall be used by Central State University to keep 92384
undergraduate fees below the statewide average, consistent with 92385
its mission of service to many first-generation college students 92386
from groups historically underrepresented in higher education and 92387
from families with limited incomes. 92388

Section 371.40.10. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF 92389
MEDICINE 92390

The foregoing appropriation item 235515, Case Western Reserve 92391
University School of Medicine, shall be disbursed to Case Western 92392
Reserve University through the Chancellor of the Board of Regents 92393
in accordance with agreements entered into under section 3333.10 92394
of the Revised Code, provided that the state support per full-time 92395
medical student shall not exceed that provided to full-time 92396
medical students at state universities. 92397

Section 371.40.20. FAMILY PRACTICE 92398

The Chancellor of the Board of Regents shall develop plans 92399
consistent with existing criteria and guidelines as may be 92400
required for the distribution of appropriation item 235519, Family 92401
Practice. 92402

Section 371.40.30. SHAWNEE STATE SUPPLEMENT 92403

The foregoing appropriation item 235520, Shawnee State 92404
Supplement, shall be used by Shawnee State University as detailed 92405
by both of the following: 92406

(A) To allow Shawnee State University to keep its 92407
undergraduate fees below the statewide average, consistent with 92408
its mission of service to an economically depressed Appalachian 92409
region; 92410

(B) To allow Shawnee State University to employ new faculty 92411
to develop and teach in new degree programs that meet the needs of 92412
Appalachians. 92413

Section 371.40.40. OSU JOHN GLENN SCHOOL OF PUBLIC AFFAIRS 92414

The foregoing appropriation item 235521, The Ohio State 92415
University John Glenn School of Public Affairs, shall be used by 92416
the Chancellor of the Board of Regents to support the operations 92417
of The Ohio State University's John Glenn School of Public 92418
Affairs. 92419

Section 371.40.50. POLICE AND FIRE PROTECTION 92420

The foregoing appropriation item 235524, Police and Fire 92421
Protection, shall be used for police and fire services in the 92422
municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, 92423
Portsmouth, Xenia Township (Greene County), Rootstown Township, 92424
and the City of Nelsonville that may be used to assist these local 92425

governments in providing police and fire protection for the 92426
central campus of the state-affiliated university located therein. 92427

Section 371.40.60. GERIATRIC MEDICINE 92428

The Chancellor of the Board of Regents shall develop plans 92429
consistent with existing criteria and guidelines as may be 92430
required for the distribution of appropriation item 235525, 92431
Geriatric Medicine. 92432

Section 371.40.70. PRIMARY CARE RESIDENCIES 92433

The Chancellor of the Board of Regents shall develop plans 92434
consistent with existing criteria and guidelines as may be 92435
required for the distribution of appropriation item 235526, 92436
Primary Care Residencies. 92437

The foregoing appropriation item 235526, Primary Care 92438
Residencies, shall be distributed in each fiscal year of the 92439
biennium, based on whether or not the institution has submitted 92440
and gained approval for a plan. If the institution does not have 92441
an approved plan, it shall receive five per cent less funding per 92442
student than it would have received from its annual allocation. 92443
The remaining funding shall be distributed among those 92444
institutions that meet or exceed their targets. 92445

Section 371.40.80. OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT 92446
CENTER 92447

The foregoing appropriation item 235535, Ohio Agricultural 92448
Research and Development Center, shall be disbursed through the 92449
Chancellor of the Board of Regents to The Ohio State University in 92450
monthly payments, unless otherwise determined by the Director of 92451
Budget and Management under section 126.09 of the Revised Code. 92452
The Ohio Agricultural Research and Development Center shall not be 92453
required to remit payment to The Ohio State University during the 92454

biennium ending June 30, 2011, for cost reallocation assessments. 92455
The cost reallocation assessments include, but are not limited to, 92456
any assessment on state appropriations to the Center. 92457

92458

The Ohio Agricultural Research and Development Center, an 92459
entity of the College of Food, Agricultural, and Environmental 92460
Sciences of The Ohio State University, shall further its mission 92461
of enhancing Ohio's economic development and job creation by 92462
continuing to internally allocate on a competitive basis 92463
appropriated funding of programs based on demonstrated 92464
performance. Academic units, faculty, and faculty-driven programs 92465
shall be evaluated and rewarded consistent with agreed-upon 92466
performance expectations as called for in the College's 92467
Expectations and Criteria for Performance Assessment. 92468

Section 371.40.90. STATE UNIVERSITY CLINICAL TEACHING 92469

The foregoing appropriation items 235536, The Ohio State 92470
University Clinical Teaching; 235537, University of Cincinnati 92471
Clinical Teaching; 235538, University of Toledo Clinical Teaching; 92472
235539, Wright State University Clinical Teaching; 235540, Ohio 92473
University Clinical Teaching; and 235541, Northeastern Ohio 92474
Universities College of Medicine Clinical Teaching, shall be 92475
distributed through the Chancellor of the Board of Regents. 92476
92477

Section 371.50.10. CAPITAL COMPONENT 92478

The foregoing appropriation item 235552, Capital Component, 92479
shall be used by the Chancellor of the Board of Regents to 92480
implement the capital funding policy for state-assisted colleges 92481
and universities established in Am. H.B. 748 of the 121st General 92482
Assembly. Appropriations from this item shall be distributed to 92483
all campuses for which the estimated campus debt service 92484

attributable to new qualifying capital projects is less than the 92485
campus's formula-determined capital component allocation. Campus 92486
allocations shall be determined by subtracting the estimated 92487
campus debt service attributable to new qualifying capital 92488
projects from the campus's formula-determined capital component 92489
allocation. Moneys distributed from this appropriation item shall 92490
be restricted to capital-related purposes. 92491

Any campus for which the estimated campus debt service 92492
attributable to qualifying capital projects is greater than the 92493
campus's formula-determined capital component allocation shall 92494
have the difference subtracted from its State Share of Instruction 92495
allocation in each fiscal year. Appropriation equal to the sum of 92496
all such amounts except that of the Ohio Agricultural Research and 92497
Development Center shall be transferred from appropriation item 92498
235501, State Share of Instruction, to appropriation item 235552, 92499
Capital Component. Appropriation equal to any estimated Ohio 92500
Agricultural Research and Development Center debt service 92501
attributable to qualifying capital projects that is greater than 92502
the Center's formula-determined capital component allocation shall 92503
be transferred from appropriation item 235535, Ohio Agricultural 92504
Research and Development Center, to appropriation item 235552, 92505
Capital Component. 92506

Section 371.50.20. LIBRARY DEPOSITORIES 92507

The foregoing appropriation item, 235555, Library 92508
Depositories, shall be distributed to the state's five regional 92509
depository libraries for the cost-effective storage of and access 92510
to lesser-used materials in university library collections. The 92511
depositories shall be administrated by the Chancellor of the Board 92512
of Regents. 92513

Section 371.50.30. OHIO ACADEMIC RESOURCES NETWORK (OARNET) 92514

The foregoing appropriation item 235556, Ohio Academic Resources Network, shall be used by the Chancellor of the Board of Regents to support the operations of the Ohio Academic Resources Network, a consortium organized under division (U) of section 3333.04 of the Revised Code, which shall include support for Ohio's colleges and universities in maintaining and enhancing network connections, using new network technologies to improve research, education, and economic development programs, and sharing information technology services. The network shall give priority to supporting the Third Frontier Network and allocating bandwidth to programs directly supporting Ohio's economic development.

Section 371.50.40. LONG-TERM CARE RESEARCH 92527

The foregoing appropriation item 235558, Long-term Care Research, shall be disbursed to Miami University for long-term care research.

Section 371.50.50. OHIO COLLEGE OPPORTUNITY GRANT 92531

The foregoing appropriation item 235563, Ohio College Opportunity Grant, shall be used by the Chancellor of the Board of Regents to award needs-based financial aid to students enrolled in eligible public institutions of higher education, excluding early college high school and post-secondary enrollment option participants.

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 235563, Ohio College Opportunity Grant, at the end of fiscal year 2010 is hereby reappropriated to the Board of Regents for the same purpose for fiscal year 2011.

On or before August 31, 2009, the Chancellor of the Board of Regents shall submit funding formulas to the Controlling Board for the 2009-2010 academic year and allocations of Ohio College

Opportunity Grant awards not already specified in section 3333.122 92545
of the Revised Code. 92546

Section 371.50.60. CENTRAL STATE UNIVERSITY SPEED TO SCALE 92547

The foregoing appropriation 235567, Central State University 92548
Speed to Scale, shall be used to achieve the goals of the Speed to 92549
Scale Plan, which include increasing student enrollment through 92550
freshman recruitment and transferred students, increasing the 92551
proportion of in-state students to 80 per cent of the total 92552
student population, and increasing the student retention rates 92553
between the first and second year of college by two per cent each 92554
year. The goals shall be accomplished by the targeting of student 92555
retention, improved articulation agreements with two-year 92556
campuses, increased use of alternative course options, including 92557
online coursework and Ohio Learning Network resources, College 92558
Tech Prep, Post Secondary Enrollment Options, and other 92559
dual-credit programs, and strategic partnerships with research 92560
institutions to improve the quality of Central State University's 92561
offering of science, technology, engineering, mathematics, and 92562
medical instruction. In fiscal year 2010, the disbursement of 92563
these funds shall be contingent upon Central State University 92564
meeting the annual goals for the student enrollment and retention 92565
rate increases. 92566

The Speed to Scale Task Force shall meet not less than 92567
quarterly to discuss progress of the plan, including performance 92568
on accountability metrics and issues experienced in planned 92569
efforts, and to monitor and support the creation of partnerships 92570
with other state institutions of higher education. The Task Force 92571
shall consist of the president of Central State University or the 92572
president's designee, the president of Sinclair Community College 92573
or the president's designee, the president of Cincinnati State 92574
Technical and Community College or the president's designee, the 92575

president of Cuyahoga Community College or the president's 92576
designee, the president of The Ohio State University or the 92577
president's designee, the president of the University of 92578
Cincinnati or the president's designee, the president of Wright 92579
State University or the president's designee, one representative 92580
from the Board of Regents, one member of the House of 92581
Representatives appointed by the Speaker of the House of 92582
Representatives, one member of the Senate appointed by the 92583
President of the Senate, the Director of Budget and Management or 92584
the director's designee, and a representative of the Governor's 92585
Office appointed by the Governor. 92586

On the thirtieth day of June of each fiscal year, Central 92587
State University and the Speed to Scale Task Force shall jointly 92588
submit to the Governor, the Director of Budget and Management, the 92589
Speaker of the House of Representatives, the President of the 92590
Senate, and the Board of Regents a report describing the status of 92591
their progress on the accountability metrics included in the Speed 92592
to Scale Plan. 92593

Section 371.50.70. THE OHIO STATE UNIVERSITY CLINIC SUPPORT 92594

The foregoing appropriation item 235572, The Ohio State 92595
University Clinic Support, shall be distributed through the 92596
Chancellor of the Board of Regents to The Ohio State University 92597
for support of dental and veterinary medicine clinics. 92598

Section 371.50.80. NONPUBLIC NEED-BASED FINANCIAL AID 92599

The foregoing appropriation item 235576, Nonpublic Need-Based 92600
Financial Aid, shall be used to support need-based financial aid 92601
block grants under division (D) of section 3333.122 of the Revised 92602
Code. 92603

Of the foregoing appropriation item 235576, Nonpublic 92604
Need-Based Financial Aid, \$40,000,000 in each fiscal year shall be 92605

used to support the block grant for private, nonprofit 92606
institutions of higher education. 92607

Of the foregoing appropriation item 235576, Nonpublic 92608
Need-Based Financial Aid, \$30,000,000 in each fiscal year shall be 92609
used to support the block grant for proprietary post-secondary 92610
institutions of higher education. 92611

On or before August 31, 2009, the Chancellor of the Board of 92612
Regents shall submit allocation formulas to the Controlling Board 92613
for the 2009-2010 academic year allocations of awards under 92614
division (D) of section 3333.122 of the Revised Code. 92615

Section 371.50.90. HAZARDOUS MATERIALS PROGRAM 92616

The foregoing appropriation item 235596, Hazardous Materials 92617
Program, shall be used by the Chancellor of the Board of Regents 92618
to make awards for the establishment or continued development and 92619
support of hazardous materials education, studies, or programs at 92620
Ohio institutions of higher education. 92621

Section 371.60.10. NATIONAL GUARD SCHOLARSHIP PROGRAM 92622

The Chancellor of the Board of Regents shall disburse funds 92623
from appropriation item 235599, National Guard Scholarship 92624
Program, at the direction of the Adjutant General. During each 92625
fiscal year, the Chancellor of the Board of Regents, within ten 92626
days of cancellation, may certify to the Director of Budget and 92627
Management the amount of canceled prior-year encumbrances in 92628
appropriation item 235599, National Guard Scholarship Program. 92629
Upon receipt of the certification, the Director of Budget and 92630
Management may transfer cash in an amount up to the amount 92631
certified from the General Revenue Fund to the National Guard 92632
Scholarship Reserve Fund (Fund 5BM0). Upon the request of the 92633
Adjutant General, the Chancellor of the Board of Regents shall 92634
seek Controlling Board approval to authorize additional 92635

expenditures for appropriation item 235623, National Guard 92636
Scholarship Reserve Fund. Upon approval of the Controlling Board, 92637
the additional amounts are hereby appropriated. The Chancellor of 92638
the Board of Regents shall disburse funds from appropriation item 92639
235623, National Guard Scholarship Reserve Fund, at the direction 92640
of the Adjutant General. 92641

***Section 371.60.20. PLEDGE OF FEES** 92642

Any new pledge of fees, or new agreement for adjustment of 92643
fees, made in the biennium ending June 30, 2011, to secure bonds 92644
or notes of a state-assisted institution of higher education for a 92645
project for which bonds or notes were not outstanding on the 92646
effective date of this section shall be effective only after 92647
approval by the Chancellor of the Board of Regents, unless 92648
approved in a previous biennium. 92649

Section 371.60.30. HIGHER EDUCATION GENERAL OBLIGATION DEBT 92650
SERVICE 92651

The foregoing appropriation item 235909, Higher Education 92652
General Obligation Debt Service, shall be used to pay all debt 92653
service and related financing costs at the times they are required 92654
to be made for obligations issued during the period from July 1, 92655
2009, to June 30, 2011, under sections 151.01 and 151.04 of the 92656
Revised Code. 92657

Section 371.60.40. SALES AND SERVICES 92658

The Chancellor of the Board of Regents is authorized to 92659
charge and accept payment for the provision of goods and services. 92660
Such charges shall be reasonably related to the cost of producing 92661
the goods and services. No charges may be levied for goods or 92662
services that are produced as part of the routine responsibilities 92663
or duties of the Chancellor. All revenues received by the 92664

Chancellor of the Board of Regents shall be deposited into Fund 92665
4560, and may be used by the Chancellor of the Board of Regents to 92666
pay for the costs of producing the goods and services. 92667

92668

Section 371.60.50. HIGHER EDUCATIONAL FACILITY COMMISSION 92669
ADMINISTRATION 92670

The foregoing appropriation item 235602, Higher Educational 92671
Facility Commission Administration, shall be used by the 92672
Chancellor of the Board of Regents for operating expenses related 92673
to the Chancellor of the Board of Regents' support of the 92674
activities of the Ohio Higher Educational Facility Commission. 92675
Upon the request of the Chancellor, the Director of Budget and 92676
Management shall transfer up to \$45,000 cash in fiscal year 2010 92677
and up to \$45,000 cash in fiscal year 2011 from the HEFC Operating 92678
Expenses Fund (Fund 4610) to the HEFC Administration Fund (Fund 92679
4E80). 92680

Section 371.60.60. NURSING LOAN PROGRAM 92681

The foregoing appropriation item 235606, Nursing Loan 92682
Program, shall be used to administer the nurse education 92683
assistance program. Up to \$167,580 in each fiscal year may be used 92684
for operating expenses associated with the program. Any additional 92685
funds needed for the administration of the program are subject to 92686
Controlling Board approval. 92687

Section 371.60.70. VETERANS' PREFERENCES 92688

The Chancellor of the Board of Regents shall work with the 92689
Department of Veterans' Services to develop specific veterans' 92690
preference guidelines for higher education institutions. These 92691
guidelines shall ensure that the institutions' hiring practices 92692
are in accordance with the intent of Ohio's veterans' preference 92693

laws. 92694

Section 371.60.80. STATE NEED-BASED FINANCIAL AID 92695
RECONCILIATION 92696

By the first day of August in each fiscal year, or as soon as 92697
possible thereafter, the Chancellor of the Ohio Board of Regents 92698
shall certify to the Director of Budget and Management the amount 92699
necessary to pay any outstanding prior year obligations to higher 92700
education institutions for the state's need-based financial aid 92701
programs. The amounts certified are hereby appropriated to 92702
appropriation item 235618, State Need-based Financial Aid 92703
Reconciliation, from revenues received in the State Need-based 92704
Financial Aid Reconciliation Fund (Fund 5Y50). 92705

Section 371.60.90. TRANSFERS TO STATE NEED-BASED FINANCIAL 92706
AID PROGRAMS 92707

In each fiscal year of the biennium, if the Chancellor of the 92708
Board of Regents determines that additional funds are needed to 92709
support the distribution of state need-based financial aid in 92710
accordance with section 3333.122 of the Revised Code, the 92711
Chancellor shall recommend the reallocation of the unexpended, 92712
unencumbered portions of General Revenue Fund appropriation items 92713
in the Board of Regents to appropriation item 235563, Ohio College 92714
Opportunity Grant. If the Director of Budget and Management 92715
determines that such a reallocation is required, the Director may 92716
transfer appropriation in an amount not to exceed those 92717
unexpended, unencumbered General Revenue Fund appropriations in 92718
the Board of Regents as necessary to appropriation item 235563, 92719
Ohio College Opportunity Grant. 92720

If those transferred appropriations are not sufficient to 92721
support the distribution of state need-based financial aid in 92722
accordance with section 3333.122 of the Revised Code in each 92723

fiscal year, the Director of Budget and Management may authorize 92724
expenditures in excess of the amounts appropriated, but not to 92725
exceed \$5,000,000 in each fiscal year from appropriation item 92726
235563, Ohio College Opportunity Grant. Upon approval of the 92727
Director of Budget and Management, the additional amounts are 92728
hereby appropriated. 92729

Section 371.70.10. EFFICIENCY SAVINGS 92730

Each state-assisted institution of higher education, as 92731
defined in section 3345.011 of the Revised Code, shall demonstrate 92732
at least a three per cent savings through internal efficiencies in 92733
each fiscal year. Institutions shall identify savings to the 92734
Chancellor of the Board of Regents, who shall certify the amount 92735
of savings of each institution. 92736

Section 371.70.20. OHIO TUITION TRUST AUTHORITY BECOMES 92737
ADVISORY BOARD TO CHANCELLOR 92738

(A) On and after the effective date of this section: 92739

(1) The Ohio Tuition Trust Authority, as established by 92740
former section 3334.03 of the Revised Code, shall become the Ohio 92741
Tuition Trust Advisory Board charged with the duty to advise the 92742
Chancellor of the Ohio Board of Regents in carrying out the 92743
Chancellor's duties. 92744

(2) The Chancellor of the Ohio Board of Regents shall have 92745
the powers and duties formerly prescribed to and duties of the 92746
Ohio Tuition Trust Authority and any other powers and duties 92747
granted to the Chancellor by law enacted after the effective date 92748
of this section. 92749

(3) The Chancellor is thereupon and thereafter successor to, 92750
assumes obligations of, and otherwise constitutes the continuation 92751
of the Ohio Tuition Trust Authority. 92752

(4) Any business commenced but not completed by the Ohio Tuition Trust Authority shall be completed by the Chancellor in the same manner, with the same effect, as if completed by the Authority. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the change in powers and duties prescribed in the provisions amended and enacted by this act.

(5) All rules of the Ohio Tuition Trust Authority continue in effect as rules of the Chancellor, until amended or rescinded by the Chancellor.

(6) Except as otherwise specified in section 3334.031 of the Revised Code or another provision of law enacted after the effective date of this section, when the Ohio Tuition Trust Authority is referred to in any statute, rule, contract, grant, or other document, the reference shall be construed to refer to the Chancellor.

(B) No judicial or administrative action or proceeding in which the Ohio Tuition Trust Authority is a party that is pending on the effective date of this section, is affected by the change in powers and duties prescribed in the provisions amended and enacted by this act. Such action or proceeding shall be prosecuted or defended in the name of the Chancellor. On application to the court or other tribunal, the Chancellor shall be substituted for the Ohio Tuition Trust Authority as a party to such action or proceeding.

(C) Subject to division (C) of section 3334.08 of the Revised Code, personnel of the Ohio Tuition Trust Authority remain subject to the appointment by and continue to serve at the pleasure of the Chancellor.

(D) On the effective date of this section, all books, records, documents, files, transcripts, equipment, furniture,

supplies, and other materials assigned to or in the possession of 92784
the Ohio Tuition Trust Authority shall be transferred to the 92785
Chancellor. 92786

Section 375.10. DRC DEPARTMENT OF REHABILITATION AND				92787
CORRECTION				92788
General Revenue Fund				92789
GRF 501321	Institutional	\$ 884,288,147	\$ 884,530,244	92790
	Operations			
GRF 501403	Prisoner Compensation	\$ 8,559,255	\$ 8,599,255	92791
GRF 501405	Halfway House	\$ 41,054,799	\$ 42,286,443	92792
GRF 501406	Lease Rental Payments	\$ 101,578,100	\$ 98,080,200	92793
GRF 501407	Community	\$ 21,925,802	\$ 22,431,567	92794
	Nonresidential			
	Programs			
GRF 501408	Community Misdemeanor	\$ 11,092,468	\$ 11,380,242	92795
	Programs			
GRF 501501	Community Residential	\$ 62,517,256	\$ 64,281,774	92796
	Programs - CBCF			
GRF 501620	Institutional	\$ 24,800,000	\$ 34,200,000	92797
	Operations - Federal			
	Stimulus			
GRF 502321	Mental Health Services	\$ 80,844,321	\$ 84,462,467	92798
GRF 503321	Parole and Community	\$ 75,785,243	\$ 77,326,155	92799
	Operations			
GRF 504321	Administrative	\$ 26,288,606	\$ 27,069,477	92800
	Operations			
GRF 505321	Institution Medical	\$ 252,462,498	\$ 251,763,268	92801
	Services			
GRF 506321	Institution Education	\$ 22,730,539	\$ 23,183,959	92802
	Services			
GRF 507321	Institution Recovery	\$ 5,025,028	\$ 5,899,110	92803
	Services			

TOTAL GRF General Revenue Fund	\$ 1,618,992,062	\$ 1,635,494,161	92804
General Services Fund Group			92805
1480 501602 Services and Agricultural	\$ 108,290,058	\$ 111,062,533	92806
2000 501607 Ohio Penal Industries	\$ 40,845,414	\$ 40,845,414	92807
4830 501605 Property Receipts	\$ 255,015	\$ 261,315	92808
4B00 501601 Sewer Treatment Services	\$ 2,467,630	\$ 2,529,828	92809
4D40 501603 Prisoner Programs	\$ 14,600,000	\$ 14,800,000	92810
4L40 501604 Transitional Control	\$ 2,042,548	\$ 2,051,451	92811
4S50 501608 Education Services	\$ 2,800,000	\$ 3,000,000	92812
5710 501606 Training Academy Receipts	\$ 75,190	\$ 75,190	92813
5930 501618 Laboratory Services	\$ 6,476,314	\$ 6,740,260	92814
5AF0 501609 State and Non-Federal Awards	\$ 262,718	\$ 262,718	92815
5H80 501617 Offender Financial Responsibility	\$ 3,000,000	\$ 3,000,000	92816
5L60 501611 Information Technology Services	\$ 1,000,000	\$ 1,000,000	92817
TOTAL GSF General Services Fund Group	\$ 182,114,887	\$ 185,628,709	92818
Federal Special Revenue Fund Group			92819
3230 501619 Federal Grants	\$ 12,198,353	\$ 12,198,353	92820
3S10 501615 Truth-In-Sentencing Grants	\$ 8,251,241	\$ 0	92821
TOTAL FED Federal Special Revenue Fund Group	\$ 20,449,594	\$ 12,198,353	92822
TOTAL ALL BUDGET FUND GROUPS	\$ 1,821,556,543	\$ 1,833,321,223	92824
OHIO BUILDING AUTHORITY LEASE PAYMENTS			92825
The foregoing appropriation item 501406, Lease Rental Payments, shall be used to meet all payments during the period			92826 92827

from July 1, 2009, to June 30, 2011, under the primary leases and 92828
agreements for those buildings made under Chapter 152. of the 92829
Revised Code. These appropriations are the source of funds pledged 92830
for bond service charges or obligations issued pursuant to Chapter 92831
152. of the Revised Code. 92832

PRISONER COMPENSATION 92833

Money from the foregoing appropriation item 501403, Prisoner 92834
Compensation, shall be transferred on a quarterly basis by 92835
intrastate transfer voucher to the Services and Agricultural Fund 92836
(Fund 1480) for the purposes of paying prisoner compensation. 92837

OSU MEDICAL CHARGES 92838

Notwithstanding section 341.192 of the Revised Code, at the 92839
request of the Department of Rehabilitation and Correction, The 92840
Ohio State University Medical Center, including the James Cancer 92841
Hospital and Solove Research Institute and the Richard M. Ross 92842
Heart Hospital, shall provide necessary care to persons who are 92843
confined in state adult correctional facilities. The provision of 92844
necessary care shall be billed to the Department at a rate not to 92845
exceed the authorized reimbursement rate for the same service 92846
established by the Department of Job and Family Services under the 92847
Medical Assistance Program. 92848

Section 377.10. RSC REHABILITATION SERVICES COMMISSION 92849

General Revenue Fund 92850

GRF 415402 Independent Living \$ 360,000 \$ 360,000 92851
Council

GRF 415406 Assistive Technology \$ 38,025 \$ 38,025 92852

GRF 415431 Office for People \$ 180,810 \$ 180,810 92853
with Brain Injury

GRF 415506 Services for People \$ 18,738,043 \$ 18,738,043 92854
with Disabilities

GRF	415508	Services for the Deaf	\$	40,000	\$	40,000	92855
TOTAL GRF	General Revenue Fund		\$	19,356,878	\$	19,356,878	92856
General Services Fund Group							92857
4670	415609	Business Enterprise	\$	1,393,002	\$	1,389,851	92858
Operating Expenses							
TOTAL GSF	General Services						92859
Fund Group			\$	1,393,002	\$	1,389,851	92860
Federal Special Revenue Fund Group							92861
3170	415620	Disability	\$	81,685,226	\$	83,498,461	92862
Determination							
3790	415616	Federal - Vocational	\$	129,835,624	\$	130,910,654	92863
Rehabilitation							
3L10	415601	Social Security	\$	3,000,000	\$	2,700,000	92864
Personal Care							
Assistance							
3L10	415605	Social Security	\$	750,000	\$	750,000	92865
Community Centers for							
the Deaf							
3L10	415608	Social Security	\$	1,752,714	\$	1,884,714	92866
Special							
Programs/Assistance							
3L40	415612	Federal Independent	\$	620,880	\$	620,880	92867
Living Centers or							
Services							
3L40	415615	Federal - Supported	\$	883,214	\$	839,054	92868
Employment							
3L40	415617	Independent	\$	1,951,862	\$	1,953,293	92869
Living/Vocational							
Rehabilitation							
Programs							
TOTAL FED	Federal Special						92870
Revenue Fund Group			\$	220,479,520	\$	223,157,056	92871

State Special Revenue Fund Group					92872	
4680 415618	Third Party Funding	\$	5,008,974	\$	5,008,974	92873
4L10 415619	Services for	\$	4,067,773	\$	3,994,154	92874
	Rehabilitation					
4W50 415606	Program Management	\$	15,620,782	\$	15,767,803	92875
	Expenses					
TOTAL SSR State Special						92876
Revenue Fund Group		\$	24,697,529	\$	24,770,931	92877
TOTAL ALL BUDGET FUND GROUPS		\$	265,926,929	\$	268,674,716	92878

INDEPENDENT LIVING COUNCIL 92879

The foregoing appropriation item 415402, Independent Living 92880
Council, shall be used to fund the operations of the State 92881
Independent Living Council and shall be used to support state 92882
independent living centers and independent living services under 92883
Title VII of the Independent Living Services and Centers for 92884
Independent Living of the Rehabilitation Act Amendments of 1992, 92885
106 Stat. 4344, 29 U.S.C. 796d. 92886

ASSISTIVE TECHNOLOGY 92887

The foregoing appropriation item 415406, Assistive 92888
Technology, shall be provided to Assistive Technology of Ohio and 92889
used to provide grants and assistive technology services under the 92890
program for people with disabilities in the State of Ohio. 92891

OFFICE FOR PEOPLE WITH BRAIN INJURY 92892

The foregoing appropriation item 415431, Office for People 92893
with Brain Injury, shall be used to plan and coordinate 92894
head-injury-related services provided by state agencies and other 92895
government or private entities, to assess the needs for such 92896
services, and to set priorities in this area. 92897

VOCATIONAL REHABILITATION SERVICES 92898

The foregoing appropriation item 415506, Services for People 92899

with Disabilities, shall be used as state matching funds to 92900
provide vocational rehabilitation services to eligible consumers. 92901

SERVICES FOR THE DEAF 92902

The foregoing appropriation item 415508, Services for the 92903
Deaf, shall be used to provide grants to community centers for the 92904
deaf. These funds shall not be provided in lieu of Social Security 92905
reimbursement funds. 92906

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS 92907

The foregoing appropriation item 415617, Independent 92908
Living/Vocational Rehabilitation Programs, shall be used to 92909
support vocational rehabilitation programs. 92910

SOCIAL SECURITY REIMBURSEMENT FUNDS 92911

Reimbursement funds received from the Social Security 92912
Administration, United States Department of Health and Human 92913
Services, for the costs of providing services and training to 92914
return disability recipients to gainful employment shall be 92915
expended from the Social Security Reimbursement Fund (Fund 3L10), 92916
to the extent funds are available, as follows: 92917

(A) Appropriation item 415601, Social Security Personal Care 92918
Assistance, to provide personal care services in accordance with 92919
section 3304.41 of the Revised Code; 92920

(B) Appropriation item 415605, Social Security Community 92921
Centers for the Deaf, to provide grants to community centers for 92922
the deaf in Ohio for services to individuals with hearing 92923
impairments; and 92924

(C) Appropriation item 415608, Social Security Special 92925
Programs/Assistance, to provide vocational rehabilitation services 92926
to individuals with severe disabilities who are Social Security 92927
beneficiaries, to enable them to achieve competitive employment. 92928
This appropriation item shall also be used to pay a portion of 92929

indirect costs of the Personal Care Assistance Program and the 92930
 Independent Living Programs as mandated by federal OMB Circular 92931
 A-87. 92932

PROGRAM MANAGEMENT EXPENSES 92933

The foregoing appropriation item 415606, Program Management 92934
 Expenses, shall be used to support the administrative functions of 92935
 the commission related to the provision of vocational 92936
 rehabilitation, disability determination services, and ancillary 92937
 programs. 92938

Section 379.10. RCB RESPIRATORY CARE BOARD 92939

General Services Fund Group 92940
 4K90 872609 Operating Expenses \$ 495,689 \$ 495,689 92941
 TOTAL GSF General Services 92942
 Fund Group \$ 495,689 \$ 495,689 92943
 TOTAL ALL BUDGET FUND GROUPS \$ 495,689 \$ 495,689 92944

Section 381.10. RDF REVENUE DISTRIBUTION FUNDS 92946

Volunteer Firefighters' Dependents Fund 92947
 7085 800985 Volunteer Firemen's \$ 300,000 \$ 300,000 92948
 Dependents Fund
 TOTAL 085 Volunteer Firefighters' 92949
 Dependents Fund \$ 300,000 \$ 300,000 92950
 Agency Fund Group 92951
 4P80 001698 Cash Management \$ 3,100,000 \$ 3,100,000 92952
 Improvement Fund
 6080 001699 Investment Earnings \$ 250,000,000 \$ 250,000,000 92953
 7062 110962 Resort Area Excise \$ 1,000,000 \$ 1,000,000 92954
 Tax
 7063 110963 Permissive Tax \$ 1,849,000,000 \$ 1,849,000,000 92955
 Distribution
 7067 110967 School District \$ 350,000,000 \$ 350,000,000 92956

Income Tax				
TOTAL AGY Agency Fund Group		\$ 2,453,100,000	\$ 2,453,100,000	92957
Holding Account Redistribution				92958
R045 110617 International Fuel		\$ 50,000,000	\$ 50,000,000	92959
Tax Distribution				
TOTAL 090 Holding Account		\$ 50,000,000	\$ 50,000,000	92960
Redistribution Fund				
Revenue Distribution Fund Group				92961
7049 038900 Indigent Drivers		\$ 1,832,000	\$ 1,832,000	92962
Alcohol Treatment				
7050 762900 International		\$ 30,000,000	\$ 30,000,000	92963
Registration Plan				
Distribution				
7051 762901 Auto Registration		\$ 539,000,000	\$ 539,000,000	92964
Distribution				
7054 110954 Local Government		\$ 95,125,000	\$ 95,125,000	92965
Property Tax				
Replacement - Utility				
7060 110960 Gasoline Excise Tax		\$ 375,000,000	\$ 375,000,000	92966
Fund				
7065 110965 Public Library Fund		\$ 401,100,000	\$ 402,400,000	92967
7066 800966 Undivided Liquor		\$ 13,500,000	\$ 13,500,000	92968
Permits				
7068 110968 State and Local		\$ 242,500,000	\$ 242,500,000	92969
Government Highway				
Distribution				
7069 110969 Local Government Fund		\$ 673,700,000	\$ 676,000,000	92970
7081 110981 Local Government		\$ 366,800,000	\$ 366,800,000	92971
Property Tax				
Replacement-Business				
7082 110982 Horse Racing Tax		\$ 130,000	\$ 130,000	92972
7083 700900 Ohio Fairs Fund		\$ 2,325,000	\$ 2,325,000	92973
TOTAL RDF Revenue Distribution				92974

Fund Group	\$ 2,741,012,000	\$ 2,744,612,000	92975
TOTAL ALL BUDGET FUND GROUPS	\$ 5,244,412,000	\$ 5,248,012,000	92976

ADDITIONAL APPROPRIATIONS 92977

Appropriation items in this section shall be used for the 92978
purpose of administering and distributing the designated revenue 92979
distribution funds according to the Revised Code. If it is 92980
determined that additional appropriations are necessary for this 92981
purpose, such amounts are hereby appropriated. 92982

GENERAL REVENUE FUND TRANSFERS TO LOCAL GOVERNMENT TANGIBLE 92983
PROPERTY TAX REPLACEMENT FUND (FUND 7081) 92984

Notwithstanding any provision of law to the contrary, in 92985
fiscal year 2010 and fiscal year 2011, the Director of Budget and 92986
Management may transfer from the General Revenue Fund to the Local 92987
Government Tangible Property Tax Replacement Fund (Fund 7081) in 92988
the Revenue Distribution Fund, those amounts necessary to 92989
reimburse local taxing units under section 5751.22 of the Revised 92990
Code. Also, in fiscal year 2010 and fiscal year 2011, the Director 92991
of Budget and Management may make temporary transfers from the 92992
General Revenue Fund to ensure sufficient balances in the Local 92993
Government Tangible Property Tax Replacement Fund (Fund 7081) and 92994
to replenish the General Revenue Fund for such transfers. 92995
92996

Section 383.10. SAN BOARD OF SANITARIAN REGISTRATION 92997

General Services Fund Group			92998
4K90 893609 Operating Expenses	\$ 138,551	\$ 138,551	92999
TOTAL GSF General Services			93000
Fund Group	\$ 138,551	\$ 138,551	93001
TOTAL ALL BUDGET FUND GROUPS	\$ 138,551	\$ 138,551	93002

Section 385.10. SFC SCHOOL FACILITIES COMMISSION 93004

General Revenue Fund 93005

GRF 230908	Common Schools	\$ 192,559,200	\$ 165,510,500	93006
	General Obligation			
	Debt Service			
TOTAL GRF	General Revenue Fund	\$ 192,559,200	\$ 165,510,500	93007
	State Special Revenue Fund Group			93008
5E30 230644	Operating Expenses	\$ 9,885,436	\$ 10,132,034	93009
TOTAL SSR	State Special Revenue			93010
	Fund Group	\$ 9,885,436	\$ 10,132,034	93011
TOTAL ALL BUDGET FUND GROUPS		\$ 202,444,636	\$ 175,642,534	93012

Section 385.20. COMMON SCHOOLS GENERAL OBLIGATION DEBT 93014
SERVICE 93015

The foregoing appropriation item 230908, Common Schools 93016
General Obligation Debt Service, shall be used to pay all debt 93017
service and related financing costs at the times they are required 93018
to be made for obligations issued during the period from July 1, 93019
2009, through June 30, 2011, under sections 151.01 and 151.03 of 93020
the Revised Code. 93021

OPERATING EXPENSES 93022

The foregoing appropriation item 230644, Operating Expenses, 93023
shall be used by the Ohio School Facilities Commission to carry 93024
out its responsibilities under this section and Chapter 3318. of 93025
the Revised Code. 93026

In both fiscal years 2010 and 2011, the Executive Director of 93027
the Ohio School Facilities Commission shall certify on a quarterly 93028
basis to the Director of Budget and Management the amount of cash 93029
from interest earnings to be transferred from the School Building 93030
Assistance Fund (Fund 7032), the Public School Building Fund (Fund 93031
7021), and the Educational Facilities Trust Fund (Fund N087) to 93032
the Ohio School Facilities Commission Fund (Fund 5E30). The amount 93033
transferred from the School Building Assistance Fund (Fund 7032) 93034
may not exceed investment earnings credited to the fund, less any 93035

amount required to be paid for federal arbitrage rebate purposes. 93036
93037

SCHOOL FACILITIES ENCUMBRANCES AND REAPPROPRIATION 93038

At the request of the Executive Director of the Ohio School 93039
Facilities Commission, the Director of Budget and Management may 93040
cancel encumbrances for school district projects from a previous 93041
biennium if the district has not raised its local share of project 93042
costs within one year of receiving Controlling Board approval 93043
under section 3318.05 of the Revised Code. The Executive Director 93044
of the Ohio School Facilities Commission shall certify the amounts 93045
of the canceled encumbrances to the Director of Budget and 93046
Management on a quarterly basis. The amounts of the canceled 93047
encumbrances are hereby appropriated. 93048

Section 385.30. AMENDMENT TO PROJECT AGREEMENT FOR 93049
MAINTENANCE LEVY 93050

The Ohio School Facilities Commission shall amend the project 93051
agreement between the Commission and a school district that is 93052
participating in the Accelerated Urban School Building Assistance 93053
Program on the effective date of this section, if the Commission 93054
determines that it is necessary to do so in order to comply with 93055
division (B)(3)(c) of section 3318.38 of the Revised Code, as 93056
amended by this act. 93057

Section 385.40. STUDY OF COMMUNITY SPACE 93058

The Executive Director of the Ohio School Facilities 93059
Commission shall conduct a study of spaces included in classroom 93060
facilities projects financed by the Commission under Chapter 3318. 93061
of the Revised Code that are used for activities, services, and 93062
programs shared between schools and other public and private 93063
entities in their communities. The study shall identify and 93064
describe such spaces included in current or completed projects and 93065

shall recommend best practices for enhancing opportunities for 93066
including shared community spaces in future projects. The 93067
Executive Director shall submit a written report of the results 93068
and recommendations of the study to the Commission not later than 93069
December 31, 2009. 93070

**Section 385.50. EXTREME ENVIRONMENTAL CONTAMINATION OF SCHOOL 93071
FACILITIES 93072**

Notwithstanding any other provision of law to the contrary, 93073
the Ohio School Facilities Commission may provide assistance under 93074
the Exceptional Needs School Facilities Program established in 93075
section 3318.37 of the Revised Code to any school district, and 93076
not exclusively to a school district in the lowest seventy-five 93077
per cent of adjusted valuation per pupil on the current ranking of 93078
school districts established under section 3318.011 of the Revised 93079
Code, for the purpose of the relocation or replacement of school 93080
facilities required as a result of extreme environmental 93081
contamination. 93082

The Ohio School Facilities Commission shall contract with an 93083
independent environmental consultant to conduct a study and to 93084
report to the Commission as to the seriousness of the 93085
environmental contamination, whether the contamination violates 93086
applicable state and federal standards, and whether the facilities 93087
are no longer suitable for use as school facilities. The 93088
Commission then shall make a determination regarding funding for 93089
the relocation or replacement of the school facilities. If the 93090
federal government or other public or private entity provides 93091
funds for restitution of costs incurred by the state or school 93092
district in the relocation or replacement of the school 93093
facilities, the school district shall use such funds in excess of 93094
the school district's share to refund the state for the state's 93095
contribution to the environmental contamination portion of the 93096

project. The school district may apply an amount of such 93097
restitution funds up to an amount equal to the school district's 93098
portion of the project, as defined by the Commission, toward 93099
paying its portion of that project to reduce the amount of bonds 93100
the school district otherwise must issue to receive state 93101
assistance under sections 3318.01 to 3318.20 of the Revised Code. 93102

Section 385.60. CANTON CITY SCHOOL DISTRICT PROJECT 93103

(A) The Ohio School Facilities Commission may commit up to 93104
thirty-five million dollars to the Canton City School District for 93105
construction of a facility described in this section, in lieu of a 93106
high school that would otherwise be authorized under Chapter 3318. 93107
of the Revised Code. The Commission shall not commit funds under 93108
this section unless all of the following conditions are met: 93109

(1) The District has entered into a cooperative agreement 93110
with a state-assisted technical college; 93111

(2) The District has received an irrevocable commitment of 93112
additional funding from nonpublic sources; and 93113

(3) The facility is intended to serve both secondary and 93114
postsecondary instructional purposes. 93115

(B) The Commission shall enter into an agreement with the 93116
District for the construction of the facility authorized under 93117
this section that is separate from and in addition to the 93118
agreement required for the District's participation in the 93119
Classroom Facilities Assistance Program under section 3318.08 of 93120
the Revised Code. Notwithstanding that section and sections 93121
3318.03, 3318.04, and 3318.083 of the Revised Code, the additional 93122
agreement shall provide, but not be limited to, the following: 93123

(1) The Commission shall not have any oversight 93124
responsibilities over the construction of the facility. 93125

(2) The facility need not comply with the specifications for 93126

plans and materials for high schools adopted by the Commission. 93127

(3) The Commission may decrease the basic project cost that 93128
would otherwise be calculated for a high school under Chapter 93129
3318. of the Revised Code. 93130

(4) The state shall not share in any increases in the basic 93131
project cost for the facility above the amount authorized under 93132
this section. 93133

All other provisions of Chapter 3318. of the Revised Code 93134
apply to the approval and construction of a facility authorized 93135
under this section. 93136

The state funds committed to the facility authorized by this 93137
section shall be part of the total amount the state commits to the 93138
Canton City School District under Chapter 3318. of the Revised 93139
Code. All additional state funds committed to the Canton City 93140
School District for classroom facilities assistance shall be 93141
subject to all provisions of Chapter 3318. of the Revised Code. 93142

Section 387.10. SOS SECRETARY OF STATE 93143

General Revenue Fund 93144

GRF 050321	Operating Expenses	\$	2,290,508	\$	2,290,508	93145
GRF 050407	Pollworkers Training	\$	250,197	\$	250,197	93146
TOTAL GRF	General Revenue Fund	\$	2,540,705	\$	2,540,705	93147

General Services Fund Group 93148

4120 050609	Notary Commission	\$	565,000	\$	565,000	93149
4130 050601	Information Systems	\$	75,000	\$	50,000	93150
4140 050602	Citizen Education	\$	55,712	\$	55,712	93151

Fund

4S80 050610	Board of Voting	\$	7,200	\$	7,200	93152
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Machine Examiners

5FG0 050620	BOE Reimbursement and	\$	100,000	\$	100,000	93153
	Education					

5FH0 050621	Statewide Ballot Advertising	\$	300,000	\$	300,000	93154
5FJ0 050622	County Voting Machine Revolving Lease/Loan Fund	\$	500,000	\$	500,000	93155
TOTAL General Services Fund Group		\$	1,602,912	\$	1,577,912	93156
Federal Special Revenue Fund Group						93157
3AH0 050614	Election Reform/Health and Human Services	\$	800,000	\$	800,000	93158
3AS0 050616	2005 HAVA Voting Machines	\$	3,000,000	\$	3,000,000	93159
TOTAL FED Federal Special Revenue Fund Group		\$	3,800,000	\$	3,800,000	93160 93161
State Special Revenue Fund Group						93162
5990 050603	Business Services Operating Expenses	\$	14,086,100	\$	14,245,400	93163
5N90 050607	Technology Improvements	\$	180,000	\$	180,000	93164
TOTAL SSR State Special Revenue Fund Group		\$	14,266,100	\$	14,425,400	93165 93166
Holding Account Redistribution Fund Group						93167
R001 050605	Uniform Commercial Code Refunds	\$	30,000	\$	30,000	93168
R002 050606	Corporate/Business Filing Refunds	\$	85,000	\$	85,000	93169
TOTAL 090 Holding Account Redistribution Fund Group		\$	115,000	\$	115,000	93170 93171
TOTAL ALL BUDGET FUND GROUPS		\$	22,324,717	\$	22,459,017	93172
BOARD OF VOTING MACHINE EXAMINERS						93173
The foregoing appropriation item 050610, Board of Voting Machine Examiners, shall be used to pay for the services and						93174 93175

expenses of the members of the Board of Voting Machine Examiners, 93176
and for other expenses that are authorized to be paid from the 93177
Board of Voting Machine Examiners Fund, which is created in 93178
section 3506.05 of the Revised Code. Moneys not used shall be 93179
returned to the person or entity submitting equipment for 93180
examination. If it is determined that additional appropriations 93181
are necessary, such amounts are hereby appropriated. 93182

BUSINESS SERVICES FUND TRANSFER TO THE COUNTY VOTING MACHINE 93183
REVOLVING LEASE/LOAN FUND 93184

Not later than the first day of June of each fiscal year, the 93185
Director of Budget and Management shall transfer \$500,000 cash 93186
from the Business Services Fund (Fund 5990) to the County Voting 93187
Machine Revolving Lease/Loan Fund (Fund 5FJ0). 93188

HAVA FUNDS 93189

An amount equal to the unexpended, unencumbered portion of 93190
appropriation item 050616, 2005 HAVA Voting Machines, at the end 93191
of fiscal year 2010 is reappropriated for the same purpose in 93192
fiscal year 2011. 93193

An amount equal to the unexpended, unencumbered portion of 93194
appropriation item 050614, Election Reform/Health and Human 93195
Services, at the end of fiscal year 2010 is reappropriated for the 93196
same purpose in fiscal year 2011. 93197

On July 1, 2009, or as soon as possible thereafter, the 93198
Director of Budget and Management shall transfer from the General 93199
Revenue Fund to the credit of the Election Data Collection Grant 93200
Fund (Fund 3AC0), all investment earnings and amounts equal to the 93201
interest earnings attributable to Fund 3AC0 in each quarter of 93202
fiscal year 2009 to Fund 3AC0. 93203

The Director of Budget and Management shall credit the 93204
ongoing interest earnings from the Election Reform/Health and 93205
Human Services Fund (Fund 3AH0), the 2005 HAVA Voting Machines 93206

Fund (Fund 3AS0), and the Election Data Collection Grant Fund 93207
(Fund 3AC0) to the respective funds and distribute these earnings 93208
in accordance with the terms of the grant under which the money is 93209
received. 93210

HOLDING ACCOUNT REDISTRIBUTION GROUP 93211

The foregoing appropriation items 050605, Uniform Commercial 93212
Code Refunds, and 050606, Corporate/Business Filing Refunds, shall 93213
be used to hold revenues until they are directed to the 93214
appropriate accounts or until they are refunded. If it is 93215
determined that additional appropriations are necessary, such 93216
amounts are hereby appropriated. 93217

CASH TRANSFER TO THE CORPORATE AND UNIFORM COMMERCIAL CODE 93218
FILING FUND 93219

On July 1, 2009, or as soon as possible thereafter, the 93220
Director of Budget and Management shall transfer \$53,915.40 cash 93221
from the Public Utility Territorial Administration Fund (Fund 93222
5590) to the Corporate and Uniform Commercial Code Filing Fund 93223
(Fund 5990). 93224

Section 389.10. SEN THE OHIO SENATE 93225

General Revenue Fund 93226

GRF 020321	Operating Expenses	\$	12,123,439	\$	12,123,439	93227
TOTAL GRF	General Revenue Fund	\$	12,123,439	\$	12,123,439	93228

General Services Fund Group 93229

1020 020602	Senate Reimbursement	\$	448,465	\$	448,465	93230
4090 020601	Miscellaneous Sales	\$	34,497	\$	34,497	93231
TOTAL GSF	General Services					93232
Fund Group		\$	482,962	\$	482,962	93233
TOTAL ALL BUDGET FUND GROUPS		\$	12,606,401	\$	12,606,401	93234

OPERATING EXPENSES 93235

On July 1, 2009, or as soon as possible thereafter, the Clerk 93236

of the Senate may certify to the Director of Budget and Management 93237
the amount of the unexpended, unencumbered balance of the 93238
foregoing appropriation item 020321, Operating Expenses, at the 93239
end of fiscal year 2009 to be reappropriated to fiscal year 2010. 93240
The amount certified is hereby reappropriated to the same 93241
appropriation item for fiscal year 2010. 93242

On July 1, 2010, or as soon as possible thereafter, the Clerk 93243
of the Senate may certify to the Director of Budget and Management 93244
the amount of the unexpended, unencumbered balance of the 93245
foregoing appropriation item 020321, Operating Expenses, at the 93246
end of fiscal year 2010 to be reappropriated to fiscal year 2011. 93247
The amount certified is hereby reappropriated to the same 93248
appropriation item for fiscal year 2011. 93249

Section 391.10. CSF COMMISSIONERS OF THE SINKING FUND 93250

Debt Service Fund Group				93251
7070155905	Third Frontier	\$ 20,948,300	\$ 29,011,600	93252
	Research and Development Bond Retirement Fund			
7072155902	Highway Capital	\$ 202,074,000	\$ 203,434,200	93253
	Improvement Bond Retirement Fund			
7073155903	Natural Resources Bond	\$ 26,334,400	\$ 26,549,400	93254
	Retirement Fund			
7074155904	Conservation Projects	\$ 20,711,100	\$ 25,684,900	93255
	Bond Service Fund			
7076155906	Coal Research and	\$ 9,968,400	\$ 10,947,000	93256
	Development Bond Retirement Fund			
7077155907	State Capital	\$ 148,331,900	\$ 163,443,500	93257
	Improvement Bond			

	Retirement Fund				
7078155908	Common Schools Bond	\$	192,559,200	\$	165,510,500
	93258				
	Retirement Fund				
7079155909	Higher Education Bond	\$	85,317,700	\$	89,480,300
	93259				
	Retirement Fund				
7090155912	Job Ready Site	\$	5,685,400	\$	10,601,900
	93260				
	Development Bond				
	Retirement Fund				
TOTAL DSF Debt Service Fund Group		\$	711,930,400	\$	724,663,300
	93261				
TOTAL ALL BUDGET FUND GROUPS		\$	711,930,400	\$	724,663,300
	93262				
	ADDITIONAL APPROPRIATIONS				93263
	Appropriation items in this section are for the purpose of				93264
	paying debt service and financing costs on bonds or notes of the				93265
	state issued under the Ohio Constitution and acts of the General				93266
	Assembly. If it is determined that additional amounts are				93267
	necessary for this purpose, such amounts are hereby appropriated.				93268
	Section 393.10. SOA SOUTHERN OHIO AGRICULTURAL AND COMMUNITY				93269
	DEVELOPMENT FOUNDATION				93270
	General Revenue Fund				93271
5M90 945601	Operating Expenses	\$	475,220	\$	475,220
	93272				
TOTAL TMF Tobacco Master Settlement		\$	475,220	\$	475,220
	93273				
	Agreement Fund Group				
TOTAL ALL BUDGET FUND GROUPS		\$	475,220	\$	475,220
	93274				
	Section 395.10. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY &				93276
	AUDIOLOGY				93277
	General Services Fund Group				93278
4K90 886609	Operating Expenses	\$	453,000	\$	453,000
	93279				
TOTAL GSF General Services					93280
	Fund Group	\$	453,000	\$	453,000
	93281				
TOTAL ALL BUDGET FUND GROUPS		\$	453,000	\$	453,000
	93282				

Section 397.10. BTA BOARD OF TAX APPEALS				93284
General Revenue Fund				93285
GRF 116321	Operating Expenses	\$ 1,642,450	\$ 1,642,450	93286
TOTAL GRF General Revenue Fund				93287
TOTAL ALL BUDGET FUND GROUPS				93288
 Section 399.10. TAX DEPARTMENT OF TAXATION				 93290
General Revenue Fund				93291
GRF 110321	Operating Expenses	\$ 81,441,056	\$ 81,441,055	93292
GRF 110404	Tobacco Settlement	\$ 295,231	\$ 295,231	93293
Enforcement				
GRF 110412	Child Support	\$ 19,512	\$ 19,512	93294
Administration				
GRF 110901	Property Tax	\$ 569,917,420	\$ 577,463,014	93295
Allocation - Taxation				
TOTAL GRF General Revenue Fund				93296
General Services Fund Group				93297
2280 110628	Tax Reform System	\$ 13,600,000	\$ 13,600,000	93298
Implementation				
4330 110602	Tape File Account	\$ 125,000	\$ 125,000	93299
5AP0 110632	Discovery Project	\$ 2,000,000	\$ 2,000,000	93300
5CZ0 110631	Vendor's License	\$ 250,000	\$ 250,000	93301
Application				
5N50 110605	Municipal Income Tax	\$ 600,000	\$ 600,000	93302
Administration				
5N60 110618	Kilowatt Hour Tax	\$ 100,000	\$ 100,000	93303
Administration				
5V80 110623	Property Tax	\$ 12,000,000	\$ 12,000,000	93304
Administration				
5W40 110625	Centralized Tax	\$ 200,000	\$ 200,000	93305
Filing and Payment				

5W70	110627	Exempt Facility Administration	\$	60,000	\$	60,000	93306
TOTAL GSF General Services							93307
Fund Group			\$	28,935,000	\$	28,935,000	93308
State Special Revenue Fund Group							93309
4350	110607	Local Tax Administration	\$	18,000,000	\$	18,000,000	93310
4360	110608	Motor Vehicle Audit	\$	1,000,000	\$	1,000,000	93311
4370	110606	Litter Tax and Natural Resource Tax Administration	\$	200,000	\$	200,000	93312
4380	110609	School District Income Tax	\$	5,500,000	\$	5,500,000	93313
4C60	110616	International Registration Plan	\$	706,855	\$	706,855	93314
4R60	110610	Tire Tax Administration	\$	200,000	\$	200,000	93315
5V70	110622	Motor Fuel Tax Administration	\$	4,700,000	\$	4,700,000	93316
6390	110614	Cigarette Tax Enforcement	\$	1,900,000	\$	1,900,000	93317
6420	110613	Ohio Political Party Distributions	\$	500,000	\$	500,000	93318
6880	110615	Local Excise Tax Administration	\$	800,000	\$	800,000	93319
TOTAL SSR State Special Revenue							93320
Fund Group			\$	33,506,855	\$	33,506,855	93321
Agency Fund Group							93322
4250	110635	Tax Refunds	\$	1,546,800,000	\$	1,546,800,000	93323
7095	110995	Municipal Income Tax	\$	21,000,000	\$	21,000,000	93324
TOTAL AGY Agency Fund Group							93325
Holding Account Redistribution Fund Group							93326

R010	110611	Tax Distributions	\$	50,000	\$	50,000	93327
R011	110612	Miscellaneous Income	\$	50,000	\$	50,000	93328
		Tax Receipts					
TOTAL	090	Holding Account					93329
		Redistribution Fund Group	\$	100,000	\$	100,000	93330
TOTAL	ALL BUDGET FUND GROUPS		\$	2,282,015,074	\$	2,289,560,667	93331

HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK, AND TANGIBLE TAX 93332
EXEMPTION 93333

The foregoing appropriation item 110901, Property Tax 93334
Allocation - Taxation, is hereby appropriated to pay for the 93335
state's costs incurred due to the Homestead Exemption, the 93336
Manufactured Home Property Tax Rollback, and the Property Tax 93337
Rollback. The Tax Commissioner shall distribute these funds 93338
directly to the appropriate local taxing districts, except for 93339
school districts, notwithstanding the provisions in sections 93340
321.24 and 323.156 of the Revised Code, which provide for payment 93341
of the Homestead Exemption, the Manufactured Home Property Tax 93342
Rollback, and Property Tax Rollback by the Tax Commissioner to the 93343
appropriate county treasurer and the subsequent redistribution of 93344
these funds to the appropriate local taxing districts by the 93345
county auditor. 93346

Upon receipt of these amounts, each local taxing district 93347
shall distribute the amount among the proper funds as if it had 93348
been paid as real property taxes. Payments for the costs of 93349
administration shall continue to be paid to the county treasurer 93350
and county auditor as provided for in sections 319.54, 321.26, and 93351
323.156 of the Revised Code. 93352

Any sums, in addition to the amounts specifically 93353
appropriated in appropriation item 110901, Property Tax Allocation 93354
- Taxation, for the Homestead Exemption, the Manufactured Home 93355
Property Tax Rollback, and the Property Tax Rollback payments, 93356
which are determined to be necessary for these purposes, are 93357

hereby appropriated.	93358
MUNICIPAL INCOME TAX	93359
The foregoing appropriation item 110995, Municipal Income Tax, shall be used to make payments to municipal corporations under section 5745.05 of the Revised Code. If it is determined that additional appropriations are necessary to make such payments, such amounts are hereby appropriated.	93360 93361 93362 93363 93364
TAX REFUNDS	93365
The foregoing appropriation item 110635, Tax Refunds, shall be used to pay refunds under section 5703.052 of the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.	93366 93367 93368 93369
INTERNATIONAL REGISTRATION PLAN AUDIT	93370
The foregoing appropriation item 110616, International Registration Plan, shall be used under section 5703.12 of the Revised Code for audits of persons with vehicles registered under the International Registration Plan.	93371 93372 93373 93374
TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT	93375
Of the foregoing appropriation item 110607, Local Tax Administration, the Tax Commissioner may disburse funds, if available, for the purposes of paying travel expenses incurred by members of Ohio's delegation to the Streamlined Sales Tax Project, as appointed under section 5740.02 of the Revised Code. Any travel expense reimbursement paid for by the Department of Taxation shall be done in accordance with applicable state laws and guidelines.	93376 93377 93378 93379 93380 93381 93382
CENTRALIZED TAX FILING AND PAYMENT FUND	93383
The Director of Budget and Management, under a plan submitted by the Tax Commissioner, or as otherwise determined by the Director of Budget and Management, shall set a schedule to transfer cash from the General Revenue Fund to the credit of the	93384 93385 93386 93387

Centralized Tax Filing and Payment Fund (Fund 5W40). The transfers	93388
of cash shall not exceed \$400,000 in the biennium.	93389
TOBACCO SETTLEMENT ENFORCEMENT	93390
The foregoing appropriation item 110404, Tobacco Settlement	93391
Enforcement, shall be used by the Tax Commissioner to pay costs	93392
incurred in the enforcement of divisions (F) and (G) of section	93393
5743.03 of the Revised Code.	93394
Section 399.20. COMMERCIAL ACTIVITY TAX	93395
(A) Any term used in this section has the same meaning as in	93396
section 5751.01 of the Revised Code.	93397
(B) A person is not required to pay the annual minimum	93398
commercial activity tax due for calendar year 2005 or 2006 under	93399
Chapter 5751. of the Revised Code if the person satisfies all of	93400
the following:	93401
(1) The person was not subject to the tax for those years	93402
because the person did not have nexus with this state or was an	93403
excluded person under division (E)(1) of section 5751.01 of the	93404
Revised Code;	93405
(2) The person erroneously registered for the tax and failed	93406
to cancel the registration before May 10, 2006;	93407
(3) The person canceled its commercial activity tax	93408
registration before February 10, 2007, and was not required to	93409
file the returns due February 9, 2007, or February 9, 2008, or was	93410
not required to pay annual minimum tax payments for calendar year	93411
2007 or 2008.	93412
(C) The Tax Commissioner shall cancel the registration of	93413
each such person for which the registration has not yet been	93414
canceled.	93415
(D) If such a person paid the tax due for calendar year 2005	93416

or 2006 after being contacted by the Department of Taxation, the 93417
 person may request a refund of the amount paid for such a year or 93418
 years under section 5751.08 of the Revised Code, notwithstanding 93419
 division (E) of that section. 93420

Section 401.10. DOT DEPARTMENT OF TRANSPORTATION 93421

Transportation Modes 93422

General Revenue Fund 93423

GRF 775451 Public Transportation \$ 13,330,697 \$ 13,330,697 93424
 - State

GRF 776465 Ohio Rail Development \$ 2,932,000 \$ 2,932,000 93425
 Commission

GRF 776668 Transportation \$ 2,181,295 \$ 2,181,295 93426
 Operating - Federal
 Stimulus

GRF 777471 Airport Improvements \$ 1,137,664 \$ 1,137,664 93427
 - State

TOTAL GRF General Revenue Fund \$ 19,581,656 \$ 19,581,656 93428

TOTAL ALL BUDGET FUND GROUPS \$ 19,581,656 \$ 19,581,656 93429

Section 403.10. TOS TREASURER OF STATE 93431

General Revenue Fund 93432

GRF 090321 Operating Expenses \$ 8,381,875 \$ 8,381,875 93433

GRF 090401 Office of the Sinking \$ 537,223 \$ 537,223 93434
 Fund 93435

GRF 090402 Continuing Education \$ 403,959 \$ 403,959 93436

GRF 090524 Police and Fire \$ 8,000 \$ 7,500 93437
 Disability Pension 93438

Fund

GRF 090534 Police and Fire Ad Hoc \$ 95,000 \$ 90,000 93439

Cost
 of Living 93440

GRF 090554	Police and Fire	\$	720,000	\$	680,000	93441
	Survivor					
	Benefits					93442
GRF 090575	Police and Fire Death	\$	20,000,000	\$	20,000,000	93443
	Benefits					93444
TOTAL GRF General Revenue Fund		\$	30,146,057	\$	30,100,557	93445
General Services Fund Group						93446
4E90 090603	Securities Lending	\$	4,492,622	\$	4,492,622	93447
	Income					
5770 090605	Investment Pool	\$	550,000	\$	550,000	93448
	Reimbursement					93449
5C50 090602	County Treasurer	\$	150,000	\$	150,000	93450
	Education					
6050 090609	Treasurer of State	\$	185,000	\$	185,000	93451
	Administrative Fund					93452
TOTAL GSF General Services						93453
Fund Group		\$	5,377,622	\$	5,377,622	93454
Agency Fund Group						93455
4250 090635	Tax Refunds	\$	31,000,000	\$	31,000,000	93456
TOTAL Agency Fund Group		\$	31,000,000	\$	31,000,000	93457
TOTAL ALL BUDGET FUND GROUPS		\$	66,523,679	\$	66,478,179	93458

Section 403.20. OFFICE OF THE SINKING FUND 93460

The foregoing appropriation item 090401, Office of the 93461
Sinking Fund, shall be used for costs incurred by or on behalf of 93462
the Commissioners of the Sinking Fund and the Ohio Public 93463
Facilities Commission with respect to State of Ohio general 93464
obligation bonds or notes, and the Treasurer of State with respect 93465
to State of Ohio general obligation and special obligation bonds 93466
or notes, including, but not limited to, printing, advertising, 93467
delivery, rating fees and the procurement of ratings, professional 93468
publications, membership in professional organizations, and other 93469

services referred to in division (D) of section 151.01 of the Revised Code. The General Revenue Fund shall be reimbursed for such costs relating to the issuance and administration of Highway Capital Improvement bonds or notes authorized under Ohio Constitution, Article VIII, Section 2m and Chapter 151. of the Revised Code. That reimbursement shall be made from appropriation item 155902, Highway Capital Improvement Bond Retirement Fund, by intrastate transfer voucher pursuant to a certification by the Office of the Sinking Fund of the actual amounts used. The amounts necessary to make such a reimbursement are hereby appropriated from the Highway Capital Improvement Bond Retirement Fund created in section 151.06 of the Revised Code.

POLICE AND FIRE DEATH BENEFIT FUND

The foregoing appropriation item 090575, Police and Fire Death Benefits, shall be disbursed quarterly by the Treasurer of State at the beginning of each quarter of each fiscal year to the Board of Trustees of the Ohio Police and Fire Pension Fund. The Treasurer of State shall certify such amounts quarterly to the Director of Budget and Management. By the twentieth day of June of each fiscal year, the Board of Trustees of the Ohio Police and Fire Pension Fund shall certify to the Treasurer of State the amount disbursed in the current fiscal year to make the payments required by section 742.63 of the Revised Code and shall return to the Treasurer of State moneys received from this appropriation item but not disbursed.

TAX REFUNDS

The foregoing appropriation item 090635, Tax Refunds, shall be used to pay refunds under section 5703.052 of the Revised Code. If the Director of Budget and Management determines that additional amounts are necessary for this purpose, such amounts are hereby appropriated.

Section 405.10. TTA OHIO TUITION TRUST				93501	
State Special Revenue Fund Group				93502	
5P30 095602 Variable Savings	\$	6,175,707	\$	6,156,515	93503
Plans					
6450 095601 Guaranteed Savings	\$	842,959	\$	862,150	93504
Plan					
TOTAL SSR State Special Revenue					93505
Fund Group	\$	7,018,666	\$	7,018,665	93506
TOTAL ALL BUDGET FUND GROUPS	\$	7,018,666	\$	7,018,665	93507
FUND ABOLITION					93508
On July 1, 2009, or as soon as possible thereafter, the					93509
Director of Budget and Management shall transfer the cash balance					93510
in the Index Savings Plan Fund (Fund 5AM0) to the Variable Savings					93511
Fund (Fund 5P30). The Director shall cancel any existing					93512
encumbrances against appropriation item 095603, Index Savings					93513
Plan, and re-establish them against appropriation item 095602,					93514
Variable Savings Plans. The re-established encumbrance amounts are					93515
hereby appropriated. Upon completion of these transfers, Fund 5AM0					93516
is hereby abolished.					93517
On July 1, 2009, or as soon as possible thereafter, the					93518
Director of Budget and Management shall transfer the cash balance					93519
in the Banking Products Fund (Fund 5DC0) to the Variable College					93520
Savings Fund (Fund 5P30). The Director shall cancel any existing					93521
encumbrances against appropriation item 095604, Banking Products,					93522
and re-establish them against appropriation item 095602, Variable					93523
Savings Plans. The re-established encumbrance amounts are hereby					93524
appropriated. Upon completion of these transfers, Fund 5DC0 is					93525
hereby abolished.					93526
Section 407.10. VTO VETERANS' ORGANIZATIONS					93527
General Revenue Fund					93528

		VAP AMERICAN EX-PRISONERS OF WAR				93529
GRF	743501	State Support	\$	27,533	\$	27,533 93530
		VAN ARMY AND NAVY UNION, USA, INC.				93531
GRF	746501	State Support	\$	60,513	\$	60,513 93532
		VKW KOREAN WAR VETERANS				93533
GRF	747501	State Support	\$	54,398	\$	54,398 93534
		VJW JEWISH WAR VETERANS				93535
GRF	748501	State Support	\$	32,687	\$	32,687 93536
		VCW CATHOLIC WAR VETERANS				93537
GRF	749501	State Support	\$	63,789	\$	63,789 93538
		VPH MILITARY ORDER OF THE PURPLE HEART				93539
GRF	750501	State Support	\$	62,015	\$	62,015 93540
		VVV VIETNAM VETERANS OF AMERICA				93541
GRF	751501	State Support	\$	204,549	\$	204,549 93542
		VAL AMERICAN LEGION OF OHIO				93543
GRF	752501	State Support	\$	332,561	\$	332,561 93544
		VII AMVETS				93545
GRF	753501	State Support	\$	316,711	\$	316,711 93546
		VAV DISABLED AMERICAN VETERANS				93547
GRF	754501	State Support	\$	237,939	\$	237,939 93548
		VMC MARINE CORPS LEAGUE				93549
GRF	756501	State Support	\$	127,569	\$	127,569 93550
		V37 37TH DIVISION AEF VETERANS' ASSOCIATION				93551
GRF	757501	State Support	\$	6,541	\$	6,541 93552
		VFW VETERANS OF FOREIGN WARS				93553
GRF	758501	State Support	\$	271,277	\$	271,277 93554
TOTAL GRF		General Revenue Fund	\$	1,798,082	\$	1,798,082 93555
TOTAL ALL BUDGET FUND GROUPS			\$	1,798,082	\$	1,798,082 93556
		RELEASE OF FUNDS				93557
		The Director of Budget and Management may release the				93558
		foregoing appropriation items 743501, 746501, 747501, 748501,				93559
		749501, 750501, 751501, 752501, 753501, 754501, 756501, 757501,				93560
		and 758501, State Support.				93561

Section 409.10. DVS DEPARTMENT OF VETERANS SERVICES				93562
General Revenue Fund				93563
GRF	900100	Personal Services	\$ 25,219,282 \$ 25,219,282	93564
GRF	900200	Maintenance	\$ 4,427,264 \$ 4,427,264	93565
GRF	900402	Hall of Fame	\$ 118,750 \$ 118,750	93566
GRF	900403	Veteran Record	\$ 40,631 \$ 40,631	93567
Conversion				
GRF	900408	Department of Veterans Services	\$ 2,283,100 \$ 2,283,100	93568
TOTAL GRF General Revenue Fund				93569
\$ 32,089,027 \$ 32,089,027				
General Services Fund Group				93570
4840	900603	Veterans Home Services	\$ 770,000 \$ 850,000	93571
TOTAL GSF General Services Fund				93572
\$ 770,000 \$ 850,000				
Group				
Federal Special Revenue Fund Group				93573
3680	900614	Veterans Training	\$ 745,892 \$ 745,892	93574
3740	900606	Troops to Teachers	\$ 100,000 \$ 100,000	93575
3BX0	900609	Medicare Services	\$ 2,000,000 \$ 2,200,000	93576
3L20	900601	Veterans Home	\$ 16,979,245 \$ 17,454,046	93577
Operations - Federal				
TOTAL FED Federal Special Revenue				93578
Fund Group				93579
\$ 19,825,137 \$ 20,499,938				
State Special Revenue Fund Group				93580
4E20	900602	Veterans Home Operating	\$ 9,314,438 \$ 9,780,751	93581
6040	900604	Veterans Home Improvement	\$ 1,541,020 \$ 1,700,000	93582
TOTAL SSR State Special Revenue				93583
Fund Group				93584
\$ 10,855,458 \$ 11,480,751				
TOTAL ALL BUDGET FUND GROUPS				93585
\$ 63,539,622 \$ 64,919,716				

Section 411.10. DVM STATE VETERINARY MEDICAL BOARD				93587
General Services Fund Group				93588
4K90 888609	Operating Expenses	\$ 327,312	\$ 327,312	93589
TOTAL GSF General Services				93590
Fund Group		\$ 327,312	\$ 327,312	93591
TOTAL ALL BUDGET FUND GROUPS				93592
 Section 413.10. DYS DEPARTMENT OF YOUTH SERVICES				93594
General Revenue Fund				93595
GRF 470401	RECLAIM Ohio	\$ 197,713,840	\$ 192,963,840	93596
GRF 470412	Lease Rental Payments	\$ 23,460,900	\$ 26,043,900	93597
GRF 470510	Youth Services	\$ 18,558,587	\$ 18,558,587	93598
GRF 470640	RECLAIM - Federal	\$ 7,750,000	\$ 0	93599
Stimulus				
GRF 472321	Parole Operations	\$ 13,400,020	\$ 13,400,020	93600
GRF 477321	Administrative	\$ 14,754,419	\$ 14,754,419	93601
Operations				
TOTAL GRF General Revenue Fund				93602
General Services Fund Group				93603
1750 470613	Education	\$ 11,000,000	\$ 11,000,000	93604
Reimbursement				
4790 470609	Employee Food Service	\$ 200,000	\$ 150,000	93605
4A20 470602	Child Support	\$ 450,000	\$ 450,000	93606
4G60 470605	General Operational	\$ 250,000	\$ 250,000	93607
Funds				
5BN0 470629	E-Rate Program	\$ 35,000	\$ 35,000	93608
TOTAL GSF General Services				93609
Fund Group		\$ 11,935,000	\$ 11,885,000	93610
Federal Special Revenue Fund Group				93611
3210 470601	Education	\$ 6,531,076	\$ 5,455,413	93612
3210 470603	Juvenile Justice	\$ 300,000	\$ 300,000	93613

		Prevention					
3210	470606	Nutrition	\$	2,750,000	\$	2,750,000	93614
3210	470610	Rehabilitation	\$	36,000	\$	36,000	93615
		Programs					
3210	470614	Title IV-E	\$	6,000,000	\$	6,000,000	93616
		Reimbursements					
3BH0	470630	Federal Juvenile	\$	50,000	\$	0	93617
		Programs FFY 06					
3BT0	470634	Federal Juvenile	\$	50,000	\$	0	93618
		Programs					
3BY0	470635	Federal Juvenile	\$	334,000	\$	335,000	93619
		Programs FFY 07					
3BZ0	470636	Federal Juvenile	\$	653,350	\$	570,700	93620
		Programs FFY 08					
3CP0	470638	Federal Juvenile	\$	500,000	\$	500,000	93621
		Programs FFY 09					
3CR0	470639	Federal Juvenile	\$	0	\$	500,000	93622
		Programs FFY 10					
3V50	470604	Juvenile	\$	1,935,300	\$	2,361,000	93623
		Justice/Delinquency					
		Prevention					
3Z80	470625	Federal Juvenile	\$	2,000	\$	0	93624
		Programs FFY 04					
3Z90	470626	Federal Juvenile	\$	2,000	\$	0	93625
		Programs FFY 05					
TOTAL FED		Federal Special Revenue					93626
Fund Group			\$	19,143,726	\$	18,808,113	93627
State Special Revenue		Fund Group					93628
1470	470612	Vocational Education	\$	2,166,296	\$	2,788,906	93629
5BH0	470628	Partnerships for	\$	1,500,000	\$	1,500,000	93630
		Success					
TOTAL SSR		State Special Revenue					93631
Fund Group			\$	3,666,296	\$	4,288,906	93632

Program; the cost of the affirmative action and equal employment 93663
opportunity programs administered by the Department of 93664
Administrative Services; the costs of interagency information 93665
management infrastructure; and the cost of administering the state 93666
employee merit system as required by section 124.07 of the Revised 93667
Code. These costs shall be determined in conformity with the 93668
appropriate sections of law and paid in accordance with procedures 93669
specified by the Office of Budget and Management. Expenditures 93670
from appropriation item 070601, Public Audit Expense - Local 93671
Government, may be exempted from the requirements of this section. 93672

Section 503.20. SATISFACTION OF JUDGMENTS AND SETTLEMENTS 93673
AGAINST THE STATE 93674

Except as otherwise provided in this section, an 93675
appropriation in this act or any other act may be used for the 93676
purpose of satisfying judgments, settlements, or administrative 93677
awards ordered or approved by the Court of Claims or by any other 93678
court of competent jurisdiction in connection with civil actions 93679
against the state. This authorization does not apply to 93680
appropriations to be applied to or used for payment of guarantees 93681
by or on behalf of the state, or for payments under lease 93682
agreements relating to, or debt service on, bonds, notes, or other 93683
obligations of the state. Notwithstanding any other statute to the 93684
contrary, this authorization includes appropriations from funds 93685
into which proceeds of direct obligations of the state are 93686
deposited only to the extent that the judgment, settlement, or 93687
administrative award is for, or represents, capital costs for 93688
which the appropriation may otherwise be used and is consistent 93689
with the purpose for which any related obligations were issued or 93690
entered into. Nothing contained in this section is intended to 93691
subject the state to suit in any forum in which it is not 93692
otherwise subject to suit, and is not intended to waive or 93693
compromise any defense or right available to the state in any suit 93694

against it. 93695

Section 503.30. CAPITAL PROJECT SETTLEMENTS 93696

This section specifies an additional and supplemental 93697
procedure to provide for payments of judgments and settlements if 93698
the Director of Budget and Management determines, pursuant to 93699
division (C)(4) of section 2743.19 of the Revised Code, that 93700
sufficient unencumbered moneys do not exist in the fund to support 93701
a particular appropriation to pay the amount of a final judgment 93702
rendered against the state or a state agency, including the 93703
settlement of a claim approved by a court, in an action upon and 93704
arising out of a contractual obligation for the construction or 93705
improvement of a capital facility if the costs under the contract 93706
were payable in whole or in part from a state capital projects 93707
appropriation. In such a case, the Director may either proceed 93708
pursuant to division (C)(4) of section 2743.19 of the Revised Code 93709
or apply to the Controlling Board to increase an appropriation or 93710
create an appropriation out of any unencumbered moneys in the 93711
state treasury to the credit of the capital projects fund from 93712
which the initial state appropriation was made. The amount of an 93713
increase in appropriation or new appropriation approved by the 93714
Controlling Board is hereby appropriated from the applicable 93715
capital projects fund and made available for the payment of the 93716
judgment or settlement. 93717

If the Director does not make the application authorized by 93718
this section or the Controlling Board disapproves the application, 93719
and the Director does not make application under division (C)(4) 93720
of section 2743.19 of the Revised Code, the Director shall for the 93721
purpose of making that payment make a request to the General 93722
Assembly as provided for in division (C)(5) of that section. 93723

Section 503.40. RE-ISSUANCE OF VOIDED WARRANTS 93724

In order to provide funds for the reissuance of voided warrants under section 117.47 of the Revised Code, there is hereby appropriated, out of moneys in the state treasury from the fund credited as provided in section 117.47 of the Revised Code, that amount sufficient to pay such warrants when approved by the Office of Budget and Management.

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Section 503.50. REAPPROPRIATION OF UNEXPENDED ENCUMBERED BALANCES OF OPERATING APPROPRIATIONS

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(A) An unexpended balance of an operating appropriation or reappropriation that a state agency lawfully encumbered prior to the close of a fiscal year is hereby reappropriated for the following fiscal year from the fund from which it was originally appropriated or reappropriated for the following period and shall remain available only for the purpose of discharging the encumbrance:

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(1) For an encumbrance for personal services, maintenance, equipment, or items for resale, other than an encumbrance for an item of special order manufacture not available on term contract or in the open market or for reclamation of land or oil and gas wells, for a period of not more than five months from the end of the fiscal year;

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(2) For an encumbrance for an item of special order manufacture not available on term contract or in the open market, for a period of not more than five months from the end of the fiscal year or, with the written approval of the Director of Budget and Management, for a period of not more than twelve months from the end of the fiscal year;

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(3) For an encumbrance for reclamation of land or oil and gas wells, for a period ending when the encumbered appropriation is expended or for a period of two years, whichever is less;

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(4) For an encumbrance for any other expense, for such period 93755
as the Director approves, provided such period does not exceed two 93756
years. 93757

(B) For an encumbrance described in division (A)(1) of this 93758
section to remain available for more than five months from the end 93759
of the fiscal year, an agency shall, not later than November 1 of 93760
each fiscal year, make a request in writing to the Director of 93761
Budget and Management to maintain the encumbrance. The Director 93762
may exempt the encumbrance from cancellation for a specified 93763
period deemed appropriate. The exempted encumbrance is hereby 93764
reappropriated. If the request is not received by November 1, or 93765
if the request is not approved, the Director shall cancel the 93766
encumbrance. 93767

(C) Any operating appropriations for which unexpended 93768
balances are reappropriated beyond a five-month period from the 93769
end of the fiscal year by division (A)(2) of this section shall be 93770
reported to the Controlling Board by the Director of Budget and 93771
Management by the thirty-first day of December of each year. The 93772
report on each such item shall include the item, the cost of the 93773
item, and the name of the vendor. The report shall be updated on a 93774
quarterly basis for encumbrances remaining open. 93775

(D) Except as provided in division (E) of this section, upon 93776
the expiration of the reappropriation period set out in division 93777
(A) or (B) of this section, a reappropriation made by this section 93778
lapses, and the Director of Budget and Management shall cancel the 93779
encumbrance of the unexpended reappropriation not later than the 93780
end of the weekend following the expiration of the reappropriation 93781
period. 93782

(E) With the approval of the Director of Budget and 93783
Management, an unexpended balance of an encumbrance that was 93784
reappropriated by this section for a period specified in division 93785
(A)(3) or (4) of this section and that remains encumbered at the 93786

close of the fiscal biennium is hereby reappropriated for the 93787
following fiscal biennium from the fund from which it was 93788
originally appropriated or reappropriated for the applicable 93789
period specified in division (A)(3) or (4) of this section and 93790
shall remain available only for the purpose of discharging the 93791
encumbrance. 93792

(F) The Director of Budget and Management may correct 93793
accounting errors committed by the staff of the Office of Budget 93794
and Management, such as re-establishing encumbrances or 93795
appropriations cancelled in error, during the cancellation of 93796
operating encumbrances in November and of nonoperating 93797
encumbrances in December. 93798

(G) If the Controlling Board approved a purchase, that 93799
approval remains in effect so long as the appropriation used to 93800
make that purchase remains encumbered. 93801

Section 503.60. APPROPRIATIONS RELATED TO CASH TRANSFERS AND 93802
RE-ESTABLISHMENT OF ENCUMBRANCES 93803

Any cash transferred by the Director of Budget and Management 93804
under section 126.15 of the Revised Code is hereby appropriated. 93805
Any amounts necessary to re-establish appropriations or 93806
encumbrances under section 126.15 of the Revised Code are hereby 93807
appropriated. 93808

Section 503.70. INCOME TAX DISTRIBUTION TO COUNTIES 93809

There are hereby appropriated out of any moneys in the state 93810
treasury to the credit of the General Revenue Fund, which are not 93811
otherwise appropriated, funds sufficient to make any payment 93812
required by division (B)(2) of section 5747.03 of the Revised 93813
Code. 93814

Section 503.80. EXPENDITURES AND APPROPRIATION INCREASES 93815

APPROVED BY THE CONTROLLING BOARD 93816

Any money that the Controlling Board approves for expenditure 93817
or any increase in appropriation that the Controlling Board 93818
approves under sections 127.14, 131.35, and 131.39 of the Revised 93819
Code or any other provision of law is hereby appropriated for the 93820
period ending June 30, 2011. 93821

Section 503.90. FUNDS RECEIVED FOR USE OF GOVERNOR'S 93822
RESIDENCE 93823

If the Governor's Residence Fund (Fund 4H20) receives payment 93824
for use of the residence pursuant to section 107.40 of the Revised 93825
Code, the amounts so received are hereby appropriated to 93826
appropriation item 100604, Governor's Residence Gift. 93827

Section 506.10. UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS 93828
Unless the agency and nuclear electric utility mutually agree 93829
to a higher amount by contract, the maximum amounts that may be 93830
assessed against nuclear electric utilities under division (B)(2) 93831
of section 4937.05 of the Revised Code and deposited into the 93832
specified funds are as follows: 93833

<u>Fund</u>	<u>User</u>	<u>FY 2010</u>	<u>FY 2011</u>	
Utility Radiological Safety Fund (Fund 4E40)	Department of Agriculture	\$ 134,631	\$ 134,631	93834 93835
Radiation Emergency Response Fund (Fund 6100)	Department of Health	\$ 887,445	\$ 920,372	93836
ER Radiological Safety Fund (Fund 6440)	Environmental Protection Agency	\$ 286,114	\$ 286,114	93837
Emergency Response Plan Fund (Fund 6570)	Department of Public Safety	\$ 1,413,889	\$ 1,415,945	93838

Section 512.10. TRANSFERS TO THE GENERAL REVENUE FUND OF INTEREST EARNED 93839
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Notwithstanding any provision of law to the contrary, the Director of Budget and Management, through June 30, 2011, may transfer interest earned by any state fund to the General Revenue Fund. This section does not apply to funds whose source of revenue is restricted or protected by the Ohio Constitution, federal tax law, or the "Cash Management Improvement Act of 1990," 104 Stat. 1058 (1990), 31 U.S.C. 6501 et seq., as amended. 93841
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Section 512.20. CASH TRANSFERS FROM REPARATIONS FUND (Fund 4020) TO DISASTER PREPAREDNESS FUND (Fund 5EX0) 93848
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Notwithstanding any provision of law to the contrary, on July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$350,000 cash from the Reparations Fund (Fund 4020) to the Disaster Preparedness Fund (Fund 5EX0). 93850
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Section 512.30. GRF TRANSFER TO THE OAKS PROJECT IMPLEMENTATION FUND 93855
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On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer an amount not to exceed \$2,100,000 cash from the General Revenue Fund to the OAKS Project Implementation Fund (Fund 5N40). 93857
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Section 512.40. TRANSFERS FROM THE BUDGET STABILIZATION FUND 93861

Notwithstanding any provision of law to the contrary, the Director of Budget and Management, in either year of the biennium, may transfer cash from the Budget Stabilization Fund to the General Revenue Fund in order to balance General Revenue Fund revenues with General Revenue Fund expenditures. Within ten days 93862
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of any such transfer, the Director shall notify the Governor, the 93867
Speaker of the House of Representatives, the President of the 93868
Senate, and the Minority Leaders of the House of Representatives 93869
and the Senate of the date and amount of the transfer and the cash 93870
balance remaining in the Budget Stabilization Fund. 93871

Section 512.50. TRANSFER FROM EDUCATION FACILITIES TRUST FUND 93872
TO GRF 93873

Notwithstanding section 183.26 of the Revised Code, the 93874
Director of Budget and Management shall transfer \$200,000,000 cash 93875
in either fiscal year 2010 or fiscal year 2011 from the Education 93876
Facilities Trust Fund (Fund N087), which is used by the School 93877
Facilities Commission, to the General Revenue Fund. Not later than 93878
June 30, 2013, \$200,000,000 cash shall be deposited into Fund 93879
N087, or another fund of the Commission, for the purpose of 93880
constructing or renovating school facilities pursuant to Chapter 93881
3318. of the Revised Code. 93882

Section 512.60. CASH TRANSFERS TO THE GENERAL REVENUE FUND 93883
FROM NON-GRF FUNDS 93884

Notwithstanding any provision of law to the contrary, during 93885
fiscal years 2010 and 2011, the Director of Budget and Management 93886
may transfer cash from non-General Revenue Funds that are not 93887
constitutionally restricted to the General Revenue Fund in order 93888
to ensure that available General Revenue Fund receipts and 93889
balances are sufficient to support General Revenue Fund 93890
appropriations in each fiscal year. 93891

Before September 1 of each fiscal year, the Director of 93892
Budget and Management shall prepare quarterly estimates 93893
identifying funds in the state treasury from which cash transfers 93894
are to be made and the anticipated amount of these cash transfers. 93895
Beginning with the quarter ending September 30, 2009, and on a 93896

quarterly basis thereafter, the Director of Budget and Management 93897
shall prepare a summary comparing the estimated and actual amounts 93898
of these cash transfers by fund. This quarterly summary shall be 93899
included in the report required under section 126.05 of the 93900
Revised Code. 93901

Section 512.70. ACTION TO ESTABLISH FUNDS IN STATE TREASURY 93902

For purposes of sections 109.93, 111.18, and 173.85 of the 93903
Revised Code, as amended by this act, the Director of Budget and 93904
Management, in collaboration with the Treasurer of State, may take 93905
any action necessary to establish funds in the state treasury that 93906
were previously held in the custody of the Treasurer of State, 93907
including, but not limited to, the transfer of cash from the 93908
custodial funds to the state treasury and the establishment of 93909
appropriations and encumbrances to support outstanding 93910
obligations. The amounts necessary to support outstanding 93911
obligations are hereby appropriated. Agencies may request approval 93912
for additional appropriation from the Controlling Board. 93913
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Section 512.80. GRF TRANSFER TO THE PUBLIC AUDIT EXPENSE 93915
INTRA-STATE FUND 93916

On July 1, 2009, or as soon as possible thereafter, the 93917
Director of Budget and Management shall transfer \$400,900 cash 93918
from the General Revenue Fund to the Public Audit Expense 93919
Intra-State Fund (Fund 1090). The amounts transferred are hereby 93920
appropriated to help pay for expenses incurred in the Auditor of 93921
State's role relating to fiscal caution, fiscal watch, and fiscal 93922
emergency activities as defined in Chapter 3316. of the Revised 93923
Code and for performance audits for school districts in fiscal 93924
distress. 93925

Section 512.90. STATE AGENCY ADMINISTRATIVE COST SAVINGS AND 93926

EFFICIENCY 93927

Notwithstanding any provision of law to the contrary, a state 93928
agency may enter into one or more agreements with another state 93929
agency or agencies to achieve administrative cost savings and 93930
greater efficiency. Subject to sections 124.321 to 124.328 of the 93931
Revised Code, a state agency may identify employees who may be 93932
transferred to another agency for the purpose of consolidating 93933
finance, human resources, legal, or other administrative 93934
functions. In addition, state agencies may share office equipment, 93935
office space, or other agency assets to the extent such an 93936
arrangement would create savings in rental, lease, or other 93937
contractual expenses. The Director of Budget and Management, in 93938
accordance with section 126.21 of the Revised Code, may take any 93939
actions with regard to state agency budget changes, program 93940
transfers, the creation of new funds, or the consolidation of 93941
funds as necessary due to the administrative reorganization or 93942
consolidation for purposes of cost savings and greater efficiency 93943
pursuant to this section. 93944

Section 518.10. GENERAL OBLIGATION DEBT SERVICE PAYMENTS 93945

Certain appropriations are in this act for the purpose of 93946
paying debt service and financing costs on general obligation 93947
bonds or notes of the state issued pursuant to the Ohio 93948
Constitution and acts of the General Assembly. If it is determined 93949
that additional appropriations are necessary for this purpose, 93950
such amounts are hereby appropriated. 93951

Section 518.20. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF 93952
STATE 93953

Certain appropriations are in this act for the purpose of 93954
making lease rental payments pursuant to leases and agreements 93955
relating to bonds or notes issued by the Ohio Building Authority 93956

or the Treasurer of State or, previously, by the Ohio Public 93957
Facilities Commission, pursuant to the Ohio Constitution and acts 93958
of the General Assembly. If it is determined that additional 93959
appropriations are necessary for this purpose, such amounts are 93960
hereby appropriated. 93961

Section 518.30. AUTHORIZATION FOR TREASURER OF STATE AND OBM 93962
TO EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS 93963

The Office of Budget and Management shall process payments 93964
from general obligation and lease rental payment appropriation 93965
items during the period from July 1, 2009, to June 30, 2011, 93966
relating to bonds or notes issued under Sections 2i, 2k, 2l, 2m, 93967
2n, 2o, 2p, 2q, and 15 of Article VIII, Ohio Constitution, and 93968
Chapters 151. and 154. of the Revised Code. Payments shall be made 93969
upon certification by the Treasurer of State, Office of the 93970
Sinking Fund, of the dates and the amounts due on those dates. 93971

Section 518.40. AUTHORIZATION FOR OHIO BUILDING AUTHORITY AND 93972
OBM TO EFFECTUATE CERTAIN LEASE RENTAL PAYMENTS 93973

The Office of Budget and Management shall process payments 93974
from lease rental payment appropriation items during the period 93975
from July 1, 2009, to June 30, 2011, pursuant to the lease 93976
agreements entered into relating to bonds or notes issued under 93977
Section 2i of Article VIII, Ohio Constitution, and Chapter 152. of 93978
the Revised Code. Payments shall be made upon certification by the 93979
Ohio Building Authority of the dates and the amounts due on those 93980
dates. 93981

Section 521.10. STATE AND LOCAL REBATE AUTHORIZATION 93982

There is hereby appropriated, from those funds designated by 93983
or pursuant to the applicable proceedings authorizing the issuance 93984
of state obligations, amounts computed at the time to represent 93985

the portion of investment income to be rebated or amounts in lieu 93986
of or in addition to any rebate amount to be paid to the federal 93987
government in order to maintain the exclusion from gross income 93988
for federal income tax purposes of interest on those state 93989
obligations under section 148(f) of the Internal Revenue Code. 93990

Rebate payments shall be approved and vouchered by the Office 93991
of Budget and Management. 93992

Section 521.20. STATEWIDE INDIRECT COST RECOVERY 93993

Whenever the Director of Budget and Management determines 93994
that an appropriation made to a state agency from a fund of the 93995
state is insufficient to provide for the recovery of statewide 93996
indirect costs under section 126.12 of the Revised Code, the 93997
amount required for such purpose is hereby appropriated from the 93998
available receipts of such fund. 93999

Section 521.30. GRF TRANSFERS ON BEHALF OF THE STATEWIDE 94000
INDIRECT COST ALLOCATION PLAN 94001

The total transfers made from the General Revenue Fund by the 94002
Director of Budget and Management under this section shall not 94003
exceed the amounts transferred into the General Revenue Fund under 94004
section 126.12 of the Revised Code. 94005

The director of an agency may certify to the Director of 94006
Budget and Management the amount of expenses not allowed to be 94007
included in the Statewide Indirect Cost Allocation Plan under 94008
federal regulations, from any fund included in the Statewide 94009
Indirect Cost Allocation Plan, prepared as required by section 94010
126.12 of the Revised Code. 94011

Upon determining that no alternative source of funding is 94012
available to pay for such expenses, the Director of Budget and 94013
Management may transfer from the General Revenue Fund into the 94014
fund for which the certification is made, up to the amount of the 94015

certification. The director of the agency receiving such funds 94016
shall include, as part of the next budget submission prepared 94017
under section 126.02 of the Revised Code, a request for funding 94018
for such activities from an alternative source such that further 94019
federal disallowances would not be required. 94020

Section 521.40. FISCAL YEAR 2009 GENERAL REVENUE FUND ENDING 94021
BALANCE 94022

Notwithstanding divisions (B) and (C) of section 131.44 of 94023
the Revised Code, all fiscal year 2009 surplus revenue in excess 94024
of the amount required under division (A)(3) of section 131.44 of 94025
the Revised Code shall remain in the General Revenue Fund. 94026

Section 521.50. FEDERAL GOVERNMENT INTEREST REQUIREMENTS 94027

Notwithstanding any provision of law to the contrary, on or 94028
before the first day of September of each fiscal year, the 94029
Director of Budget and Management, in order to reduce the payment 94030
of adjustments to the federal government, as determined by the 94031
plan prepared under division (A) of section 126.12 of the Revised 94032
Code, may designate such funds as the Director considers necessary 94033
to retain their own interest earnings. 94034

Section 521.60. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT 94035

Pursuant to the plan for compliance with the Federal Cash 94036
Management Improvement Act required by section 131.36 of the 94037
Revised Code, the Director of Budget and Management may cancel and 94038
re-establish all or part of encumbrances in like amounts within 94039
the funds identified by the plan. The amounts necessary to 94040
re-establish all or part of encumbrances are hereby appropriated. 94041

Section 521.70. FISCAL STABILIZATION AND RECOVERY 94042

(A) To ensure the level of accountability and transparency 94043

required by federal law, the Director of Budget and Management may 94044
issue guidelines to any agency applying for federal money made 94045
available to this state for fiscal stabilization and recovery 94046
purposes, and may prescribe the process by which agencies are to 94047
comply with any reporting requirements established by the federal 94048
government. 94049

(B) Notwithstanding any provision of law to the contrary, 94050
federal money received by or on behalf of this state for fiscal 94051
stabilization in support of elementary, secondary, and higher 94052
education, public safety, and any other government service shall 94053
be deposited into the state treasury to the credit of the General 94054
Revenue Fund. If additional federal fiscal stabilization funds are 94055
available, the Director of Budget and Management may authorize 94056
expenditures from the General Revenue Fund in excess of the 94057
amounts appropriated to provide additional government services. 94058
Upon the authorization of the Director, the additional amounts are 94059
hereby appropriated. The federal money shall not be used as a 94060
match for the state's share of Medicaid. 94061

Section 523.10. ADVANCED ENERGY RESEARCH AND DEVELOPMENT 94062

(A) All items set forth in this division are hereby 94063
appropriated, for fiscal years 2011 and 2012, the biennium ending 94064
on June 30, 2012, out of any moneys in the state treasury to the 94065
credit of the Advanced Energy Research and Development Taxable 94066
Fund (Fund 7004) derived from the proceeds of obligations 94067
heretofore authorized under section 166.11 of the Revised Code: 94068

AIR AIR QUALITY DEVELOPMENT AUTHORITY 94069

C89800	Advanced Energy Research and Development	\$	18,000,000	94070
	Total Air Quality Development Authority	\$	18,000,000	94071
	TOTAL Advanced Energy Research and Development	\$	18,000,000	94072

Taxable Fund

(B) All items set forth in this division are hereby 94073

appropriated, for fiscal years 2011 and 2012, the biennium ending 94074
on June 30, 2012, out of any moneys in the state treasury to the 94075
credit of the Advanced Energy Research and Development Fund (Fund 94076
7005) derived from the proceeds of obligations heretofore 94077
authorized under section 166.11 of the Revised Code: 94078

AIR AIR QUALITY DEVELOPMENT AUTHORITY 94079

C89801	Advanced Energy Research and Development	\$	38,000,000	94080
	Total Air Quality Development Authority	\$	38,000,000	94081
	TOTAL Advanced Energy Research and Development	\$	38,000,000	94082

Fund

(C) The appropriation items C89800, Advanced Energy Research 94083
and Development Taxable, and C89801, Advanced Energy Research and 94084
Development, shall be used for advanced energy projects as 94085
provided in sections 3706.25 to 3706.30 of the Revised Code. The 94086
Executive Director of the Air Quality Development Authority may 94087
certify to the Director of Budget and Management that a need 94088
exists to fund additional advanced energy projects. If the 94089
Director of Budget and Management determines that investment 94090
earnings of the Advanced Energy Research and Development Taxable 94091
Fund (Fund 7004) and the Advanced Energy Research and Development 94092
Fund (Fund 7005) are available to fund additional projects, the 94093
Director may authorize additional expenditures from Fund 7004 or 94094
Fund 7005. Such amounts are hereby appropriated. 94095

(D) Notwithstanding any contrary provision of law, upon the 94096
request of the Executive Director of the Air Quality Development 94097
Authority, the Director of Budget and Management may transfer cash 94098
between Funds 7004 and 7005. Amounts transferred are hereby 94099
appropriated. 94100

(E) Expenditures from appropriations contained in this 94101
section may be accounted for as though made in the main capital 94102
appropriations act for the fiscal year 2011-2012 biennium enacted 94103
by the 128th General Assembly. The Air Quality Development 94104

Authority shall not expend any of the appropriations made in this section until after July 1, 2010.

Section 610.10. That Sections 103.80.80, 103.80.90, and 301.10.50 of H.B. 496 of the 127th General Assembly be amended to read as follows:

Reappropriations

Sec. 103.80.80.	OSB SCHOOL FOR THE BLIND			94110
C22606	Glass Windows/East Wall of Natatorium	\$	63,726	94111
C22607	Renovation of Science Laboratory Greenhouse	\$	58,850	94112
C22608	Renovating Recreation Area	\$	213,900	94113
C22609	New Classrooms for Secondary MH Program	\$	996,164	94114
C22610	Renovation of Student Health Service Area	\$	144,375	94115
C22611	Replacement of Cottage Windows	\$	208,725	94116
C22612	Residential Renovations	\$	7,043 41,649	94117
C22613	Food Preparation Area Air Conditioning	\$	67,250	94118
C22614	New School Lighting	\$	184,500	94119
C22616	Renovation and Repairs	\$	890,000	94120
C22617	Elevator Replacement	\$	110,000	94121
Total Ohio School for the Blind		\$	2,944,533	94122
			<u>2,979,139</u>	

RESIDENTIAL RENOVATIONS

The amount reappropriated for the foregoing appropriation item C22612, Residential Renovations, is the unencumbered and unallotted balance as of June 30, 2008, in appropriation item C22612, Residential Renovations, plus \$34,606.

Reappropriations

Sec. 103.80.90. OSD SCHOOL FOR THE DEAF

C22103	Dormitory Renovations	\$	2,833	94129
C22104	Boilers, Blowers, and Controls for the School Complex	\$	47,360	94130
C22105	Central Warehouse	\$	676,624	94131
C22106	Storage Barn	\$	330,850 <u>384,279</u>	94132
C22107	Renovation and Repairs	\$	1,000,000	94133
Total Ohio School for the Deaf		\$	2,057,667 <u>2,111,096</u>	94134
TOTAL Administrative Building Fund		\$	101,617,431 <u>101,705,466</u>	94135

STORAGE BARN 94136

The amount reappropriated for the foregoing appropriation 94137
item C22106, Storage Barn, is the unencumbered and unallotted 94138
balance as of June 30, 2008, in appropriation item C22106, Storage 94139
Barn, plus \$53,429. 94140

Sec. 301.10.50. THIRD FRONTIER PROJECT 94141

The foregoing appropriation item C23506, Third Frontier 94142
Project, shall be used to acquire, renovate, or construct 94143
facilities and purchase equipment for research programs, 94144
technology development, product development, and commercialization 94145
programs at or involving state-supported and state-assisted 94146
institutions of higher education. The funds shall be used to make 94147
grants awarded on a competitive basis, and shall be administered 94148
by the Third Frontier Commission. Expenditure of these funds shall 94149
comply with Section 2n of Article VIII, Ohio Constitution, and 94150
sections 151.01 and 151.04 of the Revised Code for the period 94151
beginning July 1, 2008, and ending June 30, 2010. 94152

Of the foregoing appropriation item C23506, Third Frontier 94153
Project, an amount equal to the unexpended, unencumbered portion 94154
at the end of fiscal year 2008 that was allocated for the 94155

implementation of the NextGen Network, shall be used for the same 94156
purpose in fiscal year 2009 and fiscal year 2010. 94157

The Third Frontier Commission shall develop guidelines 94158
relative to the application for and selection of projects funded 94159
from appropriation item C23506, Third Frontier Project. The 94160
commission may develop these guidelines in consultation with other 94161
interested parties. The Board of Regents and all state-assisted 94162
and state-supported institutions of higher education shall take 94163
all actions necessary to implement grants awarded by the Third 94164
Frontier Commission. 94165

The foregoing appropriation item C23506, Third Frontier 94166
Project, for which an appropriation is made from the Higher 94167
Education Improvement Fund (Fund 7034), is determined to consist 94168
of capital improvements and capital facilities for state-supported 94169
and state-assisted institutions of higher education, and is 94170
designated for the capital facilities to which proceeds of 94171
obligations in the Higher Education Improvement Fund (Fund 7034) 94172
are to be applied. 94173

Section 610.11. That existing Sections 103.80.80, 103.80.90, 94174
and 301.10.50 of H.B. 496 of the 127th General Assembly are hereby 94175
repealed. 94176

Section 610.30. That Sections 233.40.30 and 233.50.80 of Am. 94177
Sub. H.B. 562 of the 127th General Assembly be amended to read as 94178
follows: 94179

Appropriations

Sec. 233.40.30.	CTI COLUMBUS STATE COMMUNITY COLLEGE		94180
C38400	Basic Renovations	\$ 1,691,834	94181
C38411	Columbus Hall Renovation	\$ 5,470,913	94182
C38412	Painters Apprenticeship Council	\$ 500,000	94183

C38413	Jewish Community Center NE Initiative	\$	575,000	94184
C38414	Somali Community Center	\$	100,000	94185
<u>C38415</u>	<u>Building E</u>	<u>\$</u>	<u>1,200,000</u>	94186
Total Columbus State Community College		\$	8,337,747	94187
			<u>9,537,747</u>	

Appropriations

Sec. 233.50.80.	STC STARK TECHNICAL COLLEGE			94189
C38900	Basic Renovations	\$	786,333	94190
C38913	Business Technologies Building	\$	2,034,537	94191
C38914	Corporate and Community Services Facility	\$	500,000	94192
Total Stark Technical College		\$	3,320,870	94193
Total Board of Regents and Institutions of Higher Education		\$	598,559,802	94195
			<u>599,759,802</u>	
TOTAL Higher Education Improvement Fund		\$	609,109,802	94196
			<u>610,309,802</u>	

Section 610.31. That existing Sections 233.40.30 and 233.50.80 of Am. Sub. H.B. 562 of the 127th General Assembly are hereby repealed. 94198
94199
94200

Section 620.10. That Section 831.06 of Am. Sub. H.B. 530 of the 126th General Assembly be amended to read as follows: 94201
94202

Sec. 831.06. The amendments by this act of the first paragraph of division (F) of section 5751.01, of division (F)(2)(w) of section 5751.01, of the first paragraph of section ~~5751.032~~ 5751.53, and of divisions (A)(7) and (A)(8)(c) of section 5751.032 of the Revised Code are nonsubstantive corrections of errors in Chapter 5751. of the Revised Code. 94203
94204
94205
94206
94207
94208

Section 620.11. That existing Section 831.06 of Am. Sub. H.B. 94209

530 of the 126th General Assembly is hereby repealed. 94210

Section 630.10. That Section 4 of Am. Sub. H.B. 516 of the 94211
125th General Assembly, as most recently amended by Am. Sub. H.B. 94212
100 of the 127th General Assembly, be amended to read as follows: 94213

Sec. 4. The following agencies shall be retained pursuant to 94214
division (D) of section 101.83 of the Revised Code and shall 94215
expire on December 31, 2010: 94216

REVISED CODE 94217

OR

UNCODIFIED 94218

AGENCY NAME SECTION 94219

Administrator, Interstate Compact on Mental Health 5119.50 94220

Administrator, Interstate Compact on 5103.20 94221
Placement of Children 94222

Advisory Board of Governor's Office of Faith-Based 107.12 94223
and Community Initiatives

Advisory Boards to the EPA for Air Pollution 121.13 94224

Advisory Boards to the EPA for Water Pollution 121.13 94225

Advisory Committee of the State Veterinary Medical 4741.03(D)(3) 94226
Licensing Board

Advisory Committee on Livestock Exhibitions 901.71 94227

Advisory Council on Amusement Ride Safety 1711.51 94228

Advisory Board of Directors for Prison Labor 5145.162 94229

Advisory Council for Each Wild, Scenic, or 1517.18 94230
Recreational River Area

Advisory Councils or Boards for State Departments 107.18 or 94231
121.13

Advisory Group to the Ohio Water Resources Council 1521.19(C) 94232

Alzheimer's Disease Task Force 173.04(F) 94233

AMBER Alert Advisory Committee 5502.521 94234

Apprenticeship Council	4139.02	94235
Armory Board of Control	5911.09	94236
Automated Title Processing Board	4505.09(C)(1)	94237
Banking Commission	1123.01	94238
Board of Directors of the Ohio Health Reinsurance Program	3924.08	94239
Board of Voting Machine Examiners	3506.05(B)	94240
Brain Injury Advisory Committee	3304.231	94241
Capitol Square Review and Advisory Board	105.41	94242
Child Support Guideline Advisory Council	3119.024	94243
Children's Trust Fund Board	3109.15	94244
Citizens Advisory Committee (BMV)	4501.025	94245
Citizen's Advisory Councils (Dept. of Mental Retardation and Developmental Disabilities)	5123.092	94246
Clean Ohio Trail Advisory Board	1519.06	94247
Coastal Resources Advisory Council	1506.12	94248
Commission on African-American Males	4112.12	94249
Commission on Hispanic-Latino Affairs	121.31	94250
Commission on Minority Health	3701.78	94251
Committee on Prescriptive Governance	4723.49	94252
Commodity Advisory Commission	926.32	94253
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353	94254
Community Oversight Council	3311.77	94255
Compassionate Care Task Force	Section 3, H.B. 474, 124th GA	94256
Continuing Education Committee (for Sheriffs)	109.80	94257
Coordinating Committee, Agricultural Commodity Marketing Programs	924.14	94258
Council on Alcohol and Drug Addiction Services	3793.09	94259
Council on Unreclaimed Strip Mined Lands	1513.29	94260
Council to Advise on the Establishment and	3705.34	94261

~~Implementation of the Birth Defects Information System~~

County Sheriffs' Standard Car-Marking and Uniform Commission	311.25	94262
Credit Union Council	1733.329	94263
Criminal Sentencing Advisory Committee	181.22	94264
Day-Care Advisory Council	5104.08	94265
Dentist Loan Repayment Advisory Board	3702.92	94266
Development Financing Advisory Council	122.40	94267
Education Commission of the States (Interstate Compact for Education)	3301.48	94268
Electrical Safety Inspector Advisory Committee	3783.08	94269
Emergency Response Commission	3750.02	94270
Engineering Experiment Station Advisory Committee	3335.27	94271
Environmental Education Council	3745.21	94272
EPA Advisory Boards or Councils	121.13	94273
Farmland Preservation Advisory Board	901.23	94274
Financial Planning & Supervision Commission for Municipal Corporation, County, or Township	118.05	94275
Financial Planning & Supervision Commission for School District	3316.05	94276
Forestry Advisory Council	1503.40	94277
Governance Authority for a State University or College	3345.75	94278
Governor's Advisory Council on Physical Fitness, Wellness, & Sports	3701.77	94279
Governor's Council on People with Disabilities	3303.41	94280
Governor's Residence Advisory Commission	107.40	94281
Great Lakes Commission (Great Lakes Basin Compact)	6161.01	94282
Gubernatorial Transition Committee	107.29	94283
Head Start Partnership Study Council	Section 41.35,	94284
	H.B. 95, 125th	
	GA	

Hemophilia Advisory Subcommittee	3701.0210	94285
Housing Trust Fund Advisory Committee	175.25 <u>174.06</u>	94286
Industrial Commission Nominating Council	4121.04	94287
Industrial Technology and Enterprise Advisory Council	122.29	94288
Infant Hearing Screening Subcommittee	3701.507	94289
Insurance Agent Education Advisory Council	3905.483	94290
Interagency Council on Hispanic/Latino Affairs	121.32(J)	94291
Interstate Mining Commission (Interstate Mining Compact)	1514.30	94292
Interstate Rail Passenger Advisory Council (Interstate High Speed Intercity Rail Passenger Network Compact)	4981.35	94293
Joint Council on MR/DD	101.37	94294
Joint Select Committee on Volume Cap	133.021	94295
Labor-Management Government Advisory Council	4121.70	94296
Legal Rights Service Commission	5123.60	94297
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51	94298
Maternal and Child Health Council	3701.025	94299
Medically Handicapped Children's Medical Advisory Council	3701.025	94300
Midwest Interstate Passenger Rail Compact Commission (Ohio members)	4981.361	94301
Military Activation Task Force	5902.15	94302
Milk Sanitation Board	917.03	94303
Mine Subsidence Insurance Governing Board	3929.51	94304
Minority Development Financing Board	122.72	94305
Multi-Agency Radio Communications Systems Steering Committee	Sec. 21, H.B. 790, 120th GA	94306
Multidisciplinary Council	3746.03	94307
Muskingum River Advisory Council	1501.25	94308
National Museum of Afro-American History and	149.303	94309

Culture Planning Committee		
Ohio Advisory Council for the Aging	173.03	94310
Ohio Aerospace & Defense Advisory Council	122.98	94311
Ohio Arts Council	3379.02	94312
Ohio Business Gateway Steering Committee	5703.57	94313
Ohio Cemetery Dispute Resolution Commission	4767.05	94314
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)	94315
Ohio Commercial Insurance Joint Underwriting Association Board Of Governors	3930.03	94316
Ohio Commercial Market Assistance Plan Executive Committee	3930.02	94317
Ohio Commission on Dispute Resolution and Conflict Management	179.02	94318
Ohio Commission to Reform Medicaid	Section 59.29, H.B. 95, 125th GA	94319
Ohio Community Service Council	121.40	94320
Ohio Council for Interstate Adult Offender Supervision	5149.22	94321
Ohio Cultural Facilities Commission	3383.02	94322
Ohio Developmental Disabilities Council	5123.35	94323
Ohio Expositions Commission	991.02	94324
Ohio Family and Children First Cabinet Council	121.37	94325
Ohio Geology Advisory Council	1505.11	94326
Ohio Grape Industries Committee	924.51	94327
Ohio Hepatitis C Advisory Commission	3701.92	94328
Ohio Historic Site Preservation Advisory Board	149.301	94329
Ohio Historical Society Board of Trustees	149.30	94330
Ohio Judicial Conference	105.91	94331
Ohio Lake Erie Commission	1506.21	94332
Ohio Medical Malpractice Commission	Section 4, S.B. 281,	94333

	124th GA and Section 3, S.B. 86, 125th GA	
Ohio Medical Quality Foundation	3701.89	94334
Ohio Parks and Recreation Council	1541.40	94335
Ohio Peace Officer Training Commission	109.71	94336
Ohio Public Defender Commission	120.01	94337
Ohio Public Library Information Network Board	Sec. 69, H.B. 117, 121st GA, as amended by H.B. 284, 121st GA	94338
Ohio Quarter Horse Development Commission	3769.086	94339
Ohio Small Government Capital Improvements Commission	164.02	94340
Ohio Soil and Water Conservation Commission	1515.02	94341
Ohio Standardbred Development Commission	3769.085	94342
Ohio Steel Industry Advisory Council	122.97	94343
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)	94344
Ohio Thoroughbred Racing Advisory Committee	3769.084	94345
Ohio Tuition Trust Authority	3334.03	94346
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10	94347
Ohio Vendors Representative Committee	3304.34	94348
Ohio War Orphans Scholarship Board	5910.02	94349
Ohio Water Advisory Council	1521.031	94350
Ohio Water Resources Council	1521.19	94351
Ohioana Library Association, Martha Kinney Cooper Memorial	3375.62	94352
Oil and Gas Commission	1509.35	94353
Operating Committee, Agricultural Commodity	924.07	94354

Marketing Programs

Organized Crime Investigations Commission	177.01	94355
Pharmacy and Therapeutics Committee of the Dept. of Job and Family Services	5111.81 <u>5111.084</u>	94356
Physician Loan Repayment Advisory Board	3702.81	94357
Power Siting Board	4906.02	94358
Prequalification Review Board	5525.07	94359
Private Water Systems Advisory Council	3701.346	94360
Public Employment Risk Reduction Advisory Commission	4167.02	94361
Public Health Council	3701.33	94362
Public Utilities Commission Nominating Council	4901.021	94363
Public Utility Property Tax Study Committee	5727.85	94364
Radiation Advisory Council	3748.20	94365
Reclamation Commission	1513.05	94366
Recreation and Resources Commission	1501.04	94367
Recycling and Litter Prevention Advisory Council	1502.04	94368
Rehabilitation Services Commission Consumer Advisory Committee	3304.24	94369
Savings & Loans Associations & Savings Banks Board	1181.16	94370
Schools and Ministerial Lands Divestiture Committee	501.041	94371
Second Chance Trust Fund Advisory Committee	2108.17	94372
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	94373
Solid Waste Management Advisory Council	3734.51	94374
State Agency Coordinating Group	1521.19	94375
State Board of Emergency Medical Services Subcommittees	4765.04	94376
State Council of Uniform State Laws	105.21	94377
State Committee for the Purchase of Products and Services Provided by Persons with Severe Disabilities	4115.32	94378

State Criminal Sentencing Commission	181.21	94379
State Fire Commission	3737.81	94380
State Racing Commission	3769.02	94381
State Victims Assistance Advisory Committee	109.91	94382
Student Tuition Recovery Authority	3332.081	94383
Tax Credit Authority	122.17	94384
Technical Advisory Committee to Assist the Director of the Ohio Coal Development Office	1551.35	94385
Technical Advisory Council on Oil and Gas	1509.38	94386
Transportation Review Advisory Council	5512.07	94387
Unemployment Compensation Review Commission	4141.06	94388
Unemployment Compensation Advisory Council	4141.08	94389
Utility Radiological Safety Board	4937.02	94390
Vehicle Management Commission	125.833	94391
Veterans Advisory Committee	5902.02(K)	94392
Volunteer Fire Fighters' Dependents Fund Boards (Private and Public)	146.02	94393
Water and Sewer Commission	1525.11(C)	94394
Waterways Safety Council	1547.73	94395
Wildlife Council	1531.03	94396
Workers' Compensation Board of Directors	4121.123	94397
Nominating Committee		

Section 630.11. That existing Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly, as most recently amended by Am. Sub. H.B. 100 of the 127th General Assembly, is hereby repealed.

Section 640.10. That Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 119 of the 127th General Assembly, be amended to read as follows:

Sec. 153. (A) Sections 5112.01, 5112.03, 5112.04, 5112.05, 5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18,

5112.19, 5112.21, and 5112.99 of the Revised Code are hereby 94406
repealed, effective October 16, ~~2009~~ 2011. 94407

(B) Any money remaining in the Legislative Budget Services 94408
Fund on October 16, ~~2009~~ 2011, the date that section 5112.19 of 94409
the Revised Code is repealed by division (A) of this section, 94410
shall be used solely for the purposes stated in then former 94411
section 5112.19 of the Revised Code. When all money in the 94412
Legislative Budget Services Fund has been spent after then former 94413
section 5112.19 of the Revised Code is repealed under division (A) 94414
of this section, the fund shall cease to exist. 94415

Section 640.11. That existing Section 153 of Am. Sub. H.B. 94416
117 of the 121st General Assembly, as most recently amended by Am. 94417
Sub. H.B. 119 of the 127th General Assembly, is hereby repealed. 94418
94419

Section 701.10. EXEMPT EMPLOYEE CONSENT TO CERTAIN DUTIES 94420

(A) As used in this section, "appointing authority" has the 94421
same meaning as in section 124.01 of the Revised Code, and "exempt 94422
employee" has the same meaning as in section 124.152 of the 94423
Revised Code. 94424

(B) Notwithstanding section 124.181 of the Revised Code, both 94425
of the following apply: 94426

(1) In cases where no vacancy exists, an appointing authority 94427
may, with the written consent of an exempt employee, assign duties 94428
of a higher classification to that exempt employee for a period of 94429
time not to exceed two years, and that exempt employee shall 94430
receive compensation at a rate commensurate with the duties of the 94431
higher classification. 94432

(2) If necessary, exempt employees who are assigned to duties 94433
within their agency to maintain operations during the Ohio 94434

Administrative Knowledge System (OAKS) implementation may agree to 94435
a temporary assignment that exceeds the two-year limit. 94436

Section 701.20. FINANCIAL PLANNING AND SUPERVISION 94437
COMMISSIONS 94438

For any Financial Planning and Supervision Commission 94439
established prior to the effective date of the amendment of 94440
section 118.05 of the Revised Code by the Main Operating 94441
Appropriations Act of the 128th General Assembly, four members 94442
constitute a quorum and the affirmative vote of four members is 94443
necessary for any action taken by vote of the commission. 94444

Section 701.30. SCIENCE AND TECHNOLOGY COLLABORATION 94445

The Department of Development, the Board of Regents, the Air 94446
Quality Development Authority, the Department of Agriculture, and 94447
the Third Frontier Commission shall collaborate in relation to 94448
appropriation items and programs referred to as Technology-based 94449
Economic Development Programs in this section, and other 94450
technology-related appropriations and programs in the Department 94451
of Development, Air Quality Development Authority, Department of 94452
Agriculture, and the Board of Regents as these agencies may 94453
designate, to ensure implementation of a coherent state science 94454
and technology strategy. 94455

To the extent permitted by law, the Air Quality Development 94456
Authority shall assure that coal research and development 94457
programs, proposals, and projects consider or incorporate 94458
collaborations with Third Frontier Project programs and grantees 94459
and with Technology-based Economic Development Programs and 94460
grantees. 94461

"Technology-based Economic Development Programs" means 94462
appropriation items 195401, Thomas Edison Program; 898402, Coal 94463
Development Office; 195422, Technology Action; 898604, Coal 94464

Research and Development Fund; 235433, Economic Growth Challenge; 94465
235508, Air Force Institute of Technology; 235510, Ohio 94466
Supercomputer Center; 235535, Ohio Agricultural Research and 94467
Development Center; 235556, Ohio Academic Resources Network; 94468
195435, Biomedical Research and Technology Transfer; 195687, Third 94469
Frontier Research & Development Projects; C23506, Third Frontier 94470
Project; 195692, Research & Development Taxable Bond Projects; 94471
195694, Jobs Fund Bioproducts; 195695, Jobs Fund Biomedical; and 94472
tax credits supporting the Ohio Venture Capital Authority and 94473
Technology Investment Tax Credit programs. 94474

Technology-based Economic Development Programs shall be 94475
managed and administered in accordance with the following 94476
objectives: (1) to build on existing competitive research 94477
strengths; (2) to encourage new and emerging discoveries and 94478
commercialization of products and ideas that will benefit the Ohio 94479
economy; and (3) to assure improved collaboration among programs 94480
administered by the Third Frontier Commission and with other state 94481
programs that are intended to improve economic growth and job 94482
creation. As directed by the Third Frontier Commission, 94483
Technology-based Economic Development Program managers shall 94484
report to the Commission or the Third Frontier Advisory Board 94485
regarding the contributions of their programs to achieving these 94486
objectives. 94487

Each Technology-based Economic Development Program shall be 94488
reviewed annually by the Third Frontier Commission with respect to 94489
its development of complementary relationships within a combined 94490
state science and technology investment portfolio, and with 94491
respect to its overall contribution to the state's science and 94492
technology strategy, including the adoption of appropriately 94493
consistent criteria for: (1) the scientific and technical merit 94494
and relationship to Ohio's research strengths of activities 94495
supported by the program; (2) the relevance of the program's 94496

activities to commercial opportunities in the private sector; (3) 94497
the private sector's involvement in a process that continually 94498
evaluates commercial opportunities to use the work supported by 94499
the program; and (4) the ability of the program and recipients of 94500
grant funding from the program to engage in activities that are 94501
collaborative, complementary, and efficient in the expenditure of 94502
state funds. Each Technology-based Economic Development Program 94503
shall provide an annual report to the Third Frontier Commission 94504
that discusses existing, planned, or possible collaborations 94505
between programs and between recipients of grant funding related 94506
to technology, development, commercialization, and the support of 94507
Ohio's economic development. The annual review conducted by the 94508
Third Frontier Commission shall be a comprehensive review of the 94509
entire state science and technology program portfolio rather than 94510
a review of individual programs. 94511

Applicants for Third Frontier and Technology-based Economic 94512
Development Programs funding shall identify their requirements for 94513
high-performance computing facilities and services, including both 94514
hardware and software, in all proposals. If an applicant's 94515
requirements exceed approximately \$100,000 for a proposal, the 94516
Ohio Supercomputer Center shall convene a panel of experts. The 94517
panel shall review the proposal to determine whether the 94518
proposal's requirements can be met through Ohio Supercomputer 94519
Center facilities or through other means and report such 94520
information to the Third Frontier Commission. 94521

To ensure that the state receives the maximum benefit from 94522
its investment in the Third Frontier Project and the NextGen 94523
Network, organizations receiving Third Frontier awards and 94524
Technology-based Economic Development Programs awards shall, as 94525
appropriate, be expected to have a connection to the NextGen 94526
Network that enables them and their collaborators to achieve award 94527
objectives through the NextGen Network. 94528

Section 729.10. PENALTIES FOR THEFT-RELATED OFFENSES 94529

The amendments to sections 926.99, 1333.99, 1707.99, 1716.99, 94530
2909.03, 2909.05, 2909.11, 2913.02, 2913.03, 2913.04, 2913.11, 94531
2913.21, 2913.31, 2913.32, 2913.34, 2913.40, 2913.401, 2913.42, 94532
2913.421, 2913.43, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 94533
2913.51, 2913.61, 2915.05, 2917.21, 2917.31, 2917.32, 2921.13, 94534
2921.41, 2923.31, and 2981.07 of the Revised Code that are made in 94535
this act apply to a person who commits an offense specified or 94536
penalized under those sections on or after the effective date of 94537
this act and to a person to whom division (B) of section 1.58 of 94538
the Revised Code makes the amendment applicable. 94539
94540

The provisions of sections 926.99, 1333.99, 1707.99, 1716.99, 94541
2909.03, 2909.05, 2909.11, 2913.02, 2913.03, 2913.04, 2913.11, 94542
2913.21, 2913.31, 2913.32, 2913.34, 2913.40, 2913.401, 2913.42, 94543
2913.421, 2913.43, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 94544
2913.51, 2913.61, 2915.05, 2917.21, 2917.31, 2917.32, 2921.13, 94545
2921.41, 2923.31, and 2981.07 of the Revised Code in existence 94546
prior to the effective date of this act shall apply to a person 94547
upon whom a court imposed sentence prior to the effective date of 94548
this act for an offense specified or penalized under those 94549
sections. The amendments to sections 926.99, 1333.99, 1707.99, 94550
1716.99, 2909.03, 2909.05, 2909.11, 2913.02, 2913.03, 2913.04, 94551
2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.40, 2913.401, 94552
2913.42, 2913.421, 2913.43, 2913.45, 2913.46, 2913.47, 2913.48, 94553
2913.49, 2913.51, 2913.61, 2915.05, 2917.21, 2917.31, 2917.32, 94554
2921.13, 2921.41, 2923.31, and 2981.07 of the Revised Code that 94555
are made in this act do not apply to a person who upon whom a 94556
court imposed sentence prior to the effective date of this act for 94557
an offense specified or penalized under those sections. 94558

Section 741.10. PAYROLL REDUCTION STRATEGIES 94559

Notwithstanding any other provision of law to the contrary, 94560
the Office of Collective Bargaining of the Department of 94561
Administrative Services is authorized to negotiate with the 94562
respective state collective bargaining units various payroll 94563
reduction strategies through the collective bargaining process 94564
prior to July 1, 2009, including, but not limited to, reductions 94565
in pay for fiscal years 2010 and 2011 and an increase in each 94566
state employee's share of dental, vision, and life insurance 94567
benefits for those fiscal years. If the Office successfully 94568
negotiates or reaches alternative payroll reduction strategies 94569
through the collective bargaining process, those payroll reduction 94570
strategies shall be implemented. The total amount of state 94571
employee payroll reduction strategy savings to be negotiated or 94572
implemented for each of those fiscal years shall be between 94573
\$170,000,000 and \$200,000,000, unless otherwise agreed to by the 94574
Office of Collective Bargaining and the Director of Budget and 94575
Management. The Director of Budget and Management is authorized to 94576
transfer cash from non-General Revenue Fund funds to the General 94577
Revenue Fund to carry out this section. 94578

Section 751.10. MEDICAID ELEVATION ADVISORY GROUP 94579

(A) As used in this section, "community behavioral health 94580
services" means both of the following: 94581

(1) Community mental health services certified by the 94582
Director of Mental Health under section 5119.611 of the Revised 94583
Code; 94584

(2) Services provided by an alcohol and drug addiction 94585
program certified by the Department of Alcohol and Drug Addiction 94586
Services under section 3793.06 of the Revised Code. 94587

(B) There is hereby created the Medicaid Elevation Advisory 94588
Group. The Group shall consist of all of the following: 94589

(1) The Director of Mental Health or the Director's designee;	94590
(2) The Director of Alcohol and Drug Addiction Services or the Director's designee;	94591 94592
(3) Subject to division (C) of this section, representatives of all of the following appointed by the co-chairpersons of the Medicaid Elevation Advisory Group:	94593 94594 94595
(a) Boards of alcohol, drug addiction, and mental health services;	94596 94597
(b) Alcohol and drug addiction services boards;	94598
(c) Community mental health boards.	94599
(4) Subject to division (C) of this section, representatives of providers of community behavioral health services appointed by the co-chairpersons of the Medicaid Elevation Advisory Group;	94600 94601 94602
(5) Subject to division (C) of this section, consumers of community behavioral health services and advocates of such consumers appointed by the co-chairpersons of the Medicaid Elevation Advisory Group;	94603 94604 94605 94606
(6) The following state policy makers:	94607
(a) At the option of the Speaker of the House of Representatives, up to two members of the House of Representatives from different political parties appointed by the Speaker;	94608 94609 94610
(b) At the option of the Senate President, up to two members of the Senate from different political parties appointed by the Senate President;	94611 94612 94613
(c) Other state policy makers deemed necessary and appointed by the co-chairpersons of the Medicaid Elevation Advisory Group.	94614 94615
(C) The Directors of Mental Health and Alcohol and Drug Addiction Services, or their designees, shall serve as co-chairpersons of Medicaid Elevation Advisory Group. The	94616 94617 94618

co-chairpersons shall determine the number of persons to be 94619
appointed under divisions (B)(3), (4), (5), and (6)(c) of this 94620
section. The co-chairpersons shall appoint the same number of 94621
persons under divisions (B)(3), (4), and (5) of this section so as 94622
to ensure balanced representation by the boards, providers, and 94623
consumers and consumer advocates. 94624

(D) Members of the Medicaid Elevation Advisory Group shall 94625
serve without compensation, except to the extent that serving on 94626
the Group is considered part of their regular employment duties. 94627
The Departments of Mental Health and Alcohol and Drug Addiction 94628
Services jointly may reimburse members of the Group for their 94629
reasonable travel expenses. 94630

(E) The Medicaid Elevation Advisory Group shall study the 94631
issue of transferring the responsibility for paying providers of 94632
Medicaid-covered community behavioral health services and related 94633
management responsibilities from boards of alcohol, drug 94634
addiction, and mental health services; alcohol and drug addiction 94635
services boards; and community mental health boards to the 94636
Departments of Mental Health and Alcohol and Drug Addiction 94637
Services. Not later than June 30, 2010, the Group shall submit a 94638
report regarding its study to the Governor and, in accordance with 94639
section 101.68 of the Revised Code, the General Assembly. The 94640
report shall include all of the following: 94641

(1) A fiscal analysis of the impact that transferring payment 94642
responsibility and related management responsibilities would have 94643
on the Departments and boards. The fiscal analysis shall include 94644
an examination of funding options for transferring these 94645
responsibilities and focus on creating the most efficient and 94646
effective payment system possible. 94647

(2) Recommendations for increasing efficiencies related to 94648
both of the following: 94649

(a) Submission of Medicaid claims for community behavioral health services and the processing and payment of such claims; 94650
94651

(b) Exchange of information regarding Medicaid-covered community behavioral health services and non-Medicaid-covered community behavioral health services. 94652
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(3) Recommendations for system changes needed for the Departments to assume responsibility for directly paying providers of Medicaid-covered community behavioral health services. Such recommendations shall focus on increasing efficiencies, transparency, and accountability in order to improve the delivery of community behavioral health services. 94655
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(F) The Medicaid Elevation Advisory Group shall cease to exist on submission of its report. 94661
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(G)(1) Subject to division (G)(2) of this section, the Departments of Mental Health and Alcohol and Drug Addiction Services shall assume responsibility for paying providers of Medicaid-covered community behavioral health services and related management responsibilities not later than July 1, 2011. In assuming these responsibilities, the Departments may adopt, in whole or in part, the recommendations included in the Medicaid Elevation Advisory Group's report. 94663
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(2) The Departments' assumption of payment and related management responsibilities under division (G)(1) of this section is subject to changes in state law that otherwise would conflict with the Departments' assuming the responsibilities, including changes related to funding. The Departments may take actions as part of the transfer of the responsibilities as are consistent with state law. 94671
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Section 751.20. SERVICE COORDINATION WORKGROUP 94678

(A) There is hereby created the Service Coordination 94679

Workgroup. The Workgroup shall consist of a representative of each 94680
of the following: 94681

(1) The Office of the Governor, appointed by the Governor; 94682

(2) The Department of Alcohol and Drug Addiction Services, 94683
appointed by the Director of Alcohol and Drug Addiction Services; 94684

(3) The Department of Education, appointed by the 94685
Superintendent of Public Instruction; 94686

(4) The Department of Health, appointed by the Director of 94687
Health; 94688

(5) The Department of Job and Family Services, appointed by 94689
the Director of Job and Family Services; 94690

(6) The Department of Mental Health, appointed by the 94691
Director of Mental Health; 94692

(7) The Department of Mental Retardation and Developmental 94693
Disabilities, appointed by the Director of Mental Retardation and 94694
Developmental Disabilities; 94695

(8) The Department of Youth Services, appointed by the 94696
Director of Youth Services; 94697

(9) The Office of Budget and Management, appointed by the 94698
Director of Budget and Management; 94699

(10) The Family and Children First Cabinet Council, appointed 94700
by the chairperson of the Council. 94701

(B) The representative of the Office of the Governor shall 94702
serve as chairperson of the Workgroup. 94703

(C) Members of the Workgroup shall serve without 94704
compensation, except to the extent that serving on the Workgroup 94705
is considered part of their regular employment duties. 94706

(D) The Workgroup shall develop procedures for coordinating 94707
services that the entities represented on the Workgroup provide to 94708

individuals under age twenty-one and the families of those 94709
individuals. In developing the procedures, the Workgroup shall 94710
focus on maximizing resources, reducing unnecessary costs, 94711
removing barriers to effective and efficient service coordination, 94712
eliminating duplicate services, prioritizing high risk 94713
populations, and any other matters the Workgroup considers 94714
relevant to service coordination. Not later than July 31, 2009, 94715
the Workgroup shall submit a report to the Governor with 94716
recommendations for implementing the procedures. 94717

(E) On receipt of the Governor's approval of the Workgroup's 94718
report, the Director of Budget and Management may seek Controlling 94719
Board approval to transfer cash between funds and appropriations 94720
between appropriation items as necessary to implement the 94721
Workgroup's recommendations. The transferred cash is hereby 94722
appropriated. 94723

(F) The Workgroup shall cease to exist June 30, 2011. 94724

Section 803.10. Section 1751.14 of the Revised Code, as 94725
amended by this act, shall apply only to policies, contracts, and 94726
agreements that are delivered, issued for delivery, or renewed in 94727
this state six months after the effective date of this act; 94728
section 3923.24 of the Revised Code, as amended by this act, shall 94729
apply only to policies of sickness and accident insurance and 94730
plans of health coverage that are established or modified in this 94731
state six months after the effective date of this act; and section 94732
3923.241, as enacted by this act, shall apply only to public 94733
employee health plans established or modified in this state six 94734
months after the effective date of this act. 94735
94736

Section 803.20. Section 5747.01 of the Revised Code, as 94737
amended by this act, first applies to taxable years beginning on 94738

or after January 1, 2010. 94739

Section 806.10. The items of law contained in this act, and 94740
their applications, are severable. If any item of law contained in 94741
this act, or if any application of any item of law contained in 94742
this act, is held invalid, the invalidity does not affect other 94743
items of law contained in this act and their applications that can 94744
be given effect without the invalid item of law or application. 94745
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Section 809.10. An item of law, other than an amending, 94747
enacting, or repealing clause, that composes the whole or part of 94748
an uncodified section contained in this act has no effect after 94749
June 30, 2011, unless its context clearly indicates otherwise. 94750

Section 812.10. Except as otherwise provided in this act, the 94751
amendment, enactment, or repeal by this act of a section is 94752
subject to the referendum under Ohio Constitution, Article II, 94753
Section 1c and therefore takes effect on the ninety-first day 94754
after this act is filed with the Secretary of State or, if a later 94755
effective date is specified below, on that date. 94756

The amendment or enactment of sections 173.99, 1739.05, 94757
1751.14, 3923.24, 3923.241, and 5747.01 of the Revised Code takes 94758
effect January 1, 2010. 94759

The enactment of section 4113.11 of the Revised Code takes 94760
effect January 1, 2011. 94761

The repeal of sections 173.71, 173.72, 173.721, 173.722, 94762
173.723, 173.724, 173.73, 173.731, 173.732, 173.74, 173.741, 94763
173.742, 173.75, 173.751, 173.752, 173.753, 173.76, 173.77, 94764
173.771, 173.772, 173.773, 173.78, 173.79, 173.791, 173.80, 94765
173.801, 173.802, 173.803, 173.81, 173.811, 173.812, 173.813, 94766
173.814, 173.815, 173.82, 173.83, 173.831, 173.832, 173.833, 94767

173.84, 173.85, 173.86, 173.861, 173.87, 173.871, 173.872, 94768
173.873, 173.874, 173.875, 173.876, 173.88, 173.89, 173.891, 94769
173.892, 173.90, and 173.91 of the Revised Code takes effect 94770
January 1, 2010. 94771

Sections 803.10 and 803.20 of this act take effect January 1, 94772
2010. 94773

Section 812.20. The amendment, enactment, or repeal by this 94774
act of the sections listed below is exempt from the referendum 94775
because it is or relates to an appropriation for current expenses 94776
within the meaning of Ohio Constitution, Article II, Section 1d 94777
and section 1.471 of the Revised Code, or defines a tax levy 94778
within the meaning of Ohio Constitution, Article II, Section 1d, 94779
and therefore takes effect immediately when this act becomes law 94780
or, if a later effective date is specified below, on that date. 94781

Sections 117.54, 121.40, 121.401, 121.402, 124.03, 124.15, 94782
124.152, 124.18, 124.19, 124.34, 124.381, 124.392, 124.821, 94783
124.822, 124.86, 126.05, 126.24, 131.33, 145.298, 319.301, 94784
319.302, 319.54, 321.24, 323.156, 901.20, 901.91, 905.32, 905.33, 94785
905.331, 905.36, 905.38, 905.381, 905.50, 905.51, 905.52, 905.56, 94786
905.66, 907.13, 907.14, 907.16, 907.30, 907.31, 921.02, 921.06, 94787
921.09, 921.11, 921.13, 921.16, 921.22, 921.27, 921.29, 923.44, 94788
923.46, 927.51, 927.52, 927.53, 927.54, 927.56, 927.69, 927.70, 94789
927.701, 927.71, 927.74, 1515.14, 1548.06, 3101.08, 3301.07, 94790
3301.073, 3301.0718, 3301.0722, 3301.13, 3301.82, 3302.05, 94791
3302.07, 3306.01, 3306.011, 3306.02, 3306.03, 3306.04, 3306.05, 94792
3306.051, 3306.06, 3306.07, 3306.08, 3306.09, 3306.10, 3306.11, 94793
3306.12, 3306.13, 3306.14, 3306.15, 3306.16, 3306.17, 3306.18, 94794
3306.19, 3306.29, 3306.30, 3306.31, 3306.32, 3306.33, 3306.34, 94795
3306.40, 3307.31, 3307.64, 3309.41, 3309.48, 3309.51, 3310.08, 94796
3310.09, 3310.41, 3311.06, 3311.19, 3311.21, 3311.29, 3311.52, 94797
3311.76, 3313.483, 3313.55, 3313.64, 3313.642, 3313.98, 3313.981, 94798

3314.083, 3314.084, 3314.085, 3314.087, 3314.091, 3314.10, 94799
3314.13, 3316.041, 3316.06, 3316.20, 3317.018, 3317.02, 3317.021, 94800
3317.022, 3317.023, 3317.024, 3317.025, 3317.0210, 3317.0211, 94801
3317.03, 3317.031, 3317.04, 3317.05, 3317.051, 3317.053, 3317.061, 94802
3317.081, 3317.082, 3317.10, 3317.12, 3317.16, 3317.18, 3317.20, 94803
3317.201, 3318.011, 3318.051, 3319.221, 3319.57, 3319.70, 3319.71, 94804
3323.091, 3323.14, 3323.142, 3324.05, 3325.01, 3325.011, 3325.02, 94805
3325.03, 3325.04, 3325.041, 3325.07, 3325.10, 3325.11, 3325.12, 94806
3325.15, 3325.16, 3326.21, 3326.31, 3326.32, 3326.33, 3326.34, 94807
3326.38, 3326.51, 3327.02, 3327.04, 3327.05, 3329.16, 3333.04, 94808
3333.122, 3333.27, 3333.28, 3333.83, 3349.242, 3365.01, 3704.14, 94809
3704.143, 3705.24, 3706.04, 3706.35, 3712.03, 3714.073, 3733.43, 94810
3734.9010, 3745.015, 3748.01, 3748.04, 3748.07, 3748.12, 3748.13, 94811
3901.3812, 3923.90, 3923.91, 4117.02, 4117.12, 4117.14, 4117.15, 94812
4117.24, 4301.43, 4501.29, 4503.068, 4503.10, 4505.06, 4519.55, 94813
5101.073, 5107.58, 5111.65, 5111.651, 5111.688, 5111.689, 94814
5111.874, 5111.875, 5112.40, 5112.41, 5112.42, 5112.43, 5112.44, 94815
5112.45, 5112.46, 5112.47, 5112.48, 5123.0412, 5126.05, 5126.24, 94816
5703.80, 5715.26, 5725.18, 5725.25, 5727.84, 5729.03, 5739.01, 94817
5739.03, 5739.033, 5739.051, 5739.12, and 5749.12 of the Revised 94818
Code. 94819

The amendment or enactment of sections 3721.02, 3721.51, 94820
3721.56, 5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.251, 94821
5112.30, 5112.31, 5112.37, 5112.371, and 5112.372 of the Revised 94822
Code takes effect July 1, 2009. 94823

The repeal of sections 5112.40, 5112.41, 5112.42, 5112.43, 94824
5112.44, 5112.45, 5112.46, 5112.47, and 5112.48 of the Revised 94825
Code takes effect October 1, 2011. 94826

Sections of this act prefixed with section numbers in the 94827
200's, 300's, 400's, 500's, 700's, and 800's, except for Sections 94828
207.10.90, 241.20, 265.60.60, 265.70.20, 309.40.20, 309.50.30, 94829
313.20, 371.70.20, 385.30, 399.20, 512.40, 523.10, 701,20, and 94830

751.10 of this act.	94831		
The amendment of Section 301.10.50 of H.B. 496 of the 127th General Assembly.	94832 94833		
The amendment of Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly.	94834 94835		
Sections 309.30.20, 309.30.30, 309.30.40, 309.30.50, 309.30.60, and 309.30.70 of this act take effect July 1, 2009.	94836 94837		
Section 812.30. The sections that are listed in the left-hand column of the following table combine amendments by this act that are and that are not exempt from the referendum under Ohio Constitution, Article II, Sections 1c and 1d and section 1.471 of the Revised Code.	94838 94839 94840 94841 94842		
The middle column identifies the amendments to the listed sections that are subject to the referendum under Ohio Constitution, Article II, Section 1c and therefore take effect on the ninety-first day after this act is filed with the Secretary of State or, if a later effective date is specified, on that date.	94843 94844 94845 94846 94847		
The right-hand column identifies the amendments to the listed sections that are exempt from the referendum because they are or relate to an appropriation for current expenses within the meaning of Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, or define a tax levy within the meaning of Ohio Constitution, Article II, Section 1d, and therefore take effect immediately when this act becomes law or, if a later effective date is specified, on that date.	94848 94849 94850 94851 94852 94853 94854 94855		
Section of law	Amendments subject to referendum	Amendments exempt from referendum	94856
3313.6410	Division (A)	Division (B)	94857
3314.03	All amendments except the amendments to divisions	Amendments to divisions (A)(8), (A)(15), and	94858

	(A)(8), (A)(15), and (A)(23)	(A)(23)	
3314.08	The amendments to division (L) <u>(J)</u> (3); the amendments to division (M) <u>(K)</u> that follow "Revised Code"; and the amendments to division (Q) <u>(N)</u> (3)	All amendments except those described in the middle column	94859
3315.37	All amendments except the amendment described in the right-hand column	The amendment to the fourth paragraph that strikes through "3333.27,"	94860
3317.01	Division (B)	All amendments except those in division (B)	94861
3333.38	All amendments except the amendment described in the right-hand column	The amendment to division (A)(2) that strikes through "3333.27,"	94862
3345.32	All amendments except the amendment described in the right-hand column	The amendment to division (D) that strikes through "3333.27,"	94863
3734.57	The amendment to division (A) authorizing electronic payment of solid waste disposal fees	All other amendments to division (A)	94864
3734.901	Division (A)(1)	Division (A)(3)	94865
4117.01	All amendments except those described in the right-hand column	The amendment to division (C)(5), the amendment striking the language from division (C)(15), and the amendments adjusting the	94866

		division numbering in	
		divisions (C)(16) and	
		(17)	
5749.02	Division (B)	Divisions (A) and (C)	94867
5751.20	All amendments except	The amendments to	94868
	those described in the	divisions (A)(2),	
	right-hand column	(A)(3), and (B),	
		effective July 1, 2009	

Section 812.40. The amendments by this act to sections 127.16 94869
and 2921.13 of the Revised Code are not subject to the referendum 94870
and take effect as follows: 94871

(A) In the case of section 127.16 of the Revised Code, the 94872
amendment to division (D)(34) of the section takes effect on the 94873
ninety-first day after this act is filed with the Secretary of 94874
State, and the amendment to divisions (D)(35) and (36) of the 94875
section takes effect on January 1, 2010. 94876

(B) In the case of section 2921.13 of the Revised Code, the 94877
amendments take effect on January 1, 2010, except that the 94878
amendment in division (F)(2) of the section increasing the minimum 94879
value of property that is prescribed to grade the penalty for 94880
falsification in a theft offense takes effect on the ninety-first 94881
day after this act is filed with the Secretary of State. 94882

Section 812.50. The amendment by this act of section 4511.81 94883
of the Revised Code takes effect at the earliest time permitted by 94884
law that is on or after the date on which the section, as it 94885
results from Am. Sub. H.B. 320 of the 127th General Assembly, 94886
takes effect. 94887

Section 815.10. The General Assembly, applying the principle 94888
stated in division (B) of section 1.52 of the Revised Code that 94889
amendments are to be harmonized if reasonably capable of 94890

simultaneous operation, finds that the following sections, 94891
presented in this act as composites of the sections as amended by 94892
the acts indicated, are the resulting versions of the sections in 94893
effect prior to the effective date of the sections as presented in 94894
this act: 94895

Section 109.572 of the Revised Code as amended by Sub. H.B. 94896
195, Sub. H.B. 545, and Sub. S.B. 247, all of the 127th General 94897
Assembly. 94898

Section 149.43 of the Revised Code as amended by Am. Sub. 94899
H.B. 214 and Am. Sub. S.B. 248, both of the 127th General 94900
Assembly. 94901

Section 1547.99 of the Revised Code as amended by Am. Sub. 94902
S.B. 17 and Am. Sub. S.B. 271, both of the 127th General Assembly. 94903
94904

Section 1716.99 of the Revised Code as amended by Am. Sub. 94905
H.B. 59 and Sub. S.B. 2, both of the 123rd General Assembly. 94906

Section 2913.46 of the Revised Code as amended by Am. Sub. 94907
S.B. 107, Am. Sub. S.B. 269, and Am. Sub. S.B. 293, all of the 94908
121st General Assembly. 94909

Section 2917.21 of the Revised Code as amended by Am. Sub. 94910
H.B. 565 and Sub. S.B. 215, both of the 122nd General Assembly. 94911

Section 2967.193 of the Revised Code as amended by Am. Sub. 94912
H.B. 180 and Am. Sub. S.B. 269, both of the 121st General 94913
Assembly. 94914

Section 3313.614 of the Revised Code as amended by Am. Sub. 94915
H.B. 276 and Am. Sub. S.B. 311, both of the 126th General 94916
Assembly. 94917

Section 3313.64 of the Revised Code as amended by Am. Sub. 94918
H.B. 119 and Am. Sub. H.B. 214, both of the 127th General 94919
Assembly. 94920

Section 3314.014 of the Revised Code as amended by Am. Sub.	94921
H.B. 79 and Am. Sub. H.B. 276, both of the 126th General Assembly.	94922
	94923
Section 3319.291 of the Revised Code as amended by Sub. H.B.	94924
428 and Am. Sub. H.B. 562, both of the 127th General Assembly.	94925
Section 4169.02 of the Revised Code as amended by Sub. H.B.	94926
535 and Am. Sub. S.B. 293, both of the 121st General Assembly.	94927
Section 4169.04 of the Revised Code as amended by Am. Sub.	94928
H.B. 535 and Am. Sub. S.B. 293, both of the 121st General	94929
Assembly.	94930
Section 4763.05 of the Revised Code as amended by Am. Sub.	94931
H.B. 699 and Am. Sub. S.B. 223, both of the 126th General	94932
Assembly.	94933
Section 4767.08 of the Revised Code as amended by Am. Sub.	94934
H.B. 138 and Sub. H.B. 531, both of the 123rd General Assembly.	94935